

Statement to the U.S. Commission on Ocean Policy
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Thirty years after the passage of the Federal Clean Water Act, U.S. coastal waters still have numerous critical water quality problems. Requirements in the Clean Water Act such as “fishable-swimmable by 1983” and “no discharge of pollutants to receiving waters by 1985” have been ignored. Many beaches are frequently unsafe for swimming. Creeks and rivers are often toxic to aquatic life because of runoff pollution. Harmful Algal Blooms, low dissolved oxygen levels and dead zones continue to plague our coast and many of our estuaries. Our urban coastlines looks like a landfill after every major rain.

The last thirty years also have provided numerous success stories. Nearly all sewage treatment plants have upgraded to full secondary treatment standards. Also, water reclamation plants with more advanced treatment technologies continue to be built and help provide additional water supplies. The unsung success of industrial pretreatment program requirements has led to massive reductions in priority pollutant loads to coastal waters. In summary, the last thirty years have led to great improvements in water quality from point sources.

However, the nation’s success on reducing stormwater runoff and non-point source runoff has been nothing short of pathetic. The success on point sources largely occurred because of a strong water quality standards/technology forcing approach to pollution reduction. In addition, the citizen enforcement provisions of the Clean Water Act further strengthened this regulatory approach. Also, the federal government provided billions of dollars in funding for technology upgrades at sewage treatment plants and industries. This carrot and stick approach led to a generally successful point source reduction program.

The stormwater and non-point source programs are a completely different matter. Both of these programs are severely underfunded by factors of two to three orders of magnitude or more. Also, the effort to move urban stormwater into the point source provisions of the Clean Water Act without clear and meaningful water quality standards has led to ineffective stormwater pollution prevention efforts. The standard of implementing “Best Management Practices to the Maximum Extent Practicable” is so ambiguous that many municipalities have been able to implement ineffective stormwater management programs while still being considered in compliance with the law. Also, add in the fact that Federal enforcement efforts on municipal stormwater violations have been non-existent and it is hardly surprising that our coastal waters continue to get assaulted by polluted runoff. The programs for industrial runoff and construction site runoff are even less effective.

Clearly, the nation needs to provide major funding in the tens of billions of dollars for construction of structural BMPs in urban areas and for stormwater program planning and

management. Also, the EPA and the states need to insure that numeric water quality standards are met regardless of the source of pollution. Stormwater permits must have numeric effluent limits to be effective, or at the very least, they must make it clear that stormwater shall not cause or contribute to exceedances of water quality standards or the impairment of beneficial uses such as swimming, fishing aquatic life and drinking water. Until such time as these changes are made through appropriations, a newly reauthorized Clean Water Act or through new regulations, coastal waters in urban areas will continue to be severely impaired. As an example, in the Los Angeles region alone, over 150 water bodies are impaired and our coastal waters and beaches literally have dozens of impairments.

Another major water quality problem is non-point sources of pollution. Congress made the mistake of not directly including non-point sources of pollution in a meaningful regulatory program. Agricultural sources, horse stables and livestock ranches, boats and ships, septic tanks, forestry and mining are enormous sources of nutrient and fecal bacteria pollution that are largely falling through the cracks of the regulatory framework. These sources of pollution are “managed” through a watershed management approach that is both voluntary and underfunded. The lack of any true regulatory and enforcement authority in the Clean Water Act is the predominant reason for the massive water quality problems caused by non-point sources.

In addition, S. 6217 of the Coastal Zone Act Reauthorization Amendments requires the development of non-point source management plans in coastal states. The requirements for this program are overly broad and lack any regulatory teeth. There is little to no available Federal funding for plan implementation and the State coastal NPS plans are voluntary. Even if a state failed to develop and adopt a plan, NOAA has no true authority other than cutting already trivial state CZMA funding. Again, until such time as there is adequate funding for coastal NPS plan administration and implementation, and the requirements are enforceable, CZARA will continue to have little impact on coastal water quality.

