

**RESPONSE TO COMMENTS**  
**THE BOEING COMPANY, SANTA SUSANA FIELD LABORATORY**  
**TENTATIVE NPDES/WDR R4-2022-XXXX**  
**NPDES PERMIT NO. CA0001309**

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No.	Comment Summary	Comment Letter	Response	Action
1	<p><b>The Tentative WDR Should Establish Monitoring Requirements that Fully Consider the Provisions of Water Code Section 13267 and Reflect Site Conditions.</b> Data collected since 2004 from over 140 rain events and more than 400 samples demonstrate that there are more than 50 constituents that have never been detected in stormwater discharges from Santa Susana over the last 16 years. Since the data shows that none of these constituents are present in stormwater discharges from the Site, Boeing requests that the Tentative WDR be revised to provide that no monitoring is required for these constituents until soil removal activities under the direction of DTSC are implemented..... The burden in the form of continued monitoring and reporting costs associated with monitoring analytes that have never been detected at the Site clearly far outweigh any benefit from continuing any monitoring for these constituents under existing site conditions. Boeing understands that there may be a concern that these constituents might appear during the cleanup of historical soil contamination from past industrial activities at the Site; however, it should be noted that during the performance of the two largest soil cleanups in the Outfall 008 and 009 watersheds, these analytes were not detected in stormwater discharge..... Boeing proposes to monitor the stormwater discharged at the outfall(s) serving the watershed(s) where the work is done for those analytes identified by DTSC as constituents of concern in cleanup areas.</p>	01	<p>The monitoring and reporting requirements in the permit are imposed as authorized by California Water Code section 13383 as well as federal laws and regulations, including Clean Water Act section 308, and sections 122.41(h), (j)-(l), and 122.48 of title 40 of the Code of Federal Regulations. Monitoring and reporting requirements in NPDES permits are not imposed based on the authority in California Water Code section 13267. Moreover, California Water Code section 13383 does not require a consideration of the burden relative to the benefits of the monitoring program reports. Although section 13383 does not contain an explicit legal requirement to consider the burden, including costs, relative to the benefits of monitoring and reporting, the Los Angeles Water Board does consider the reasonableness of monitoring and reporting requirements. The costs incurred to comply with monitoring and reporting requirements are necessary, particularly at this Site where extensive industrial activities have occurred in the past, and pollutants from these industrial activities remain on the Site and have not yet been cleaned up.</p> <p>The proposed monitoring requirements reflect site conditions. Historical activities have resulted in extensive soil and groundwater contamination from a multitude of pollutants, including TCE (trichloroethylene) and its decomposition products, heavy metals, dioxins (TCDD equivalents), and radionuclides. Because of the historical activities at the Site, the California Department of Toxic Substances Control (DTSC) is currently overseeing a Resource Conservation and Recovery Act (RCRA) facility assessment and cleanup at the Santa Susana Field Laboratory (SSFL or Facility) (42 U.S.C. §§ 6901 et seq.). The Los Angeles Water Board has considered the past industrial activity at the Site and the pollutants identified by DTSC as constituents of potential concern (COPCs) in establishing monitoring requirements in the permit to ensure that the pollutants sampled are representative of those associated with the past industrial activity. Accordingly, the proposed monitoring and reporting requirements will result in appropriate data needed to evaluate water quality impacts of the discharges and ensure that beneficial uses are protected. (See <i>In the Matter of the Petitions of the City of Oceanside, Fallbrook Public Utilities Dist. and the Southern California Alliance of Publicly Owned Treatment Works</i>, State Water Board Order WQ-2021-0005 at pp. 12, 13.)</p> <p>The Los Angeles Water Board has also considered the interim soil removal actions in the Outfalls 008 and 009 watersheds in developing this Tentative Permit. However, RCRA cleanup activities across the Site are not complete. At Outfall 008, the data analyzed for antimony, nickel, and thallium did not trigger reasonable potential and therefore, these limits are removed, and the sampling frequency is reduced to one sample per year in the proposed permit. In the Outfall 009 watershed, known areas of contamination remain even after the interim soil removal action. As excavation and other cleanup activities continue, there is the opportunity for exposing soil contamination such that stormwater could transport it offsite. Additionally, while pollutants may not have been detected in the past, with climate change and the resulting more intense storm events and increased frequency of wildfires, it is possible that there may be changes in the nature and quality of stormwater discharges. It is important that the monitoring is in place to address these changes. Finally, annual monitoring for all priority pollutants is a standard requirement in all NPDES permits. The data is important for identifying any new pollutants or increases in pollutant concentrations and is necessary to complete the reasonable potential analysis during the next permit renewal process.</p> <p>Hence, the Los Angeles Water Board finds that the monitoring requirements outlined in the</p>	None

			permit provide are necessary and reasonable for evaluating the pollutants present in the stormwater discharges from the facility.	
2	<b>The Tentative WDR Should Not Require Monitoring for Constituents Outside of Boeing's Control and Influence.</b> Discharges from Outfall 009 ultimately flow into Arroyo Simi but do not discharge directly into Arroyo Simi at the point of compliance (the Frontier Park sampling location is approximately 4 miles from the Santa Susana Site). ...	01	Arroyo Simi is the ultimate receiving water for stormwater discharges from the northern portion of the Site. Water quality objectives (WQOs) are established to protect the beneficial uses in Arroyo Simi. WQOs are incorporated into the permit as receiving water limitations. The proposed permit includes provisions to ensure that the stormwater discharges from SSFL do not cause an exceedance of receiving water limitations in the waterbodies downgradient from the site, and monitoring is essential to determine compliance with these permit provisions. The Los Angeles Water Board has considered the various land uses upstream of the receiving water monitoring location in establishing the requirements. As a result, language has been added to the Table E-6 notes for monitoring location RSW-002 (Frontier Park, 4 miles from SSFL) to specify that no additional daily sampling for E. coli is required in response to an exceedance of the yearly sample when there is no observed discharge from the Site. This recognizes that, in this case, the source of the elevated E. coli is not coming from a discharge from SSFL.	None
3	<b>90% of the contaminants that Boeing and DTSC have identified as detected at SSFL are exempt from any limits whatsoever in the Tentative Permit.</b> Boeing and DTSC identified ~314 contaminants at SSFL*; the permit provides limits for only 33 of these distinct chemicals. The other 280 (~90%) are allowed to be released at unlimited levels, which is wholly unacceptable from a public health and environmental perspective.  *SRAM 2 Addendum prepared by Boeing and approved by DTSC in August 2014; see "List of Chemicals Historically Detected at the SSFL - by Media" (PDF pp. 1408-1412), included as an attachment to these comments. We have highlighted (yellow) those constituents that are included as limits in the Tentative Permit compared to the great majority for which there are no limits included. [See also the similar number of toxic chemicals for which Risk Based Screening Levels (RBSLs) for soil contamination have been put forward for human health, SRAM, PDF pp. 1071-1073, and ecological receptors, SRAM, PDF pp. 1589-1597.]	02	Many of the contaminants that Boeing and DTSC have identified at SSFL are those that are of concern in soils and groundwater. Due to the chemistry of these contaminants, many of them that are present in soils and groundwater are not found in surface water, as can be seen from the 6 <sup>th</sup> , 7 <sup>th</sup> , and 11 <sup>th</sup> columns in the "List of Chemicals Historically Detected at SSFL – by Media" attached to the comment letter. For example, well over 100 of the contaminants listed in the attachment are volatile organic compounds (VOCs); these compounds are not generally abundant in stormwater because they quickly evaporate into the air from surface water in contrast to their persistence in groundwater. For those contaminants listed in the attachment that are found in surface water, many are not found at levels that pose a risk to human health and the environment. As required by federal regulations, the Los Angeles Water Board has included effluent limits in the proposed permit based on a technical analysis of the stormwater monitoring data from SSFL and other data and information to ensure that stormwater discharges from the Site do not impact human health and the environment. There are also comprehensive monitoring and reporting requirements in the proposed permit for pollutants beyond those with effluent limits. The Los Angeles Water Board may reopen the permit to add in other requirements, including effluent limits, if necessary, based on the monitoring data and other information.	None

