



RBOC

Protecting your boating interests.

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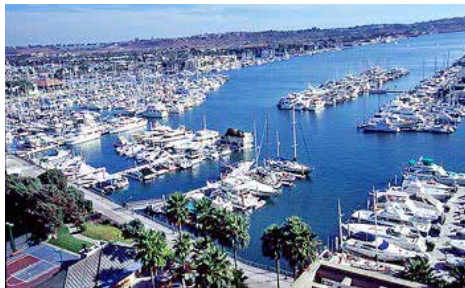
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FALL 2014

BOATER BRIEF

State Water Board Approves Marina Del Rey Copper TMDL with Assurances

The State Water Resources Control Board on September 9 approved the proposed amendment to the Water Quality Control Plan for the Los Angeles Region with a revision to the total maximum daily load for toxic pollutants in Marina del Rey Harbor including copper.



As approved, the copper TMDL resolution includes several key assurances that:

- ▶ The Los Angeles Regional Water Quality Control Board [LARWQCB] is committed to working with interested stakeholders and to reconsider the TMDL in response to studies in MDR Harbor and other pertinent information.
- ▶ The LARWQCB will review progress on TMDL implementation at regular intervals.

- ▶ The LARWQCB will consider revisions as appropriate or necessary to the load allocations, waste load allocations, and \ or compliance deadlines within 18 months of receipt of studies or other pertinent information.
- ▶ The TMDL is not self-implementing. During the development of the subsequent regulatory action the LARWQCB will establish requirements specific and appropriate to each individual, entity, or group of individuals to achieve the pollutant allocations.
- ▶ The assignment of pollutant allocations in a TMDL does not, in itself, impose any liability or other legal obligations on those named as responsible parties.
- ▶ The LARWQCB will consider revisions to the existing dissolved copper water quality objective and corresponding TMDL numeric targets that are developed using the biotic ligand model [BLM] if it is approved by the US EPA for use in marine waters.
- ▶ The LARWQCB is committed to coordinating with the State Lands Commission to address invasive species relative to anti-fouling strategies.

The amendment will next be considered by the state Office of Administrative Law [OAL] as well as the US EPA.

Several stakeholder groups testified at the hearing. Testifying on behalf of RBOC were Vice President Greg Gibeson, Director Walt Vance and Director of Government Affairs Jerry Desmond, Jr.

RBOC Submits Comments on Delta Plan, Stressing Boating Impacts and Urging Mitigation

RBOC in July submitted substantive comments on the Bay Delta Conservation Plan, stressing the plan's adverse impacts on recreational boating and urging full mitigation.

The Bay Delta Conservation Plan (BDCP or Delta Plan or plan) is a Habitat Conservation Plan (HCP) and a Natural Communities Conservation Plan (NCCP) developed by the U.S. Bureau of Reclamation and the California Natural Resources Agency. The plan proposes to dramatically and forever alter the flow and level of water through existing Delta waterways. The plan proposes to address this through a host of different proposed alternative measures and actions. The purpose of the plan being to endeavor to mitigate a host of existing endangered species impacts caused by the existing operational practice of exporting Delta water to other locations in California.

RBOC has monitored the BDCP planning process, representatives of RBOC have attended innumerable meetings, and RBOC has submitted comment letters since July of 2006 when the current plan commenced.

RBOC reiterated the previous comments submitted including its September 24, 2013 correspondence expressing concerns to each entity that was preparing a joint EIR/EIS for the Bay Delta Conservation Plan (BDCP) based upon the currently available draft Consultant Administrative Draft

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Environmental Impact Report (EIR) / Environmental Impact Statement (EIS). Those comments were attached and incorporated by reference.



The BDCP with a companion Environmental Impact Report/ Environmental Impact Study (EIR/ EIS) of upwards of 40,000 pages were released by the State of California for review on December 13, 2013 with a 120-day comment period ending June 13, 2014 [and subsequently extended to July 29, 2014].

It is evident to RBOC from review of the BDCP that implementation of the proposed actions and measures set forth in the plan and EIR/EIS will result in major short-term and long-term alterations and impacts to existing Delta waterways utilized by all types and sizes of recreational boats. Depending upon which actions and measures are implemented, there will be adverse impacts that constrain and in many instances even prohibit recreational boaters accessing and utilizing existing Delta waterways. This includes not only adverse impacts during the estimated decade-long construction period but thereafter as well depending upon which action measures and/or alternatives or segments of any are implemented at any time.

