

**Marina del Rey
Lessees Association**

C/o Mr. Timothy C. Riley, Executive Director
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January 21, 2021

Renee Purdy
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, California 90013

RE: Marina del Rey Harbor Toxic Pollutants TMDL

Dear Ms. Purdy:

The Marina del Rey Lessees Association ("Association") represents the business interests of individuals and companies that own and operate the anchorages, boatyards and marine commercial operations, in addition to residential and commercial properties, under long-term leases with the County of Los Angeles.

This letter, a follow-up to our December 11, 2020 letter delivered by email to L.B. Nye, Ph.D, Chief, Regional Programs, provides additional data for the Regional Water Quality Control Board's consideration. We are hopeful that you will share this letter with all interested parties at the RWQCB and most importantly with those involved with TMDL implementation timing and extensions.

Even before the Los Angeles Regional Water Quality Control adopted the amendment to the Water Quality Control Plan on February 6, 2014 to incorporate the Marina del Rey Harbor Toxic Pollutants TMDL, the Association and its members acted to improve water quality in the Marina del Rey Harbor.

In November 2013, the Association urged the Board of Supervisors to approve the Oxford Retention Basin Multiuse Enhancement Project that would improve flood protection and water quality in the Marina. On December 3, 2013, members of the Association testified at the Board of Supervisors meeting in support of Oxford Retention Basin Multiuse Enhancement Project.

In December 2013, Association Vice President Greg Schem, owner of the BoatYard, finalized a white paper entitled "Copper Bottom Paints – A Rational Approach for Marina del Rey," for a scientific evaluation of alternative paints and recommendations for a reasonable approach to the copper problem in Marina del Rey that would inform the boating community.

At its monthly meeting on December 11, 2013, the Association hosted Jenny Newman and Shana Rapoport, staff members of the Regional Water Quality Control Board, for a presentation of the proposed TMDL Amendment and the timeline, and members engaged discussions on the challenges to achieve compliance.

Following the Regional Water Quality Control Board's adoption of the Toxic Pollutants TMDL in February 2014, the Association and its members remained involved with the TMDL process and have acted responsibly to be good stewards of the environment within which we operate our businesses. We have taken this matter to heart and have invested in excess of \$250,000 as an organization in analysis and public outreach in order to understand and assist in finding practical solutions.

Collectively and individually, the Association and its members have undertaken affirmative steps to promote all practical efforts within our control to achieve compliance with the TMDL. From the very beginning, we supported efforts for diver training, the importance of the Clean Marine Program certification, boater education for the use of alternative antifouling paints, and conducting workshops for marina managers to promote best diving practices for hull cleaning.

The Association has stressed the importance of anchorages obtaining the Clean Marine Program certification. As of this date, eight privately-operated anchorages have been certified and another three are pending completion. In addition, other anchorages have initiated the certification process. Several anchorages have been delayed in initiating the certification process due to complications with staffing and obtaining the required supplies and equipment during the pandemic.

Whether in its monthly meetings or separately arranged consultations, the Association and its leadership have held numerous discussions with County officials, its scientific consultants and representatives of the Clean Marine Program to promote efforts to achieve compliance with the TMDL.

Earlier on in the process, the Association advocated for the specific benefits of a Hull Cleaning Ordinance that was later adopted by the Board of Supervisors. The Association members collaborated with the County to design and implement the bottom cleaning protocol and certification process now in effect.

The Association hosted and participated in workshops with marina managers and the boating community to promote best diving practices for hull cleaning, the use of alternative antifouling paints and the importance of acquiring the Clean Marine Program certification.

The California Yacht Club, one of the largest and oldest yacht clubs in California, has conducted several workshops in the Marina to educate boaters, anchorages

and the public about the importance of improving water quality in the Marina del Rey Harbor and finding practical solutions for TMDL compliance.