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4	<p>Of the limits that are in the existing permit, nearly one quarter (25%) are proposed to be changed in the new permit. <b>Of those proposed changes, 95% either weaken or fully eliminate the limits in the existing permit.</b></p>	02	<p>The changes made in the Tentative Permit are not as extensive as understood by the commenters nor do they weaken the permit. The proposed changes are designed to implement current federal and state requirements, as well as to reflect updated facts, scientific studies, and site characteristics. In response to comments, Board staff have re-examined the proposed changes. With regard to the effluent limits, the Tentative Permit has been revised as follows: (1) the lead effluent limits applicable to Outfalls 008, 011 and 018 have been reinstated from the 2015 Permit because the lead site-specific objectives for the Los Angeles River and its tributaries only apply to urbanized portions of the watershed; (2) the nickel effluent limits for Outfalls 003-007, 009, and 010 have been revised to ensure protection of the Groundwater Recharge (GWR) use for which there is a lower water quality objective than that for protection of aquatic life uses in the Calleguas Creek Watershed; and (3) a mercury effluent limit for Outfall 008 has been reinstated based on a re-evaluation of the monitoring data, which showed reasonable potential for mercury at Outfall 008.</p> <p>To summarize the changes from the 2015 Permit as proposed in the Revised Tentative Permit, Discharge Points 011 and 018 each had effluent limits applicable to <i>stormwater discharges</i> for 47 pollutants. Of these, the concentration based effluent limits for two (copper and zinc) are higher than the 2015 Permit based on revised regulations applicable to these pollutants; -one was removed (selenium) due to the elimination of dry weather (i.e., non-stormwater) discharges from the site; one (nickel) is removed due to lack of reasonable potential<sup>1</sup>; and two (iron and manganese) are removed based on data showing that the elevated concentrations at the site are naturally occurring. In the Revised Tentative Permit, effluent limits are also added for three additional pollutants due to reasonable potential. Discharge Point 008 had effluent limits applicable to stormwater discharges for 29 pollutants; of these the concentration based effluent limits for two (copper and zinc) are higher than the 2015 Permit for the same reason given for 011 and 018 above; one (selenium) was removed due to the elimination of dry weather (i.e., non-stormwater) discharges from the site as discussed above; and three (antimony, nickel, thallium) were removed due to lack of reasonable potential. In the Revised Tentative Permit, effluent limits are also added for four additional pollutants due to reasonable potential. Discharge Points 003-007, 009, and 010 each had effluent limits applicable to stormwater discharges for 25 pollutants; of these, the concentration based effluent limits for two (copper and nickel) are higher and for one (mercury) is lower than the 2015 Permit based on revised regulations applicable to these pollutants. In the Revised Tentative Permit, effluent limits are also added for three additional pollutants due to reasonable potential.</p> <p>With respect to those effluent limits for stormwater discharges that have been removed, the limits have been removed because data, collected from April 1, 2015 to September 30, 2021, show that stormwater discharges from SSFL have no reasonable potential to cause or contribute to an exceedance of water quality standards to protect human health and the environment. Regarding those effluent limitations that are higher than the 2015 Permit, they have been revised to be consistent with regulations known as Total Maximum Daily Loads (TMDLs) that have been approved by the United States Environmental Protection Agency (U.S. EPA). TMDLs are required by the Clean Water Act, and federal regulations require that NPDES permits contain effluent limits consistent with TMDLs. The purpose of a TMDL is to</p>	<p>Revised and added several effluent limits in the Tentative Permit.</p>
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<sup>1</sup> Reasonable potential analysis (RPA) is a statistical procedure, defined in U.S. EPA's Technical Support Document for Water Quality-Based Toxics Control and in the State Implementation Policy, used to evaluate available effluent monitoring data to determine if a discharge could cause an excursion above an applicable State water quality standard. The most recent effluent monitoring data, more than 10,000 data points, from April 2015 through September 2021 was evaluated to determine reasonable potential for pollutants in stormwater discharges from SSFL and, along with other information including past industrial activity, site history, etc., formed the basis for determining which pollutants required effluent limitations.

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			<p>consider all sources of a pollutant to a waterbody and limit the amount of the pollutant that is discharged by each source to ensure water quality standards are attained. The Tentative Permit implements these TMDLs by setting the effluent limits equivalent to the pollutant allocations (also known as “wasteload” allocations) assigned to stormwater discharges in the TMDLs. Therefore, the TMDL based effluent limits for discharges from SSFL are protective of water quality.</p> <p>Further, the Tentative Permit prohibits all discharges during dry weather, and only authorizes discharge of stormwater runoff during wet weather. Previously, the discharge of treated groundwater to surface water during dry weather from groundwater cleanup activities was allowed. Because the 2015 Permit authorized dry-weather discharges to surface water, it also included effluent limits for certain pollutants that could be present in the dry-weather discharges. The Tentative Permit prohibits any dry-weather discharges to surface waters, so the effluent limits for these dry-weather discharges have been removed. In other words, the effluent limits in the 2015 Permit have been replaced with an outright prohibition on the discharge of those pollutants at any level in the Tentative Permit. Therefore, the Tentative Permit is more stringent than the 2015 Permit with respect to dry-weather discharges.</p> <p>In conclusion, the SSFL permit has been strengthened over time. The Los Angeles Water Board strengthened the pollutant limits in 2004 based on the California Toxics Rule, established by U.S. EPA in 2000. In 2006, the Los Angeles Water Board began incorporating permit requirements consistent with TMDLs approved by U.S. EPA. During the 2006 Permit term, the Los Angeles Water Board required that Boeing follow the direction of an expert panel to address exceedances of pollutant limits at Discharge Points 008 and 009 through targeted soil excavation and implementation of best management practices, and required additional monitoring in the vicinity of Discharge Point 007. During the 2010 Permit term, two advanced stormwater treatment systems were installed to meet permit limits. In addition, at the direction of the expert panel, many additional best management practices were incorporated into the Stormwater Pollution Prevention Plan required by the permit. During the 2015 Permit term, the permit has required that Boeing continue to operate the two advanced stormwater treatment systems and distributed best management practices across the site. The Revised Tentative Permit carries over many of the same requirements from the 2015 Permit as discussed above.</p>	
5	<p><b>Two of the primary outfalls (001 and 002) have no enforceable numeric limits whatsoever.</b> Instead, “benchmarks” apply, the breach of which does not constitute a violation and for which no fines can be issued. One of these outfalls (002) with no enforceable limits is the location of the largest number of exceedances in the last several years. (The benchmarks are identical numerically to the enforceable limits, but don’t trigger violations or fines.)</p>	02, 44, 46, 53, 79, 99	<p>SSFL is situated in the Simi Hills and is higher than the valleys that surround it. Because of its location and topography, and the large size of the facility, there is runoff from the site to two watersheds, and there are many discharge points. Outfalls 001 and 002 are at the southern perimeter of SSFL, and they share the same discharge as, and are directly downgradient from, Outfalls 011 and 018, respectively. Ultimately, the discharges from all four of these outfalls – 001, 002, 011, and 018 – flow to Bell Canyon Creek and the Los Angeles River.</p> <p>In 2006, the State Water Resources Control Board (State Water Board) issued Order WQ 2006-0012, addressing many legal challenges brought by Boeing concerning several prior NPDES permits for the SSFL Site: Order R4-2004-0111, and the two orders amending it, Orders R4-2006-0008 and R4-2006-0036. The 2006 Amendments to the 2004 NPDES Permit and its amendments added eight interior outfalls, including Outfalls 011 and 018, to the 2004 NPDES Permit, which already included Outfalls 001 and 002. All the outfalls in the 2004 Permit and the 2006 amendments thereto had effluent limitations assigned to them.</p>	None