The plan in many ways results in irreversible changes to the Delta itself as well as to access and enjoyment of Delta waterways relevant to recreational boating and marinas and boat ramps visited by boaters and the general public. Unless mitigated

to RBOC's satisfaction, the actions by BDCP and EIR/EIS to modify any waterways is opposed by RBOC.

The BDCP needs to fully mitigate-for and to guarantee assurances-of reliable access to all Delta waterways proposed to be altered in any manner under the plan. This must include, for example, constructing boat locks wherever Delta waterways are proposed to have any barriers or gates – whether short-term or long-term - and that all boat locks be constructed and operated at no cost or charge to recreational boaters.

RBOC's position is based upon the fact that the burden of producing a comprehensible HCP under federal law, supporting analysis and funding rests not on recreational boaters that navigate Delta waterways but that it is an obligation that rests solely upon the BDCP project proponents. The BDCP and EIR/EIS also are intended to serve as a NCCP under California law. In this regard, again RBOC asserts its objections to the BDCP and EIR/EIS as the plan fails to meet the provisions of NCCP.

Further concerns of RBOC that are not mitigated include, but are not limited to:

▶ The BDCP states that it will need authorizations of the Rivers and Harbors Act of 1899 (RHA) to perform many of its proposed actions to alter existing Delta waterways. The RHA

requires authorization from Congress or the California state Legislature, and in addition to that of the U.S. Corps of Engineers in certain cases. The BDCP is defective as it does not specify when or how such authorization will occur and leaves to speculation whether it can attain necessary authorizations and permits for what it proposes to construct (in as much as the plan has such a wide variety of alternative measures and actions with no known specificity of outcomes).

▶ The BDCP's effects on Delta flows and water levels: Changes in Delta flow and water levels as proposed in the plan have the potential to have a very significant and highly negative impact upon boats, marinas and boat ramps and other access point to the waters of the Delta. No analysis appears to exist in the BDCP or EIR/EIS as to operational impacts and the mitigations for having altered and reduced Delta water levels. Thus no analysis exists as to the severity this impact will have upon recreational boating, marinas and other water-based recreational uses of the Delta. Also, it is clear that if there are reduced water levels in the Delta this will also – from time to time - occur and have negative impact upon marinas and boats and access points along the Sacramento River and American River.



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Legislation Revising Penalties for Minor Violations Enacted

California Governor Jerry Brown in July signed into law RBOC-supported legislation reclassifying certain boat operation violations as infractions and reducing the associated fines.

SB 1162 [Berryhill] was pursued with the thought that reclassifying penalties for minor violations will result in increased enforcement, and therefore increased compliance, while at the same time reducing the burden on the court system.

When these relatively minor violations carry the weight of a misdemeanor, law enforcement officers become reluctant to issue citations and instead issue warnings which can reduce the effectiveness of the law to deter the unwanted behavior.

When citations are issued for these violations, with misdemeanor penalties, prosecutors and courts often fail to take action on them because they are considered minor in comparison to other, more serious offenses with which law enforcement and the courts are engaged.

The enacted bill reclassifies the following misdemeanors as infractions, and reduces the associated fines as noted:

➤ Mooring a vessel to a buoy or beacon, except a designated mooring buoy (\$100);



➤ Violating a “blue light law” by failing to provide a clear course for a law enforcement vessel (\$100);

➤ Owning, operating, commanding, or permitting the use of a vessel at a speed over five miles per hour (mph) within 100 feet of a swimmer (\$100);

➤ Owning, operating, commanding, or permitting the use of a vessel at a speed over five mph within 200 feet of an occupied beach, swimming float, diving platform, lifeline, or way or landing float used to fast a boat (\$100);

➤ Operating a vessel towing a person on water skis without a person of at least 12 years of age on board, in addition to the operator, to monitor the progress of the persons being towed (\$200);

➤ Operating a vessel towing a person on water skis at night (\$200);

➤ Violating the United States Coast Guard Navigation Rule 20 relating to navigation lights, which describes timeframe and condition during which vessel operators must comply with regulations on lighting (\$100);

➤ Improperly shielding floodlights or headlights that may interfere with proper navigation of approaching vessels (\$100); and,

➤ Performing certain reckless or negligent acts including riding on the bow, gunwale, or transom of a moving vessel that lacks deterrents to falling overboard (\$250).

Support RBOC

We estimate that, over the years, RBOC's efforts are saving California boaters several hundreds of dollars each year.

It is easy to make a contribution either mail donations to: RBOC, 925 L Street – Ste. 260, Sacramento, CA 95814-3703 OR donations may be made on-line at www.rbo.org using Discover, Visa, American Express, MasterCard, or PayPal. Donations are not tax deductible due to RBOC's extensive lobbying efforts.

