



George Chavez, Director
Department of Public Works Services

May 13, 2014

VIA U.S. MAIL AND E-MAIL (E-mail Receipt Requested)

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000
email: commentletters@waterboards.ca.gov

Re: COMMENT LETTER - BALLONA CREEK METALS AND BALLONA CREEK
ESTUARY TOXICS TMDL

Dear Ms. Townsend:

The City of Beverly Hills ("City") submits the following comments to the Los Angeles Regional Water Quality Control Board's ("Regional Board") proposed amendment ("Proposed Amendment") to the Water Quality Control Plan for the Los Angeles Region to Revise the Total Maximum Daily Loads for Metals in Ballona Creek and the Total Maximum Daily Loads for Toxic Pollutants in the Ballona Creek Estuary ("Ballona Creek TMDLs").

The City supports the Regional Board's action, as part of the Proposed Amendment, to remove selenium from the Ballona Creek Metals TMDL, especially given that "[r]ecent data indicate that selenium is **not** present at levels exceeding existing numeric targets and is not impairing the designated beneficial uses." Attachment A to Resolution No. R13-010, p. 2.

As the September 2013 Regional Board Staff Report indicated on page 12:

"Since the adoption of the 2002 303(d) List, the State Water Resources Control Board adopted the Water Control Policy for Developing California's Clean Water Act Section 303(d) List, 2004 (Listing Policy). The Listing Policy uses a weight of evidence approach to evaluate whether to place waters on, or remove waters from, the 303(d) List (SWRCB, 2004).

The re-examined data, described above, satisfies the data quality requirements of sections 6.1.4 and 6.1.5 of the Listing Policy and the frequency of exceedance, 9 exceedances out of 130 samples, does not exceed the allowable frequency listed in Table 4.1 of the Listing Policy. Table 4.1 is the "Maximum Number of Measured Exceedances Allowed to Remove a Water Segment from the Section 303(d) List for Toxicants." **The data quality and the limited exceedances of the criteria would allow selenium to be delisted based on Table 4.1.**

Emphasis added.

It is entirely appropriate to remove selenium given that it meets the State Water Resources Control Board's Listing Policy for delisting a toxicant. The removal of selenium from the Ballona Creek Metals TMDL will enable the City and its fellow permittees to focus its limited resources on those pollutants that require the most immediate attention in the ongoing effort to improve the water quality of Ballona Creek.

The City further notes that there appears to have been no opposition to the Regional Board staff's proposal to delist selenium as one of the monitored compounds by any part before the Regional Board.

Thank you for the opportunity to comment on the proposed amendments to the Ballona Creek TMDLs. The City is committed to working with the State Board and the Regional Board to achieve the mutual goals of improving water quality.

Sincerely,



George Chavez
Director of Public Works Services

cc: Jeff Kolin, City Manager
Laurence S. Wiener, City Attorney
Trish Rhay, Utilities Manager
Candice K. Lee, Assistant City Attorney