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		<p>One of the issues that the State Water Board considered in Order WQ 2006-0012 was whether all of the outfalls were appropriately assigned effluent limitations and therefore appropriate compliance points for the 2004 Permit. The State Water Board ruled that it was “not appropriate for the [2006 amendments to the 2004 Permit] to establish compliance points” – that is, points that could both be assessed penalties for violations of effluent limitations – “at both Outfalls 001 and 011 and at both Outfalls 002 and 018,” and remanded the permit back to the Los Angeles Water Board with direction “to ensure that numeric effluent limitations for different outfalls do not count the same violation twice in such a manner as to treat a single violation as multiple violations.” (WQ Order 2006-0012 at pp. 14, 22.) As a result of the ruling, Los Angeles Water Board assigned effluent limitations to the outfalls closest to the industrial activities that occurred at the facility, Outfalls 011 and 018, and those Outfalls are the compliance points subject to mandatory minimum penalties (MMP) pursuant to Water Code section 13385 subds. (h), (i). The Los Angeles Water Board exercised its discretion and kept the downstream outfalls, Outfalls 001 and 002, but instead of assigning effluent limitations to the outfalls, the Board established benchmarks. An exceedance of a benchmark is used to trigger additional action by the Discharger to evaluate best management practices (BMPs) in a report and upgrade them to address the exceedances. Although these benchmarks are not effluent limitations and, thus, are not subject to MMPs, these benchmarks are requirements under the permit. Thus, if the Discharger failed to comply with the requirements in the permit to submit a report evaluating the BMPs and then failed to upgrade the BMPs as appropriate to address the exceedances of the benchmarks, the Los Angeles Water Board could bring an enforcement action pursuant to its discretionary authority. See, Water Code section 13385 subd. (a)(2), (3).</p>	
6	<p><b>Even though the Reasonable Potential Analysis (RPA) identified seven unique chemicals that should be added to the permit (for a total of ten new limits given their presence at multiple groups of outfalls), the Tentative Permit fails to add them.</b> [Although the Tentative Permit (F-34) claims that the reasons for refusing to add the new toxic constituents found by the RPA is detailed in Section 4.4, there is no such discussion found therein.]</p>	<p>02</p> <p>The Los Angeles Water Board concurs that the seven chemicals identified within the comment were not incorporated into the Tentative Permit as new limitations specific to their outfall location (some constituents already have effluent limitations but at a different outfall location, i.e., arsenic, pentachlorophenol, and selenium). Following the Woolsey Fire, these seven (7) chemicals were detected in stormwater discharges at certain outfalls at concentrations that exceeded the most stringent WQO, triggering reasonable potential under those post-fire conditions. Board staff evaluated the monitoring data for these constituents collected before and immediately after the Woolsey Fire, and found that, were it not for the fire, reasonable potential would not be likely. Benzidine, 3,3-Dichlorobenzidine, and 4,4-DDE had not been detected at the site in the preceding 10+ years (i.e., two permit terms). These three constituents were detected in sample results immediately following the Woolsey Fire at outfalls 001, 002, 008, and 018 in the first two months of 2019. They were not detected again during the remaining period of the permit term. The source of these constituents is not conclusive; however, the elevated concentrations are not representative of historical stormwater conditions at SSFL. Concentrations of arsenic in stormwater discharges at Outfall 008 were not measured at elevated levels in the prior 10-year period, but a sample result from Outfall 008 in January 2019 after the Woolsey Fire did trigger reasonable potential for arsenic. Pentachlorophenol had been detected at the northern drainage outfalls, 003-007, 009, and 010, in the previous two permit terms; however, the concentrations had not previously triggered reasonable potential, while the data results following the Woolsey Fire did.</p> <p>Asbestos is another constituent that had not been detected in the previous two permit terms but based on the reported monitoring data following the Woolsey Fire, it triggered reasonable potential at Outfall 009. It was subsequently determined that there was a reporting error, which was corrected in CIWQS. The reported value of 75 million fibers/L (MFL) detected was associated with a finer detection limit of &gt;0.5 µm/L whereas the detection limit associated with</p>	<p>Revised and added several effluent limits in the Tentative Permit.</p>

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			<p>the maximum contaminant level (MCL) is for fibers &gt;10 µm/L. At this level, the sample was reported at 1 MFL which is below the 7 MFL water quality criteria. Based on the corrected data, there is no reasonable potential. However, because there are known construction and building materials that may contain asbestos present at the landfill sites near the northern drainages, the Los Angeles Water Board included new and additional monitoring for this constituent in the Tentative Permit.</p> <p>Irrespective of the historical absence of a priority pollutant in stormwater discharges from SSFL, all priority pollutants are required to be monitored yearly. Based on the comments received, the Los Angeles Water Board reconsidered whether to include effluent limits for pollutants that had not previously triggered reasonable potential but did so in samples collected immediately after the Woolsey Fire. The Los Angeles Water Board recognizes that, while pollutants may not have been detected in the past, because of climate change and the resulting more intense storm events and increased frequency of wildfires, it is possible that there may be changes in the nature and quality of stormwater discharges. As the Los Angeles Water Board observes these changes, it is important that effluent limits and monitoring are added when appropriate. Therefore, the Tentative Permit is revised to add the following effluent limits: benzidine, 3,3'-dichlorobenzidine, and 4,4'-DDE at Outfalls 008, 011, and 018 with benchmarks for Outfalls 001 and 002; selenium, pentachlorophenol, and bis(2-ethylhexyl) phthalate at Outfalls 003 – 007, 009, 010; and arsenic at Outfall 008.</p>	
7	<p><b>The Board staff, without opportunity for public comment, waived virtually all of Boeing's fines for its violations of permit limits after the 2018 Woolsey Fire</b>, arguing that it was an act of God and Boeing and the other SSFL RPs had no responsibility for the violations. However, had Boeing lived up to its obligations under the cleanup agreement to complete soil cleanup by 2017 (which it hasn't even begun), there would have been no violations in 2018. Furthermore, had the fire station that had long been located within a few hundred feet of the starting place for the fire not been torn down and nearby fire hydrants and piping not removed before the fire, and had Boeing's remaining ancient fire engine at the site entrance not broken down before getting to the fire, the fire may never have spread beyond an acre.</p>	02	<p>Per Water Code section 13385(j)(1)(B) and a Consent Judgement applicable to the site, the Los Angeles Water Board granted Boeing relief from monetary penalties for 19 effluent limit violations in the immediate aftermath of the Woolsey Fire.<sup>2</sup> No relief was granted for the four violations of the effluent limit for TCDD (dioxin) during that time. The relief was limited to effluent limit violations occurring over a 3-month period from December 7, 2018 through March 7, 2019. No additional relief has been granted beyond that time period.</p> <p>As discussed in response to comment #5 above, and further in response to comment #25, below, the benchmarks applicable to Outfalls 001 and 002 are not effluent limits, and therefore, are not subject to Water Code section 13385 subds. (h), (i) and (j). However, the Los Angeles Water Board acknowledges that there were numerous exceedances of benchmarks at both Outfalls 001 and 002 immediately after the Woolsey Fire.<sup>3</sup> In the immediate aftermath of the Woolsey Fire, Boeing implemented a number of short-term BMPs across the site, while also replacing and repairing damaged BMPs. For example, short-term BMPs included collecting burned debris, vacuuming ash from drainages, hydromulching burned areas near drainages, and placing straw wattles and check dams at locations across the site to prevent erosion.</p> <p>The public had a chance to comment on the 2017 Consent Judgment prior to the time it was entered into by the Los Angeles Water Board and Boeing, and any and all comments were duly considered at that time.<sup>4</sup> Penalties under the Consent Judgment were stipulated to by the parties (the Los Angeles Water Board and Boeing), and penalties are assessed automatically thereunder for any "serious violation," as that term is defined in Water Code</p>	None

<sup>2</sup> These 19 effluent limit violations included 10 at Outfall 008, 7 at Outfall 011, 1 at Outfall 009, and 1 at Outfall 018.

