

**Marina del Rey**  
**Lessees Association**

C/o Mr. Timothy C. Riley, Executive Director  
8537 Wakefield Avenue  
Panorama City, CA 91402  
Telephone: 818-891-0495; FAX: 818-891-1056

May 13, 2021

Mr. Gary Jones  
Director, Department of Beaches and Harbors  
13837 Fiji Way  
Marina del Rey, CA 90292

Dear Mr. Jones:

Last week, the members of the Marina del Rey Harbor Copper TMDL Stakeholder Work Group consisting of Lessees Association members and County staff met online to discuss the progress to date on this important matter. We believe there was a lot of good information and new ideas shared during a lively discussion. We appreciate the cooperative nature of this Work Group as well as the ability to share our thoughts and concerns with your Department.

One of the most important takeaways was from a graph provided by the Site-Specific Objective Study ("SSO") currently in its final stages of completion. In this chart, while we see that although the copper TMDL threshold will likely only be increased from 3.1 ug/L to 4.3 ug/L, from our perspective the most salient fact is that the overall concentration has gone from an average of about 10 ug/L to about 8 ug/L from 8/2016 to 6/2020. This represents an overall reduction in dissolved copper of about 20% in a little less than four years. It was the Work Group's consensus that, even though the revised threshold has not been achieved, the gains made by the Lessees, individual boaters, and other Stakeholders have been most significant.

The considerable progress achieved by the hard work of the Stakeholders is noteworthy and should be emphasized by the County in its dealings with the Regional Water Quality Control Board and other agencies and interested parties. These efforts include the shifting of both boat yards to low copper paints, the training of divers, enacting BMP's, and boater education.

We understand that this reduction may not continue in a linear manner, and in fact it is likely to take more than eight years to achieve the desired threshold. Yet, the fact remains that dissolved copper levels in the past were much higher than they are today. As the County noted in 2016, the "dissolved copper levels in the MdRH water column (in 2009 were) at nearly 14 times background levels." See 2016 County of Los Angeles Marina Del Rey Harbor Copper Impairment Facts. In any case, however, the current dissolved copper level is a material decrease from prior levels indicating that the current "Managed Attenuation" approach is in fact working.



We note that many other pollutant remediation approaches approved by the Water Boards, including for leaking underground fuel storage tanks ("LUST's"), involve long-term treatment protocols as well as natural attenuation plans which are expected to achieve clean-up only after many years. If this is the case, we believe it would be appropriate for the Department of Beaches and Harbors and the Public Works Department of the County of Los Angeles to obtain an extension of the Water Board compliance requirements in order to continue the current progress which is taking place in Marina del Rey. Indeed, the MS4 implementation deadlines were extended due to delays including those from Covid-19; why is not the same flexibility being sought by the County for this TMDL?

We continue to be very concerned that that Water Board could seek to impose draconian measures in order to try enforcing an unachievable deadline at unachievable levels. These measures could almost certainly include requiring boaters to obtain expensive Waste Discharge Permits and forcing the use of ineffective non-biocide paints even while manufacturers continue to make big strides in new technology and reduced copper formulations. The bottom line is that a March 2024 deadline is simply unrealistic and punitive and is likely to cause a major exodus of boaters from Marina del Rey to other harbors or even to other recreational activities. Marina del Rey already has among the highest boat slip vacancy rates in the nation and the implementation of these and other punitive measures would be hard felt by related recreational boating businesses and, at the same time, significantly reduce the County percentage rent paid by the Lessees.

We are not suggesting that everything has been done and only time will cure the problem. We believe there is much work to be done and, as stakeholders, the Lessees intend to continue this hard work to understand and evaluate new technologies and paints as well as to increase training and education. We also need the County to increase its efforts, especially with diver certification and enforcement of BMP's within the harbor. We continue to assert that the issuance of burgees to identify certified bottom cleaners is imperative. In addition, training and certification should be completed quarterly and enforced by the Sheriff, Lifeguard, Coast Guard, and Harbor Patrol. Creating a means to identify trained divers will go a long way by allowing boat owners and marina managers to confirm that only properly trained divers are doing the work. This modest enforcement-related measure will certainly lead to greater self-enforcement by the divers themselves.

One more critical item from the meeting; the Department presentation we received at the Work Group session indicated that only a paltry 2% reduction in copper was attributed to diver BMP's. Please know there are current studies which show that the allocation should be significantly higher, perhaps as high as 25-50%. See, for example, the "Life cycle contributions of copper from vessel painting and maintenance activities" by Patrick J. Early and Brandon L. Swope et. al. in the November 2013 Journal of Bioadhesion and Biofilm Research.

May 13, 2021

We would also like to know how much funds remain of the \$4 million allocated to this issue by the Board of Supervisors in 2014. (See attached Board of Supervisors resolution adopted 6/17/14) We believe these funds could be the proper source to fund these diver training and enforcement activities. In any case, the expense of these efforts will be dwarfed by the cost of non-compliance should the Water Board impose draconian measures.

In summary, we would like to work with you to try to arrange a meeting with the Water Board Commissioners, as we did several years ago, in order to consider the success of the current Managed Attenuation approach toward compliance as well as to formally request an extension of the TMDL deadline. We would also like to assist the County in expanding its diver BMP programs. As always, the Lessees pledge to continue to do everything we can to continue to be good stewards of the Marina. We look forward to continued cooperation between the County and the Lessees Association and we would be happy to discuss any of these ideas at your convenience.

Sincerely,

A handwritten signature in blue ink that reads "David O. Levine" followed by a stylized flourish or initials "TR".

David O. Levine  
President, Marina del Rey Lessees Association

Attachment(s):

- Marina del Rey Harbor Copper TMDL Stakeholder Work Group Meeting Presentation, May 4, 2021
- Board of Supervisor Resolution allocating \$4.0M to TMDL matter, 6/17/14

cc: Jayme Wilson, Office of Supervisor Janice Hahn