Regulation of non-point sources generally only occurs through the Total Maximum Daily Load approach. One of the shortcomings of the TMDL program is that it only regulates non-point sources that cause or contribute to water quality impairments. The TMDL program does not protect attainment waters. As you know, until recently and because of numerous citizen suits, this was another section of the Clean Water Act that was largely ignored by the EPA and states. Even now, because of the contentious nature of litigation and the increasingly clear economic ramifications to potentially regulated pollution sources, the EPA and the States are under a great deal of pressure to weaken the TMDL program before it really gets off the ground nationally. TMDLs are a forced watershed management program that takes into account all sources of pollution, including non-point sources that cause impairments of receiving waters. The EPA and the states need to proactively develop TMDLs and ensure program implementation as soon as possible to restore the nation’s impaired coastal waters.

Another major source of pollution in our coastal waters is contaminated sediments. Contaminated sediment hotspots form in numerous estuaries at the mouths of stormdrains, creeks and rivers. In the Los Angeles area, the mouths of the Los Angeles River, Dominguez Channel and Ballona Creek often have contaminated sediment hotspots with high concentrations of heavy metals and petroleum hydrocarbons. Also, numerous hotspots are due to historic contamination from industrial sources. For example, just offshore of the nearby Palos Verdes shelf lies the worst DDT hotspot in the United States. Over 110 tons of DDT remains in the sediments even though the carcinogenic pesticide was banned in 1972. As a result, many species of fish caught off the Palos Verdes shelf have very high concentrations of DDT which poses an unacceptable cancer risk to subsistence anglers and to consumers of commercially sold contaminated fish.

These examples demonstrate that the region has a major contaminated sediment problem. There is no national strategy to clean up these sediments. Hotspots are cleaned up because of individual Superfund or other enforcement actions, or as part of maintenance dredging activities in ports or marinas. The country needs a national contaminated sediment regulatory program that sets sediment quality standards based on chemistry and toxicity. The program needs to include requirements for dredging and disposing of contaminated sediments in an environmentally sound manner. Tens of millions of dollars gets spent each year on maintenance dredging. This same Army Corps of Engineers program should fund hotspot clean up projects to make the coastal waters in and adjacent to ports and marinas safe and healthy for marine life. Also, significant funds should be made available to treat and beneficially use contaminated sediments.

Another area of concern is how we monitor our coastal waters. Coastal regional monitoring programs have not been adopted nationally. So much of the nation's monitoring is through discharge permit requirements. Compliance monitoring alone does not give us an accurate picture of the state of our nations waters. Most of our coastal waters and beaches are not monitored at all. For example, there still is not a standardized national beach monitoring program. California gets portrayed as having the worst beach water quality probably because the state has very strong statewide bathing water standards with mandatory monitoring and public notification requirements. Many states rarely monitor the water quality at their beaches, only monitor during the summer season, or only monitor for a single type of indicator bacteria. This inequity must be resolved.

Also, there is a tremendous need for standardized monitoring of pollution sources and our coastal resources. The data collected in California needs to be comparable to the data collected in Florida. A worst case example of the problem is stormwater pollution. There is no standardized monitoring of municipal, industrial or construction sources of polluted runoff. Samples get collected and analyzed with different methods and different constituents. Also, there are few mandatory requirements on the pollutants that must be included in a monitoring program. Without standardized information, it is impossible to assess the impacts of polluted runoff on coastal water quality and natural resources.

Clearly, there are many other coastal water quality and natural resource problems that will be addressed in front of the Commission. The need for marine no-take zones and preservation and restoration of our coastal wetlands, intertidal zones and kelp beds are a few additional examples of critical problems. The nation's coastal waters are in critical condition and I urge the Ocean Commission to make far reaching recommendations to reverse the trend of continued degradation of our marine resources.

I appreciate the opportunity to bring these critical water quality problems to your attention. Heal the Bay would be more than happy to provide you with any additional information on California's coastal water quality problems.