<sup>3</sup> There were 27 Benchmark exceedances at Outfall 002 and 6 Benchmark exceedances at Outfall 001 between the start of the Woolsey Fire through 03/22/2019.

<sup>4</sup> *Los Angeles Regional Water Quality Control Board v. The Boeing Company*, Superior Court of California, County of Ventura, Second Amended and Restated Consent Judgment Pursuant to Stipulation of the Parties, June 27, 2017 (2017 Consent Judgment). The 2017 Consent Judgment's stipulated penalty structure expired on December 31, 2021, and it will expire completely if not renewed by June 30, 2022. Currently, if Boeing violates its effluent limitations in its NPDES Permit, penalties would be assessed pursuant to the California Water Code and the State Water Resources Control Board's Water Quality Enforcement Policy (2017), and any public notice requirements thereunder.

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			<p>section 13385(h)(2), and for any violations that required the imposition of mandatory minimum penalties, as defined in Water Code section 13385(i). (2017 Consent Judgment, § 6.1; 6.2; 6.3; 6.4.) Any disputes or disagreement arising pertaining to Boeing's failure to pay a stipulated penalty, or any monies owed under the 2017 Consent Judgment before December 31, 2021 were resolved pursuant to section 6.8, which required the party with a dispute to meet and confer before filing a motion with the court. After the Woolsey Fire, in accordance with the 2017 Consent Judgment, Boeing submitted a letter, dated April 15, 2019, in which it requested relief from mandatory minimum penalties pursuant to Water Code section 13385(j)(1)(B). This request was granted in part on June 27, 2019. Neither party sought to take the dispute to court. Accordingly, no public notice was necessary and the opportunity to comment on this procedure was in 2017, when the 2017 Consent Judgment was publicly noticed for comment.</p>	
8	<p><b>The Tentative Permit fails to disclose a scandalous aspect of a major action by Boeing, allowed by Board staff, that re-routes much of the contaminated surface water flow at the site to unlined ponds such as the Silvernale Reservoir, where contaminated water infiltrates into the groundwater, contaminating it further.</b> While some of the polluted water in the unlined ponds is removed to prevent overflow and partially treated for release down surface drainages, much of the contaminated water remains in the unlined ponds and pollutants thus seep into the aquifer. [Also of concern is that the partial treatment for what water is taken out of the pond(s) appears not capable of removing most of the toxic chemicals that have been detected at SSFL.] Trying to reduce Boeing fines for surface water contamination discharges by instead allowing it to discharge into and further pollute groundwater is deeply troubling.</p>	02	<p>The Los Angeles Water Board disagrees with the premise of the comment that the ponds are a way to avoid improving stormwater quality at the Site. Silvernale and the R-1 Pond are BMPs, which are used to temporarily store stormwater that has been re-routed or conveyed from various areas of the Site. Collection of stormwater from various areas of the Site allows the stormwater flow to be slowed down, reducing its erosive potential, and to be treated through a multi-step treatment system similar to what is used for drinking water before it is discharged from the Site. The concern about routing stormwater to unlined ponds and the possible impacts to groundwater was raised during the August 11, 2020 SSFL Stormwater Expert Panel community meeting. As responded to then, the Ground Water Expert Panel for SSFL has done water balance studies and found pond infiltration to be minimal. The water level in the ponds is generally kept low to provide storage for future storms; this also reduces infiltration. The stored stormwater is then treated prior to discharging to surface water drainages.<sup>5</sup> Treatment of stormwater before it leaves the Site is a way to ensure that the stormwater discharges meet effluent limits and benchmarks during storm events. The stormwater treatment systems (SWTS) located upgradient of Outfalls 011 and 018 remove pollutants using advanced treatment processes like those used by drinking water systems. The treatment process allows for settling and offsite disposal of large sediment particles in the stormwater, and then treats the stormwater through a multi-step system of sand vessels, media filters, and activated carbon. The SWTS remove heavy metals and dissolved organic compounds among other pollutants from the water. The treated stormwater is then discharged via Outfalls 011 and 018 and eventually offsite through Outfalls 001 and 002.</p> <p>However, the Los Angeles Water Board also identified the need for and has included in the Tentative Permit, new influent monitoring requirements for the Silvernale and R-1 ponds to assess the current quality of stormwater prior to treatment by the SWTS. This additional monitoring will provide more insight about any stormwater that may infiltrate to the groundwater from the ponds, given the minimal expected infiltration described above.</p>	None

<sup>5</sup> Santa Susana Field Laboratory Site-Wide Stormwater Annual Report: 2019/20 Reporting Year. October 2020. Prepared by the Surface Water Expert Panel and Geosyntec consultants. (See Appendix H.)

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9	<p><b>The Tentative Permit removes a series of “dry weather” limits</b>, asserting that dry weather discharges will now be prohibited because Boeing intends to reinject water from the Groundwater Extraction Treatment System (GETS) rather than release it into drainages. However, the Tentative Permit (pp. 10, 17) defines “wet weather” as “days when the maximum daily flow in the Los Angeles River is equal to or greater than 500 cubic feet per second (cfs).” As best as can be determined from the permit, however, Boeing, during periods that don’t meet that definition, removes some of the water from the unlined Silvernale Reservoir (and perhaps other ponds as well) and releases it into surface drainages leading to outfalls so as to keep the ponds having a capacity to receive additional water during subsequent times when there may be heavy rains. The removal of the dry weather limits is thus inappropriate.</p>	02	<p>The Los Angeles Water Board understands the commenters’ concerns. To clarify, in the context of this Permit, dry weather discharges are defined as only non-stormwater discharges, meaning those that are not associated with precipitation. In the 2015 Permit, the only permissible dry weather discharges were discharges of treated groundwater associated with the Groundwater Extraction Treatment System, or GETS, from Outfalls 019 and 020,<sup>6</sup> located downgradient from Outfalls 001 and 002, respectively. These discharges were not routed to the Silvernale or R-1 Ponds. The GETS is now operated to re-inject all treated groundwater, so all dry weather discharges to surface water have been eliminated. As a result, one of the key changes to this permit is that all dry weather discharges are now prohibited. In this regard, the Tentative Permit has become more stringent; any dry weather discharges, and thus any amount of a pollutant discharged during dry weather, would be a violation of the permit. A discharge of stormwater that is collected and temporarily stored in one of the detention ponds such as Silvernale Pond and then treated and discharged to an outfall after a precipitation event is not a dry weather discharge. In these circumstances, the discharge is subject to the effluent limits applicable to stormwater discharges.</p> <p>The wet weather definition referenced in the comment is specific to the cadmium effluent limit applicable to stormwater discharges at Outfalls 008, 011 and 018 and the cadmium benchmark applicable to stormwater discharges at Outfalls 001 and 002 (referred to collectively as “targets” in footnotes i and g, in Tables 4 and 6, respectively), and is based on the Metals TMDL for the Los Angeles River and Tributaries. With the prohibition on dry weather discharges and the corresponding removal of the dry weather effluent limits and dry weather benchmarks for cadmium, these footnotes to Tables 4 and 6 are not necessary and will be removed. For purposes of sampling, the Tentative Permit stated on page E-13 (footnote a), that during wet-weather flow, a discharge event is greater than 0.1 inch of rainfall in a 24-hour period. For clarification and consistent monitoring of stormwater discharges, this definition has been revised to refer to any precipitation-related runoff (to be inclusive of any discharge from the ponds, even if it occurs days after the rain event is over).</p>	<p>Removed footnote i to Table 4 and footnote g to Table 6 since these are no longer needed because there are only cadmium effluent limits for stormwater discharges; revised precipitation based definition of a discharge event from Attachment E – Monitoring &amp; Reporting Program.</p>
10	<p><b>Filtering samples is apparently allowed for many constituents, which can artificially reduce the measured values. A great many of the potential pollutants are not required to be measured at all, and the monitoring frequency for many pollutants is a single sample per year, grossly inadequate.</b></p>	02	<p>All pollutants must be analyzed using U.S. EPA approved analytical methods contained in 40 C.F.R. Part 136 and must be analyzed by a laboratory that is certified for the analytical method through the State Water Board’s Environmental Laboratory Accreditation Program (ELAP). (See, Attachment E – Monitoring and Reporting Program, p. E-2.) To clarify, the requirement that samples analyzed must be unfiltered samples (found in Tables 4-6 and E-3 and E-4) is specific to heavy metals, which have both a dissolved component as well as a portion that is associated with sediment particles. Boeing is required to analyze and report the total recoverable (“TR”) concentration of heavy metals, which includes both the dissolved and sediment associated components.</p> <p>The Monitoring and Reporting Program requirements for this Facility are reviewed and adjusted based on an assessment of monitoring data. The Los Angeles Water Board has maintained the sampling frequency of 1/Discharge Event for TCDD (dioxin) and all radiological pollutants, as well as for heavy metals where the monitoring data indicate reasonable potential for that metal to cause an exceedance of the water quality standard, at all outfall locations across the site.</p>	None.