The Windward Yacht Center, operating as a boat yard and anchorage in the Marina, has presented information on low copper paints and alternative paints at display booths for attendees at numerous public events in Marina del Rey, including Discover Marina del Rey, MarinaFest and other boating community events.

The BoatYard, which also operates a boat yard and anchorage in the Marina, has similarly engaged in the promotion of antifouling paints and alternatives to copper paints and disseminated this information to the boating community as well as its anchorage tenants and customers repainting their boats. The BoatYard has worked closely with the Department of Beaches and Harbors to convert numerous county vessels to non-biocide paints for evaluation and testing purposes.

Boat yards, yacht clubs, and many recreational anchorages have encouraged the shift to Category 1 bottom paints and current utilization is estimated to be more than 95% marina-wide.

The Association was the catalyst for the allocation by the Board of Supervisors of \$4.0 million for research and site-specific objective studies (which is expected to be completed in the spring of this year), as well as ongoing evaluation and testing of various alternative paints and technologies.

The Regional Water Quality Control Board is poised at its February 2021 meeting to grant extensions for the TMDLs of MS-4 Permittees, in recognition of various economic and environmental factors, including most importantly the impact of Covid-19 on the length of time for economic recovery and its impairment on tax revenues.

When establishing a TMDL for Dissolved Copper in the Shelter Island Yacht Basin, the San Diego Regional Water Quality Control Board required a 76% reduction in residual copper loading over a 17-year period. On the other hand, Marina del Rey Harbor faces a mandate for an 85% reduction in copper over a 10-year period.

Meanwhile, it is our understanding that Shelter Island achieved some positive results in the early stages which apparently turned out to be the result of many less boats in the harbor than due to any significant reduction of copper in the water column. Now, Shelter Island proves not to be the success story as originally imagined.

The much shorter time period allotted in Marina del Rey Harbor to an even higher percentage reduction of copper has always been perceived as unrealistic and unattainable. With the ongoing challenges and obstacles presented by the pandemic, the deadline of 2024 for TMDL compliance in Marina del Rey Harbor is impractical and unworkable.

As the Regional Water Quality Control Board is prepared to grant extensions to the MS-4 Permittees for TMDL implementation deadlines, it would seem only fitting that the Board act in a facially neutral manner and consider the same treatment for the anchorages and boaters in Marina del Rey Harbor.

The boating public and the private sector anchorage industry should be treated equally with the governmental agencies that are being granted extensions. The government and the public, including boaters and anchorages, have been severely damaged by a pandemic that has ravaged our economy and brought untold hardship to everyone. Fairness dictates that boaters and anchorages will need more time to achieve the TMDL implementation deadline.

The Association's members, leaseholders of the County-owned parcels developed with the anchorages, and individual boaters are not, and should not be made, responsible for the level of copper in the Marina del Rey Harbor. Collectively, the lessees and our boaters are part and parcel of the solution. We have already demonstrated our readiness and willingness to take any and all reasonable actions to improve water quality in the Marina.

The Association looks forward to continuing our efforts to help maintain Marina del Rey as a preeminent location for the public to enjoy the marine environment. We are and remain concerned with the watershed discharge of copper into the Marina del Rey Harbor and would ask for further study and a summary of the copper discharge into the harbor from and by MS-4 Permittees.

The Association welcomes the opportunity to discuss an extension of the TMDL implementation deadline and important public policy matters with your Board and staff.

Thank you for your consideration of our concerns to meet the objectives for a healthy and clean marine environment in Marina del Rey Harbor.

Sincerely,

A handwritten signature in blue ink that reads "David O. Levine". The signature is written in a cursive, flowing style.

David O. Levine, President

cc: The Hon. Hilda Solis, Chair, Board of Supervisors

The Hon. Holly Mitchell, Supervisor, 2nd District

The Hon. Sheila Kuehl, Supervisor, 3rd District

The Hon. Janice Hahn, Supervisor, 4th District

The Hon. Kathryn Barger, Supervisor, 5th District