



Ventura County Coalition of Labor, Agriculture and Business

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Cindy Lin, D. Env.
U.S. Environmental Protection Agency
Southern California Field Office
600 Wilshire Blvd., Suite 1460, Los Angeles, CA 90017
Transmitted via email: lin.cindy@epa.gov

RE: Comments on US EPA Region 9 - Ventura River Reaches 3 and 4 TMDLs For Pumping & Water Diversion-Related Water Quality Impairments

Dear Ms. Lin,

VC COLAB is a business advocacy group with over 300 local Ventura County members including cattle ranchers, horse owners, irrigated landowners and supporting businesses. We have a unique perspective and are genuinely concerned about the effect of the EPA TMDL on the livelihoods and lifestyles of our members, many who live and work within the Ventura River watershed. We are supporting the efforts of the Horse and Livestock Watershed Alliance and the Cattlemen's Association in their analysis of this complicated document through our research and consulting scientists. While we believe there are opportunities for improvement to the watershed with the implementation of Best Management Practices (BMPs) under the L.A. Regional Water Quality Control Board's (LARWQCB) Algae TMDL, we do not support this EPA TMDL that is based on 303(d) listings for "Pumping and Water Diversion" with no data to support the listings. In addition, the EPA TMDL wrongly implicates dischargers who have no responsibility for pumping or diversion and proposes load allocations expressed as concentrations conflicting with the intent of Algae TMDL. Further, we believe there is a lack of sufficient science to support the numeric targets, source assessment, linkage analysis, and pollution allocations with respect to horse, livestock, grazing and OWTS (septic systems) and their possible discharges to the watershed.

- 1) VC COLAB does not support the Draft EPA TMDL which responds to 303(d) listings for Reaches 3 and 4 where there is no data to support the listings:
 - Ventura River Reaches 3 and 4 contain "no data" in both the "Not Supporting" and "Partially Supporting" beneficial use categories in the LARWQCB 1996 Water Assessment Report giving no reason for the original listing for "Pumping and Water Diversion".
 - Subsequent Regional Board Integrated Reports have continued these listings because there was no new data to counter the "no data" that somehow justified the original listings. This defies reason.
 - The EPA TMDL, Section 2.3 Basis for Listing admits that "in Reach 3, no specific information was cited to support the listing for pumping and water diversions".
 - We question the validity of the original listing for Ventura River Reaches 3 and 4 and the authority for the EPA to therefore include them in the Consent Decree or the TMDL
- 2) Further, we question the EPA's interpretation that 303(d) listings for "Pumping and Water Diversion" can lead to regulation of pollutants that a reach is not listed for and not considered for:

- Ventura River Reaches 3 and 4 are not 303(d) listed in the Clean Water Act for low DO, algae, nitrogen, phosphorus or any other pollutants indicated in the TMDL.
 - Reaches 3 and 4 have not been considered for placement on the CWA 303(d) list for low DO, algae or nitrogen. As data is being collected in these reaches it follows that the data would not support these listings.
 - Reaches 3 and 4 were not shown as low DO or Algae in the “Not Supporting” or “Partially Supporting” beneficial use category in the LARWQCB 1996 Water Assessment Report defining the original listings for “Pumping and Water Diversion”.
 - The EPA action of interpreting these listings to equal a low DO or Algae listing is a circumvention of the legal listing process.
- 3) The EPA interpretation of the Ventura River Reach 4 listing for “Pumping and Water Diversion” seeking to hold dischargers as responsible parties in the TMDL violates the intent of the original unjustified listing:
- There is no data to support the original 303(d) listing in the LARWQCB 1996 Water Assessment Report.
 - The report has a “Robles Diversion by-pass flows” notation referencing the California Department of Fish and Game Steelhead Restoration and Management plan (1995-6) for California.
 - The Management Plan states “The major obstacle to steelhead restoration in this system is blocked access to headwaters and excessive water diversion.” The Plan discusses dewatering, fish passages, spawning sites and barriers to migration for the southern steelhead.
 - Recommendations of the Plan refer to fishways and bypass flows at the Robles Diversion, removal of the Matilija Dam, spawning and rearing habitat in the Coyote and San Antonio Creeks and watershed planning. Recommendations do not discuss pollutant discharges and do not lead to the interpretation that dischargers should be held responsible for a resulting 303(d) listing.
- 4) The EPA TMDL is deeply flawed and will cause consequences that will exacerbate the seasonal low flow conditions:
- Low flows by any cause do not increase the total volume of pollutants in the river.
 - It is unreasonable to name dischargers as responsible parties in a TMDL in response to pumping and water diversion listings.
 - BMPs to reduce pollutants of dischargers will hold and filter water in some manner which ultimately lessens the water flow back to the river.
 - Non-point source dischargers have no means to increase water flow into the river.
- 5) The EPA TMDL as applied to dischargers is mainly a duplication of the Los Angeles Regional Water Quality Control Board’s “Algae” TMDL which already regulates discharges to Reaches 3 and 4 and its tributaries as they flow into Reaches 1 and 2.
- Nutrient loading is already addressed in the Algae TMDL in all reaches of the Ventura River and its tributaries and load allocations are already assessed for all dischargers.
 - Significant figures and tables were already included in the Algae TMDL staff report and it is unnecessary to duplicate them and/or to create separate calculations for Reaches 3 and 4 and its tributaries using the Algae TMDL data.
 - Load allocations for Reaches 3 and 4 and their tributaries are already included in the Algae TMDL even though these reaches are not listed for nutrient loading.
 - Having two TMDLs with the same data and different conclusions is confusing and unnecessary for dischargers in the Ventura River. This will lead to contradictions regarding implementation plans and schedules.
 - The EPA TMDL wrongly implicates dischargers who have no responsibility for pumping or diversion and proposes load allocations expressed as concentrations conflicting with the intent of Algae TMDL.