<sup>6</sup> Note that Outfall 020 was never constructed or used. (See, Attachment F – Fact Sheet, p. F-7.)

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11	<p><b>The Tentative Permit does not disclose that Regional Board staff have been engaged in secret negotiations with Boeing and DTSC over Boeing’s desire to walk away from much of its obligations to clean up the contaminated soil and its objections to restoring the contaminated groundwater.</b> Those entities with an interest in and long history of trying to assure the cleanup agreements are carried out, such as the Counties of Ventura and Los Angeles, the City of Los Angeles, and groups such as ours are frozen out of these secret negotiations aimed at gutting cleanup requirements.</p>	02	<p>DTSC and the Los Angeles Water Board provided notice that they entered into confidential, non-binding mediation with Boeing in January 2021. This notice was provided on both DTSC’s and the Los Angeles Water Board’s website:  <a href="https://www.waterboards.ca.gov/losangeles/press_room/announcements/index.html">https://www.waterboards.ca.gov/losangeles/press_room/announcements/index.html</a></p> <p>The agencies entered confidential mediation in an attempt to resolve Boeing’s dispute with DTSC’s direction and guidance regarding Boeing’s groundwater corrective measures study and risk assessments for soil cleanup and achieve a full cleanup more quickly as a result. DTSC requested participation by the Los Angeles Water Board because of its jurisdiction over surface water and its role in advising DTSC on its laws, policies, and regulation regarding groundwater. The Los Angeles Water Board and Boeing have not discussed the Tentative Permit, or any of its requirements, during the confidential mediation.</p>	None
12	<p><b>At the core of all of this is that there are legally binding cleanup agreements that require a full cleanup of the contaminated soil and a permanent remedy in place to restore the contaminated aquifer, and the Responsible Parties (RPs) have failed to carry out their obligations.</b> The entire issue of pollution discharge limits being violated would not be occurring if the source of the contamination had been cleaned up by 2017 as promised. The Board should make clear it strongly supports those clean up agreements, will not tolerate any action that further delays or weakens those obligations, and will vigorously use its authority to issue fines and take other actions to enforce pollution limits. Further weakening the permit, as proposed here, can only remove incentives for Boeing to comply with the cleanup agreements, and the public and environment will remain perpetually at risk. The Regional Board should pass a resolution directly calling on DTSC to rigorously and completely enforce the 2007 and 2010 agreements, end the long delays, and for the RPs to stop resisting their cleanup commitments.</p>	02	<p>The Los Angeles Water Board agrees that there are legally binding cleanup agreements that require soil and groundwater cleanup at SSFL. Because cleanup has not occurred, pollutants remain in the soil at the site from the past industrial activity, and they have the potential to be eroded and carried off the site in stormwater runoff. The Los Angeles Water Board supports expeditious cleanup at the site, recognizing that the cleanup will address concerns about polluted stormwater runoff leaving the site.</p> <p>DTSC oversees investigation and cleanup of soil and groundwater contamination at SSFL. The Los Angeles Water Board oversees surface water discharges from SSFL. The Los Angeles Water Board will proactively pursue its mission to preserve, enhance, and restore the quality of California’s water resources for the benefit of present and future generations by implementing requirements of the federal Clean Water Act, federal regulations, and any applicable State laws, policies and regulations to control discharges of pollutants in stormwater runoff from SSFL to protect water quality, human health and the environment.</p>	None
13	<p>First, my daughter is one of fifty children we know in the surrounding community who have rare cancer. I believe it was the contamination from the Santa Susana Field Lab that caused their cancers. My belief correlates with the federally funded epidemiological study by the University of Michigan in 2007 that found a 60% higher cancer incidence rate for residents living within two miles of the SSFL. This area also has a 10-20% higher invasive breast cancer rate than most of California. The SSFL isn’t benign, and its contamination isn’t staying on the site.</p>	03	<p>The Los Angeles Water Board understands the grave concerns about health impacts associated with past industrial activities and the legacy contamination at the facility. There is extensive contamination at SSFL and there is the potential for the contamination to be carried offsite in stormwater runoff. For this reason, the Tentative Permit prescribes pollutant limits that are protective of human health and the environment, including strict limits for pollutants that are carcinogenic including radionuclides.</p>	None
14	<p>We were incredibly concerned to learn that Boeing had 57 exceedances, including gamma radiation, toxic chemicals and heavy metals. I assumed that the Water Board would therefore tighten the effluent constraints, and instead the Water Board has done the exact opposite with Boeing’s proposed NPDES [permit].</p>	03	<p>While some effluent limits and benchmarks have been revised over the years, as discussed in response to comment #4, most changes were made based on watershed specific TMDLs approved by U.S. EPA, and the revised effluent limits and benchmarks are protective of human health and the environment. In the Tentative Permit, most effluent limits have remained the same as those in the 2015 Permit, and no changes have been made to carcinogenic chemicals including TCDD and radionuclides. The Tentative Permit removes three effluent limits at Outfall 008 because those three pollutants are not present at levels that will cause an impact to water quality, human health, or the environment; none of the three pollutants at Outfall 008 were among those that made up the 57 exceedances. See again, response to comment #4.</p>	None

