

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

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

June 23, 2021

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

Dear Gary:

On behalf of the Marina del Rey Lessees Association, thank you for your response to our concerns regarding the copper TMDL matter. After the review of your letter by the Association members who are participating on the Task Force, we agree that further discussion and comment is necessary and appropriate in order to fully address these very important and time critical issues. To that end, please see the following.

**1) TMDL Extension:**

Although we fully understand that the copper TMDL was not included in the MS4 permit, that fact does not diminish that the deadline for compliance (March 2024) for Marina del Rey remains with the original TMDL. It was understood and agreed that the re-opener discussion would occur after due consideration of any new information gathered with specific reference to the Site-Specific Objective study (SSO) which has not yet been finalized. In addition, much other new data has come to light as a result of newer State paint standards, and County efforts to evaluate alternative paints, adoption of BMP's, boater outreach programs, and the near widespread adoption of low copper leach rate paints by the boat yards, yacht clubs, and the boating community. Still, despite the progress made by the anchorages (and their operators and boaters) that re-opener has not yet taken place.

Your letter discloses that "The Regional Board is working on an enforcement mechanism now (i.e., waste discharge requirements), which would include the 2024 deadline and become enforceable once issued." This is the deadline we are concerned about and do not understand why the Regional Water Quality Control Board would be working on this enforcement mechanism prior to evaluation of the promising new data and before it has taken the opportunity to conduct the re-opener previously agreed upon. Since this new enforcement mechanism would have a major impact on the Marina del Rey boating community, we are stunned that the County is not providing stronger support for the re-opener now, and demanding that Marina del Rey be immediately granted an extension similar to



what was granted for MS4 implementation deadlines. This is especially true in light of the significant progress made in reducing dissolved copper. We fear that a rush to adopt waste discharge requirements prior to evaluating the progress made and prior to considering new information learned would invalidate the intent of the re-opener, thwart the ability to remove these requirements in the future, and create an exodus of boaters from the Marina.

## **2) Burgees:**

We are excited to learn that DBH's is working to adopt the burgee concept proposed by the Association to be issued to BMP trained divers. We have long held that this would provide an important means for dockmasters and boat owners to identify qualified contractors as well as to aid in enforcement.

## **3) Training and Enforcement:**

We are happy to learn that the DBH is developing a plan for diver enforcement by the Sheriff and look forward to receiving the additional outreach materials you mention which are apparently currently under development. We remain concerned, however, that a requirement that training every four years is wholly inadequate. Many divers cycle out of the business after only a season or two due to the extreme difficulty and physical requirements of the job. We understand that very few divers trained in 2018 are even still working in the Marina. Since proper bottom cleaning may represent the single most important practical factor in reducing dissolved copper on a daily basis within the Marina, we believe anything less than free, quarterly training and certification will undermine the entire effort to achieve timely TMDL compliance. This is something only the Department of Beaches and Harbors can institute as the agent for the County responsible for managing the Harbor and only something the Sheriff can enforce. The conspicuous non-enforcement of the ordinance creates the conditions where divers ignore the law and actively contribute to copper loading in the Marina.

## **4) BMPs:**

We are delighted to see that you agree a larger reduction in dissolved copper should be achievable by instituting and enforcing hull cleaning BMPs.

## **5) County Funding:**

We are surprised and profoundly disappointed that most of the \$4.0M identified by the Board of Supervisors in 2014 has been spent. We have requested a detailed breakdown of these expenditures in order to understand the cost associated with this endeavor as well as to learn what strategies provided better benefits to the public. We believe the remaining \$530,000 should be allocated judiciously among the most successful approaches including diver training and



certification efforts as you mention. We do not, however, believe any of the funds were approved for allocation to enforcement activities.

