



Las Virgenes – Triunfo Joint Powers Authority
4232 Las Virgenes Road, Calabasas, CA 91302
818.251.2100



For Immediate Release

For More Information: Carlos G. Reyes
(818) 251-2150

U.S. EPA Adopts Malibu Creek Regulations

CALABASAS, CA July 8, 2013 – On July 2nd, the U.S. Environmental Protection Agency adopted new water quality standards for Malibu Creek and Lagoon, which when implemented, will have a severe effect on wastewater treatment costs for customers of the Las Virgenes – Triunfo Joint Powers Authority (JPA), comprised of Las Virgenes Municipal Water District and Triunfo Sanitation District.

Intended to reduce or eliminate the presence of algae in the watershed, the document contains stringent new “Total Maximum Daily Loads” (TMDLs) for nitrogen and phosphorous that cannot be met using the existing wastewater treatment processes.

David W. Pedersen, Administering Agent and General Manager for the Las Virgenes – Triunfo Joint Powers Authority (JPA) said, “We are still examining the documents released by the EPA, but we’re concerned that decades of research show Malibu Creek has very high natural levels of the constituents EPA seeks to control. We are very disappointed to see that sound science is being compromised in a rush to establish regulations not supported by science or the community. I believe the region needs a more collaborative watershed-wide approach that engages the community and, at the same time, achieves tangible results proportional to their costs.”

In May, over 160 people packed the Agoura Hills City Council chambers to hear representatives from EPA and the Los Angeles Regional Water Quality Control Board explain the need for new regulations. Mr. Pedersen also presented the concerns of the JPA at that meeting, where many residents questioned the rush to establish new regulations when water quality standards adopted in 2003 have not yet been fully implemented.

--more--

Michael McReynolds
Chair, Las Virgenes-Triunfo
Joint Powers Authority
Chair, Triunfo Sanitation District
Board of Directors

Charles Caspary
Vice Chair, Las Virgenes-Triunfo
Joint Powers Authority
President, Las Virgenes Municipal Water District
Board of Directors

Originally scheduled for 2021, the adoption of new TMDLs for Malibu Creek and Lagoon were added in 2010 to a consent decree between the U.S. EPA and non-governmental organizations (Heal the Bay and Santa Monica Baykeeper represented by the National Resources Defense Council). The decree put the EPA on an aggressive schedule to complete TMDLs in the greater Los Angeles area, including Ventura County.

In a petition filed earlier this year, the JPA seeks to overturn the 2010 consent decree provisions by intervening in the case that led to the consent decree; a decision on that petition is still outstanding in federal court. The JPA contends that the EPA did not follow the process mandated by the Clean Water Act, which requires the State, not the EPA, to develop TMDLs. To circumvent the process, the EPA argued that the State's failure to submit TMDLs should be viewed as "constructive submission" of an inadequate TMDL, allowing the EPA to disapprove it and create its own TMDL. However, the EPA argued precisely the opposite position in a 2002 case before the 9th Circuit of Appeals (*San Francisco Baykeeper v. Whitman* 297 F.3d 877), and prevailed. Interestingly, the EPA chose not to inform the court of this important decision when the amended consent decree was presented to the court in 2010.

Michael McReynolds, Chair of the JPA Board said, "The EPA was intent on establishing a sweeping TMDL that had not been fully vetted, in order to comply with an artificial deadline. If left as-is, it is possible, after hundreds of millions are spent, algae will still be present in the watershed. In my opinion, this is not how the regulatory process should work."

Vice Chair Charles Caspary, added, "The JPA Board will carefully consider all of its options, including additional legal remedies, to ensure the concerns of the community are heard and compliance costs are linked to tangible benefits."

--more--

The JPA operates the Tapia Water Reclamation Facility in Malibu Canyon, which treats some nine million gallons of wastewater daily. The Tapia plant produces recycled water used for irrigation in the region. Under its current operating permit, Tapia is only permitted to discharge its treated effluent to Malibu Creek from November 15 to April 15, when demand for recycled water is low. Mr. Pedersen has stated that algae species are found far above Tapia's discharge point in the upper reaches and tributaries of Malibu Creek, as well as in the areas below.

The JPA is comprised of Las Virgenes Municipal Water District and Triunfo Sanitation District. It provides wastewater treatment, recycled water and biosolids composting to residents of Agoura Hills, Calabasas, Hidden Hills, Oak Park, Westlake Village and portion of Thousand Oaks, in addition to unincorporated surrounding areas of Los Angeles and Ventura Counties.

.# # #

EDITOR: EPA's documents can be found at:

www.epa.gov/region09/water/tmdl/progress.html#malibu