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15	<p>The County of Ventura has great concern with the lack of cleanup at the Santa Susana Field Lab. With each passing day that the highly toxic contaminants at SSFL remain unabated, our public's health is put at risk. As you know, there have been numerous NPDES permit violations by Boeing over the years and yet they continue to violate, often without penalty. It is with this backdrop of failure to meet their permit requirements and failure to be held accountable for continuing to pollute our waterways, that we find the tentative NPDES permit requirements to be perplexing and highly disappointing. The permit as proposed will reward a non-complying polluter by relaxing their permit requirements and allow more contaminants to flow unabated outside of SSFL property, further impacting the waters of the Malibu Creek watershed and the Calleguas groundwater management area.</p> <p>Ventura County is understandably concerned about public health and environmental impacts resulting from the failure to enforce existing cleanup requirements and we oppose weaker pollution standards going forward.</p>	04	<p>Regulatory oversight is provided by two agencies within the CalEPA. DTSC is the agency responsible for overseeing investigation and cleanup of soil and groundwater contamination at SSFL. The California Water Boards is the agency responsible for regulating surface water discharges from SSFL.</p> <p>The Los Angeles Water Board has developed the Tentative Permit based on a clear recognition that cleanup of the extensive contamination resulting from the past industrial activity at SSFL has not been completed, and therefore, pollutants remain in the soil at the site, and they have the potential to be eroded and carried off the site in stormwater runoff. To control these pollutants, the Tentative Permit prescribes effluent limits that are protective of human health and the environment, including strict limits for pollutants that are carcinogenic including radionuclides. The Los Angeles Water Board supports expeditious cleanup at the site, recognizing that the cleanup will address concerns about polluted stormwater runoff leaving the site.</p> <p>The effluent limits that are included in any particular discharge permit, and in this Tentative Permit, are based on an evaluation of site-specific monitoring data and information to determine which pollutants have the potential to cause or contribute to an exceedance of a water quality standard. Based on this evaluation, there are some changes to permit requirements; however, these changes do not lessen the protection of human health and the environment. For example, the Tentative Permit contains some pollutant limits that are higher than the 2015 Permit based on watershed-specific regulations adopted by the Los Angeles Water Board and approved by the U.S. EPA called TMDLs. TMDLs are required by the Clean Water Act, and federal regulations require that NPDES permits contain limits that are consistent with TMDLs. Thus, the Tentative Permit implements these TMDLs by setting the effluent limits equivalent to the pollutant allocations assigned to stormwater discharges in the TMDLs. Though some of the effluent limits are higher based on these regulations, they are still protective of water quality, human health, and the environment. Other changes to effluent limits, including some made in response to comments, are described in response to comment #4.</p> <p>As in the 2015 Permit, the Tentative Permit also requires water quality sampling whenever there is a surface water discharge from the site to determine whether the effluent limits are met. Sampling is also required annually for all priority pollutants whether or not there is a specific limit for that pollutant.</p> <p>Regarding concerns about permit violations and a lack of accountability for these violations, the Los Angeles Water Board acknowledges that there have been exceedances of the effluent limits at the site. For the 2015 Permit term, these exceedances are listed in Attachment F - Fact Sheet on pages F-11 to F-14. The Los Angeles Water Board has held Boeing accountable for these violations, and has levied monetary penalties pursuant to Water Code section 13385 and a Consent Judgment applicable to the site, which was first issued in 2010 and which has been amended twice since then (in 2014 and 2017). The Consent Judgment establishes escalating mandatory penalties based on the type and cumulative number of exceedances since January 1, 2010. Since 2010, Boeing has paid over \$770,000 for violations of the stormwater permit; \$500,000 of this amount was for violations that occurred prior to 2010. Boeing has paid over \$270,000 for violations that have occurred since 2010.</p>	None
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			Per Water Code section 13385(j)(1)(B) and the Consent Judgement, the Los Angeles Water Board granted Boeing relief from monetary penalties for 19 effluent limit violations in the immediate aftermath of the Woolsey Fire. <sup>7</sup> No relief was granted for the four violations of the effluent limit for TCDD (dioxin) during that time. The relief was limited to effluent limit violations occurring over a 3-month period from December 7, 2018 through March 7, 2019. For the over 10-year period that the Consent Judgment has been in place, no additional relief for effluent limit violations has been granted prior to, or after, that 3-month time period. See, also, response to comment #7.	
16	I also am concerned that the confidential negotiations between the LARWQCB, DTSC and Boeing leaves out the voice of the public. Representatives for residents who stand to be impacted by changes in cleanup requirements deserve a seat at that table. I urge you to include representatives of the public in these negotiations and that any deals negotiated during these confidential meetings be disclosed if they in any way pertain to the current NPDES permit.	04	As noted in response to comment #15, regulatory oversight at SSFL is provided by two agencies within the CalEPA. DTSC is the agency responsible for setting soil and groundwater cleanup requirements at the site. The California Water Boards is the agency responsible for regulating surface water discharges from SSFL. The agencies entered confidential mediation in an attempt to resolve Boeing's dispute with DTSC's direction and guidance regarding Boeing's groundwater corrective measures study and risk assessments for soil cleanup and achieve cleanup more expeditiously as a result. The Los Angeles Water Board and Boeing have not discussed the Tentative Permit, or any of its requirements, during the confidential mediation. See also response to comment #11.	None
17	<b>The Regional Board should adjust the requirements of the Tentative WDR to address the source of pollution.</b> The way the permittee has chosen to address runoff is to direct surface flows to on-site unlined holding ponds. If those ponds exceed capacity, the excess water is partially treated after it leaves the pond and prior to discharge into the protected receiving water. However, partial treatment of infiltration pond overflow coupled with leaching of pollutants into groundwater through unlined holding ponds negatively impacts surrounding habitats, surface water, and groundwater, as well as any communities and ecosystems that depend on those natural resources.  We urge the board to take a more proactive approach and adjust the requirements prior to the issuance of this Tentative WDR to address the source of pollution. The Permit should apply to stormwater runoff <i>on</i> the SSFL site and also <i>from</i> the site. By not addressing runoff on the SSFL site, contamination is allowed to persist and is even seeping into the groundwater. Further, treatment for runoff on and off site must go beyond partial treatment and include treatment for the suite of existing contaminants.	05	As explained in response to comment #12 and #15, DTSC oversees the source removal and cleanup of pollutants at the Site. That said, the Los Angeles Water Board has considered source areas of pollution in setting the effluent limits in the Tentative Permit. Additionally, on one occasion in the past, the Los Angeles Water Board required targeted cleanup and abatement of contaminated soil in two drainages of the Site to address chronic exceedances of certain stormwater effluent limits. Specifically, during the 2006 Permit term, the Los Angeles Water Board required that Boeing follow the direction of an independent expert panel to address exceedances of effluent limits at Outfalls 008 and 009 through targeted soil excavation and implementation of BMPs; the interim soil removal action ("ISRA") was completed in 2013.  During the 2010 Permit term, at the direction of the expert panel, many additional BMPs were incorporated into the Stormwater Pollution Prevention Plan required by the permit. The permit has required that Boeing continue to operate the two advanced stormwater treatment systems (SWTSs) and distributed best management practices across the site. The distributed BMPs address stormwater on the site as well as stormwater leaving the site.  Further, the Los Angeles Water Board disagrees with the statement that the SWTSs only provide partial treatment. The systems as designed are to treat for all constituents as required by the 2010, 2015, and Tentative Permits. See, also, response to comment #8. Should there	None

<sup>7</sup> These 19 effluent limit violations included 10 at Outfall 008, 7 at Outfall 011, 1 at Outfall 009, and 1 at Outfall 018.