#### **6) Timing and TMDL Extension:**

The Regional Board has historically provided what they determined was adequate time for compliance on TMDLs. The TMDL for Marina del Rey has always perplexed us in that it required a higher reduction in a far shorter time period than what was required of similar regions at the time such as Shelter Island in San Diego. We argued at several Board meetings that the time period prescribed would be inadequate. Now, years later, in light of strong progress in actual copper reduction along with a threshold likely to be increased after the SSO is completed, we are being told that we are out of time to comply. Of course, it takes significant time for the reduction to occur, that is why we argued for a longer time period. Shelter Island was given 17 years to achieve 76% reduction while MDR was given 10 years to achieve 85% reduction even though MDR encompasses a much larger watershed with more than twice as many boats. Again, the re-opener needs to occur before the regulatory mechanism is put in place—and not afterward.

#### **7) Progress and Lessee Specific Data:**

We are pleased that you recognize the progress made by stakeholders in Marina del Rey in reducing dissolved copper and agree that emphasizing these results with the Regional Board will be crucial in achieving success. In response to your request for information on Lessee copper reduction practices we do not gather this type of Lessee specific information but have previously shared with you a summary of the Lessees Association's efforts in this area. They include:

1. Adopting low leach rate paints.
2. Hiring only certified divers.
3. Becoming certified clean marinas.
4. Boat owner outreach and seminars.
5. Hosting workshops for marina managers.
6. Distributing information on low copper paints and alternatives paints at MarinaFest and Discover Marina del Rey display booths at Burton Chace Park.
7. Participating in "Controlling Fouling on Your Boat" workshop.
8. Participating in Del Rey Yacht Club seminar on best diving practices and copper paint alternatives.
9. Promoting the use of Category 1 and copper-free paints at various events.
10. Hosting a Water Quality Workshop for the Clean Marine Program attended by all anchorages' dock masters or representatives.

We continue to believe that boater education is an important tool to ensure timely TMDL compliance. Towards that end, we ask that DBH plan and schedule this summer an interactive water quality workshop to outline where we are in the



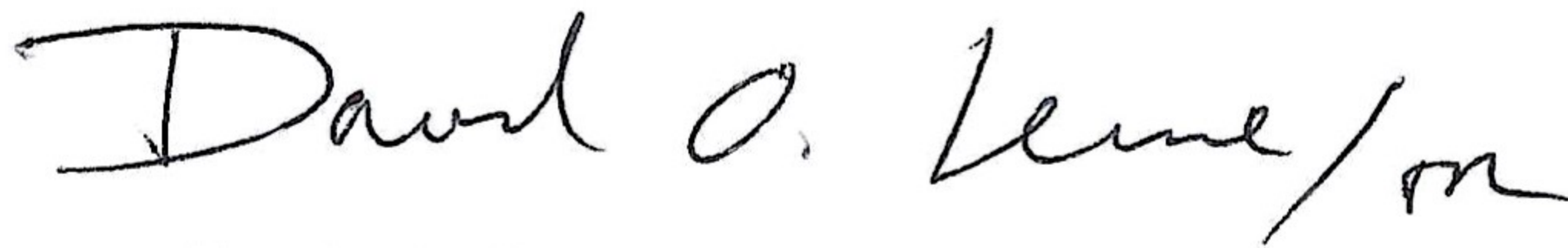
TMDL process, where we are headed and specifically what the County, boaters and anchorages can do to further reduce the copper loading in the Marina.

### **Supporting the SSO**

As far as any other useful data, we believe that the Department of Beaches and Harbors would be in a far better position to request Lessee specific information and to evaluate alternative paints, technologies, and TMDL strategies as it has done over the last seven years in concert with its County funded consultants and outreach programs. We also understand that extensive real-world testing of alternative paints has taken place toward the Regional Board's requirement of having 200 boats painted prior to the re-opener. We would like to request a summary of these studies along with any conclusions as to the efficacy of any specific paints.

Thank you for your continued partnership in achieving a solution to the copper TMDL challenge in Marina del Rey. We stand ready, willing, and able to assist and move forward.

Sincerely,

A handwritten signature in black ink that reads "David O. Levine". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

David O. Levine  
President, Marina del Rey Lessees Association