

US EPA ARCHIVE DOCUMENT



FIRST NEIGHBORHOOD  
PROPERTY OWNERS ASSOCIATION

January 24, 2013

Cindy Lin (WTR-2)  
U.S. Environmental Protection Agency  
Southern California Field Office  
600 Wilshire Blvd., Suite #1460  
Los Angeles, CA 90017

Dear Ms. Lin:

First Neighborhood Property Owners Association writes to express concern for the Total Maximum Daily Loads (TMDLs) being proposed for the Malibu Creek Watershed.

As homeowners who will bear the costs for complying with any new standards, through property taxes and sewer service rates, we raise the following issues:

1. Ratepayers have no guarantees the proposed TMDL will work. The EPA states the goals of the 2003 Nutrient TMDL have been met, but now says they are not adequate to address the continuing presence of algae. EPA makes this finding after our community has invested more than \$10 million to meet the 2003 standard. In light of this finding, what can EPA produce to convince the rate-paying public its 2012 proposal will be any more effective? Continual revision to more stringent TMDLs may require an agency or city to tear out infrastructure that was just constructed to meet the previous standard. "Trial and Error" is a costly and wasteful practice when it comes to projects of this magnitude, especially in these difficult economic times.

2. Why is this matter being rushed for adoption? Regulations that are hurried into place often result in poor policies, wasteful of community resources. In this case, the draft TMDL document was released for review on December 12, 2012, with a deadline for comments set for January 23, 2013. This is not reasonable. Accounting for time lost to weekends and the busy holiday period, the public has been given less than 30 business days to review voluminous material, at a time when most homeowner association and local government entities do not meet.

3. Malibu Creek has unique characteristics.

It is not appropriate to compare Malibu Creek to other fresh water coastal creek systems. Applying freshwater standards to a brackish creek does not make sense. EPA concludes that algae impairs the presence of aquatic insects but fails to recognize that freshwater insects do poorly in non-freshwater stream like Malibu Creek or for a creek that has no water at all over 25% of its length in dry weather periods. EPA should also recognize that the salt impact of the Monterey Formation in the watershed was a key reason why the water district that serves our area was formed in the first place; Malibu Creek is unsuitable as a potable water source, in part because of its salinity. Are we to believe its salinity has no impact on freshwater insects?

For these reasons, the homeowners of First Neighborhood Property Owners Association call upon EPA to conduct a scientifically sound evaluation of the Malibu Creek watershed, with appropriate opportunities given to the homeowners and businesses of the region to examine the data and comment on the findings. EPA should not proceed with adopting new, revised, or additional TMDLs until that evaluation is complete.

Sincerely,



Brad Halpern

President, First Neighborhood Property Owners Association