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			<p>be an upset in the system, the Los Angeles Water Board will take the necessary enforcement action for any violation of permit requirements.</p> <p>See, in addition, response to comment #18, below.</p>	
18	<p><b>The Regional Board must consider ecological impacts of the Tentative WDR.</b> "As the Tentative WDR for SSFL is written, it will allow Boeing to continue its irreparable impacts on sensitive habitats and natural cultural resources in the surrounding areas and watersheds. The relaxed effluent limits on heavy metals in this permit, combined with partial treatment of infiltration pond overflow and the leaching of pollutants into groundwater, will have negative impacts on surrounding habitats, surface waters, and groundwater dependent ecosystems. Given these concerns, and the impacts discussed below, we do appreciate the added requirements to monitor the stormwater entering the two treatment systems. However, we request that the Regional Board provide a detailed explanation of if and how exceedances of the influent will be enforced."</p> <p>"The relaxation of effluent limits will only exacerbate the vast ecological impacts of the SSFL. Increased heavy metals contamination will further harm ephemeral creeks, nesting and foraging habitat for sensitive avifauna, macro-invertebrate populations and diversity, and a multitude of harms to sensitive plants and native vegetation communicates. We therefore request that the Regional Board utilize the most protective requirements applicable or incorporate a different approach altogether to instead address the source of pollution directly through this Tentative WDR."</p>	05	<p>The Los Angeles Water Board has considered ecological impacts during the development of the Tentative Permit. Among other things, the Tentative Permit is based on WQOs that are protective of aquatic life and human health, and on watershed specific TMDLs approved by U.S. EPA; and the most recent scientific studies and analyses are used to ensure that the revised pollutant limits are protective of aquatic life and wildlife. In response to comments, Board staff have re-examined the proposed changes. With regard to the effluent limits and protection of sensitive habitats and natural cultural resources, the Tentative Permit has been revised to reinstate the lead effluent limits applicable to Outfalls 011 and 018 from the 2015 Permit because the lead site-specific objectives for the Los Angeles River and its tributaries only apply to urbanized portions of the watershed, and to reinstate a mercury effluent limit for Outfall 008 based on a re-evaluation of the monitoring data, which showed reasonable potential for mercury at Outfall 008.</p> <p>Further, while effluent limits for some metals are higher in the Tentative Permit, due to the fact that all industrial activities have ceased, BMPs will continue to be used across the site, and cleanup activities will ultimately improve stormwater quality, increases in heavy metals in stormwater discharges are not anticipated.</p> <p>Moreover, as noted above, influent monitoring at the Silvernale and R-1 Ponds has been added to assess the current stormwater quality prior to treatment by the onsite SWTS. The Los Angeles Water Board does not establish permit limits for influent but instead regulates the effluent (i.e., stormwater discharges) from the Facility to the receiving waters. The Los Angeles Water Board will utilize the influent data to assess cleanup activities that are occurring at the site and make recommendations, as necessary. Many distributed BMPs have been installed across the Facility as required by the Stormwater Pollution Prevention Plan (SWPPP) to address potential sources of contamination.</p> <p>See response to comments #4, #8 and #17, above.</p>	<p>Revised effluent limits for lead at Outfalls 008, 011 and 018 and added back mercury effluent limit at Outfall 008.</p>
19	<p><b>The Regional Board must consider the impacts of the Tentative WDR on cultural resources.</b> "The SSFL is surrounded by unique geological features, oak woodlands, natural groundwater seepages, and healthy stands of coastal sage scrub ... that continue to be medicine, food, crafting materials, and ceremonial materials for Chumash and Fernandeano Tataviam people... Even small discharges of pollutants can cause irreparable harm to Chumash gathering sites and can have dire health consequences... With the Tentative WDR relaxing effluent limitations, the pollution of the Santa Susana Mountains continues to make ancestral and gathering sites inaccessible and spoiled by toxic pollutants."</p>	05	<p>As noted in the previous responses, including response to comment #18, the effluent limits in the Tentative Permit are based on WQOs and TMDLs that are protective of human health, aquatic life, and wildlife. This includes protection of the cultural resources of the Chumash and Fernandeano Tataviam people.</p>	<p>Revised Tentative Permit to add back mercury effluent limits at Outfall 008.</p>

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20	<p><b>The Regional Board should maintain all wet-weather limits and select the more protective requirements where applicable for this Tentative WDR or, at a minimum, maintain the existing requirements from the previous WDR.</b></p> <p>In light of the site’s extensive history as a major source of toxic and radioactive contaminants, it is essential to ensure that there are robust standards applicable to the site’s discharges that are sufficiently stringent to protect the community and environment from exposure to these contaminants. From a practical perspective, the Tentative WDR fails to explain the need to significantly relax a variety of effluent limitations, benchmarks, and other requirements in the permit. The site has long been contaminated with a variety of harmful chemicals and pollutants that have been leaching into surrounding receiving waters and groundwater tables, posing a serious hazard to families and children in the surrounding area diagnosed with dramatically and abnormally high rates of cancer and other adverse health conditions, as well as threatening nearby ecosystems, waterways, and wildlife. We are concerned that the proposed changes in the Tentative WDR sanction Boeing’s discharge of these pollutants into receiving waters at greater concentrations—without consequence and without adequate protections for the public and the environment—during the pendency of the long-awaited cleanup of contamination at the site. The Tentative WDR fails to identify any rationale that warrants the weakening of these standards as proposed in the Tentative WDR.</p>	08, 09, 10 and 011	<p>Most of the effluent limits, benchmarks and other requirements have not been relaxed, nor have they been weakened overall. In fact, as set forth above, and as a logical outgrowth of comments made and examination of the evidence, the Los Angeles Water Board has determined to add back in or revise several effluent limits in the Tentative Permit. For any such limits, benchmarks or requirements that were relaxed, however, the Fact Sheet for the Tentative Permit fully explains the reasons upon which such relaxation is based, such as changes in the allowable discharges, the reasonable potential analysis (RPA), and consistency with applicable regional and statewide policies and regulations including TMDLs for the Los Angeles River and Calleguas Creek watersheds. See also response to comments #4 and #13.</p>	Revised and added several effluent limits in the Tentative Permit.
21	<p><b>A. Prohibition on dry-weather discharges</b></p> <p>There are 11 limits that have been removed from the Tentative WDR owing to the fact that dry-weather discharges are no longer permitted. Additional effluent limitations, as well as any associated monitoring and reporting requirements, have also been removed for Discharge Point 019 owing to the fact that such surface discharges (this time associated with groundwater treatment) are also no longer permitted. Despite the new prohibition on dry-weather discharges, the Tentative WDR’s proposed monitoring of outfalls for dry-weather flows is only once per month at a minimum, which is of deficient frequency to ensure that no dry-weather discharges are actually occurring. We request that the Regional Board provide a detailed explanation of how these new prohibitions will be monitored and enforced at this site. At a minimum, the Tentative WDR should be revised to require daily visual observations regarding dry-weather discharges—with written records describing any such discharges—from all outfalls on the facility where dry-weather discharges would be prohibited. If any prohibited dry-weather discharges do occur, the Tentative WDR should require water quality sampling of those discharges at least daily to ensure that the appropriate actions can be taken for violations of the Tentative WDR.</p> <p>The Tentative WDR claims that because dry-weather discharges will be prohibited, it is appropriate to remove the wet-weather effluent limits for selenium. That decision is arbitrary because selenium may still be present in wet-weather discharges, which are still permitted under the Tentative WDR and have no relation to the prohibition on dry-weather discharges. Nothing in the Tentative WDR suggests that the changes to the groundwater extraction treatment system at the site will affect wet-weather selenium discharges.</p>	08, 09, 10 and 011	<p>Dry-weather discharges are prohibited. Flow meters are installed at outfall locations for continuous monitoring. And, should a bypass event occur causing a discharges from the GETS, the Discharger is required to submit a notice of the unanticipated bypass within 24 hours as stated in the Standard Provisions, Attachment D, Reporting 5.5 below (24-hour notice). Notices shall comply with 40 CFR Part 3, 40 CFR section 122.22, and 40 CFR Part 127. (40 CFR § 122.41(m)(3)(ii).)</p> <p>With respect to selenium and wet weather discharges, the Los Angeles River Reach 6 is listed as impaired for selenium on the most recent Clean Water Act Section 303(d) List, and the Los Angeles River and Tributaries Metals TMDL assigns a wet-weather concentration-based <i>load allocation</i> for selenium to Reach 6 and its tributaries, which includes Bell Creek, but does not assign any <i>wasteload allocations</i> to point sources in wet weather. This is because the TMDL’s source analysis determined that the sources of selenium in wet weather are related to natural levels of selenium in soils in the upper watershed; therefore, the Los Angeles Water Board finds that concentrations of selenium in stormwater discharges are not associated with past industrial activity at SSFL. It is for these reasons that the effluent limits for selenium are removed from the Tentative Permit, consistent with the assumptions and requirements of the TMDL, which, as stated above, does not assign wasteload allocations to point sources during wet weather.</p>	None