- We recommend that the EPA TMDL remove all references to dischargers, including all point and non-point sources.
 - We recommend: *Section 6 Pollutant Allocations and TMDL* - be replaced with a reference to the Algae TMDL for all load allocations.
 - We recommend that *Section 7.3 Potential Implementation Strategies* – Remove any implication that dischargers would be responsible for the costs of implementation strategies that are unrelated to their discharge.
 - We recommend that *Section 7.4.1 Receiving Water Monitoring* - remove all references to dischargers as responsible parties including the specific reference to horse and livestock owners.
- 6) EPA derived in-stream concentrations for dry-season nitrogen (N) and Phosphorus (P) assigned to Horses/Intensive Livestock, Grazing Activities and OWTS's unfairly burden this subset of dischargers:
- In-stream concentrations do not follow the discharge allocations set for these non-point sources determined through extensive discussions with the Regional Board in the Algae TMDL.
 - Regulating nutrients through in-stream concentrations unduly burdens these sources for levels that could be caused by both low flows and nutrient loading.
 - If adopted, these few dischargers would be ultimately responsible for concentrations in the stream that potentially come from commingled sources in a variety of weather conditions.
 - If river flow was to decrease in the future by no fault of their own, the dischargers would be responsible for a corresponding reduction in nutrients that they would not be able to achieve.
- 7) EPA derived in-stream concentrations for dry-season nitrogen (N) and Phosphorus (P) assigned to Horses/Intensive Livestock, Grazing Activities and OWTS's do not take into account important local background conditions:
- The Monterey Formation, a source rock and the reservoir for numerous California oilfields outcrops in Reach 3, along the whole lower half of Reach 4 and lower San Antonio Creek under the alluvium. It also outcrops along tributaries to Canada Larga which contains numerous oil seeps. According to Randal Orton of the Las Virgenes MWD, water quality has geological influences from this formation in Malibu Creek where it leaches phosphate and other naturally-occurring contaminants to the watershed.
 - In-stream concentrations were derived from a modeling program that relates nutrients to algal cover to dissolved oxygen and does not take into account baseline nutrient levels from natural sources in this river that likely preclude a reduction in algal cover.
 - The assignment of concentrations for this river is beyond the scope of the data collected
 - We recommend that dischargers be regulated under the LARWQCB Algae TMDL and be removed from the EPA TMDL
- 8) Inclusion of grazing activities into an EPA TMDL and assigning load allocations and monitoring requirements is premature and unnecessary:
- 9) Existing nutrient loading has not been quantified for grazing activities in the Ventura River Watershed as reported in the Algae TMDL staff report, page 76
- Lack of data for nutrient loading does not justify in-stream concentration limits for this very limited activity
 - A recent Cattlemen's Association survey reported less than 700 cattle remaining in the entire watershed and that these operations have a very low stocking rate, averaging 1 animal unit per 25 to 30 acres.
 - In addition, important publications with respect to these activities have not been reviewed by the regulating agencies. Dr. Kenneth Tate, Department of Agronomy and Range Science at UC Davis has published numerous papers with colleagues documenting the importance of grazing with proper

rangeland management as an integral part of the ecosystem and having a positive impact on nitrogen levels in adjacent streams.

- We recommend giving a one-year timeframe to work with the EPA and Regional Board to determine whether grazing activities have significant discharges to the watershed including an opportunity to set realistic discharge limits based on published studies and local data.

In conclusion, VC COLAB opposes the adoption of the EPA TMDL and recommends the delisting of the Ventura River for Pumping and Diversion on the basis that (1) there is insufficient data to support the listing, (2) EPA does not have authority to regulate flow and (3) the contaminant parameters specified in the EPA TMDL are duplicative of the LARWQCB Algae TMDL, which has already been promulgated. In testimony by the EPA at the LARWQCB hearing for the Algae TMDL, there was full support expressed for the resolution.

We have serious concerns about the unintended consequences of setting unrealistic in-stream concentration limits for horse owners, cattle ranchers and homeowners with septic systems. These impacts will be to real people and the unnecessary expense of monitoring for compliance could lead to the loss of the rural lifestyle in the Ojai Valley.

Many Ojai Valley residents utilize septic systems as their method of sewage disposal and they have not been notified or informed about this potential new regulation and therefore do not have the opportunity to comment on their own behalf.

In the vital Ojai horse community there is an effort to voluntarily work with the Resource Conservation District to implement BMPs to prevent nutrients from horse manure entering the creeks in dry and wet weather. However, there is concern about the cost of monitoring requirements leading to increased horse abandonment and the loss of horse programs. These include programs for the disabled and world recognized high-school horse programs that teach kids responsibility, problem-solving and friendship. The loss of horses in the Ojai Valley would be devastating to the community.

Cattle grazing is also a historic practice in the Ojai Valley and although it is rapidly diminishing due to business economics, it plays a vital role in the valley lifestyle. Proper range management leads to the preservation of grasslands that are essential to fire protection and provide habitat that support a variety of species in the watershed. A majority of the cattle ranchers already implement effective range management practices as they are essential to the continuing viability of their grazing operations and to the stewardship of their land.

We appreciate the opportunity to comment on this document and believe that this TMDL can be modified to be supportive of watershed protection goals while increasing cost effectiveness of solutions and maintaining the quality of life of the valley residents.

Sincerely,



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