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22	<p><b>B. Natural source determinations for iron and manganese</b></p> <p>We are very concerned that effluent limitations for iron and manganese have been removed, simply because it is possible that there are naturally occurring concentrations as allegedly found in a study not attached to the Tentative WDR. In the absence of the opportunity for public review of the unspecified Surface Water Expert Panel studies, we and other members of the public are unable to assess and comment on the basis for the Expert Panel’s conclusion of this supposed “likelihood” of iron and manganese being naturally present in the soils in higher concentrations than in other locations. Because these studies have not been provided for public review, they cannot constitute a basis for the decision to remove those limits, which is arbitrary and unsupported by the evidence. Even if the studies were included, they are still not sufficient to eliminate iron and manganese effluent limitations, because the mere “likelihood” of detection being due to background concentrations does not eliminate the possibility that iron and manganese were related to past industrial activity—especially considering how extensive, broad, and damaging that past activity was at this specific site.</p> <p>We strongly caution the Regional Board against attempting to make natural source determinations without a thorough scientific study, and particularly against weakening standards based on those determinations. We recognize that natural sources can contribute to surface water contamination, but natural sources of contamination are often commingled with anthropogenic sources, making them difficult to distinguish. If there is a high concentration of contamination found in a waterway that is a result of both anthropogenic and natural sources, “Natural Source Determination” may falsely determine that the full weight of that contaminant concentration originates from the natural sources, therefore allowing discharge with higher contaminant concentrations, as is the case here. The presence of contaminants from a natural source should not be used as the basis for the Regional Board to allow entities to discharge additional contaminants that may contribute to a water quality issue. As such, we recommend the Regional Board give higher priority on preventing and controlling pollution over allowing exclusions or weakened water quality protections.</p>	05	<p>Ongoing studies conducted by the independent Surface Water Expert Panel have determined that iron and manganese are naturally occurring at elevated concentrations in soils at the SSFL Site and that they are not the result of prior industrial activities. The studies upon which these conclusions are based have been discussed at annual community meetings during which the Surface Water Expert Panel has presented an evaluation of stormwater monitoring data and special studies conducted during the previous storm year. See, for example, presentation slides from 2021 Public Meeting held on August 19, 2021 at <a href="https://www.boeing.com/resources/boeingdotcom/features/2021/09/Expert_Panel_Annual_Report_2021.pdf">https://www.boeing.com/resources/boeingdotcom/features/2021/09/Expert_Panel_Annual_Report_2021.pdf</a>. See, also, Site-Wide Stormwater Annual Reports for the, 2016/2017 Reporting Year, 2017/18 Reporting Year, 2018/19 Reporting Year, 2019/20 Reporting Year, and 2020/21 Reporting Year .</p> <p>In addition, previous effluent limits for iron and manganese were based upon the narrative water quality objectives for color, taste and odor in the Basin Plan, and were interpreted using the secondary MCLs. These secondary MCLs are established as guidelines to assist public water systems in managing their drinking water treatment systems for aesthetic considerations and are not levels required to protect human health.</p>	None
23	<p><b>C. Reasonable Potential Analysis</b></p> <p>There are 10 limits that have been removed from the Tentative WDR owing to results of a Reasonable Potential Analysis (RPA). However, the extent of the soil contamination at this site is significant, and all of the contaminants associated with these 10 removed limits have historically been detected at the SSFL. We believe that this site does have reasonable potential for all of these contaminants, and indeed for all contaminants listed in the “Final Standardized Risk Assessment Methodology Revision 2 Addendum, Santa Susana Field Laboratory, Ventura County, California; Attachment 1: List of Chemicals Historically Detected at SSFL”. Moreover, as further explained in Section 6 below, the summary of the RPA contained in the fact sheet attached to the Tentative WDR is inadequate to satisfy the requirements of an RPA, as set forth in the U.S. Environmental Protection Agency’s Permit Writers’ Manual. Because of the lack of transparency regarding the RPA underpinning the elimination or weakening of multiple limits in the Tentative WDR, we and the rest of the public cannot verify that the RPA was conducted in a satisfactory manner. At a minimum, the 10 limits proposed for removal in the Tentative WDR based on the reasonable potential analysis should remain in the permit.</p>	05	<p>The RPA was conducted following all requirements for an RPA per the U.S. EPA Technical Support Document For Water Quality-based Toxics Control.<sup>8</sup> The RPA utilized all monitoring data from the previous permit term to establish the need for effluent limits and took into account available TMDL wasteload allocations applicable to the stormwater discharges and other relevant data and information.</p> <p>In the Tentative Permit, effluent limits for four pollutants were removed based on the results of the RPA at Outfalls 008, 011, and 018. While the comment refers to 10 limits, it should be noted that for each pollutant, there is a concentration based effluent limit and a corresponding mass based effluent limit based on the maximum stormwater discharge for the outfall. Thus, there are 5 pairs of effluent limits that were removed in the Tentative Permit.</p> <p>For Outfalls 011 and 018, the paired effluent limits for nickel were removed. The RPA is shown in Tables F-10 and F-12. The basis for this is that the maximum effluent concentration (MEC) for nickel during the 2015 Permit term was 28 µg/L, which is well below the lowest water quality objective of 52.2 µg/L.</p>	Corrected omission of mercury in Table F-14 - Summary of Reasonable Potential Analysis (Discharge Point 008), and added back mercury effluent limit for Outfall 008.

<sup>8</sup> See Attachment F – Fact Sheet, starting at page F-28.

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			<p>For Outfall 008, the paired effluent limits for antimony, mercury, nickel, and thallium were removed (see Tables F-10 and F-14).<sup>9</sup> With respect to Outfall 008, in 2013, an ISRA was completed under a Cleanup and Abatement Order issued by this Board under Water Code Section 13304 in 2008. Approximately 5,200 cubic yards of contaminated soil were removed from the Outfall 008 drainage area. Much of the soil excavation went to bedrock and excavation areas were backfilled with clean soil.</p> <p>The RPA utilized monitoring data following the ISRA completion to evaluate if these four constituents have reasonable potential. In response to comments, Board staff re-evaluated the monitoring data used for the RPA for Outfall 008. Board staff confirmed that there is no reasonable potential for antimony, nickel and thallium. However, the mercury effluent limits for Outfall 008 have been added back based on a sample result on January 7, 2019 of “Detected, but Not Quantified” or “DNQ” and an estimated concentration of 0.1 µg/L, which is above the WQO of 0.051 µg/L.</p> <p>Thus, only three pairs of effluent limits are removed in the Revised Tentative Permit – those for antimony, nickel, and thallium at Outfall 008. On November 21, 2009, Dr. Robert Pitt, a distinguished professor and member of the Surface Water Expert Panel published a report that discussed his research that these three metals were found in very low levels. The Boeing SSFL Metals Background Report stated that these metals had no measured concentrations that exceeded permit limits – antimony was about 40% of the limit, while nickel and thallium ranged from about 5 to 10% of the permit limits. While these three pairs of effluent limits are removed for Outfall 008, monitoring of these constituents in stormwater discharges at Outfall 008 is still required. If monitoring data indicate an increase in the concentration of any of these pollutants, the Los Angeles Water Board will re-evaluate whether there is reasonable potential and, if so, will reopen the permit to add back effluent limits as needed.</p> <p>The detailed RPA for all outfalls will be attached as a series of tables to the Fact Sheet in the Revised Tentative Permit.</p>	
24	<p><b>D. Total Maximum Daily Loads</b>                  There are 22 limits that have been removed or increased from the Tentative WDR owing to alterations to limits in the Basin Plan and through various TMDLs. This includes an increased copper limit owing to the copper water-effect ratio (WER) study, which was a rushed process with insufficient public engagement, and which was strongly opposed by the environmental community. Although these amendments to the Basin Plan have already been approved, the Regional Board has discretion to maintain existing more stringent requirements on a case-by-case basis, if it is necessary for the preservation of protected waters. Merely because standards in the Tentative WDR could be relaxed due to changes to applicable TMDLs does not mean that it would be prudent or necessary to do so. In light of the extensive contamination of the site, which has long included high concentrations of toxic and radioactive pollutants, more stringent effluent limitations are necessary to adequately protect the impaired receiving waters, the environment, and the public. Certainly, relaxing these effluent limitations will make it take longer to achieve the cited TMDLs, and attain the beneficial uses for those receiving waters, than if the previous limitations remained in place. Considering the extent of contamination at the SSFL, this site is an unusual case; therefore, we urge the Regional Board to protect public and environmental health by maintaining all wet-weather limits and selecting the</p>	05	<p>The development of water quality objectives and TMDLs are both regulatory actions by the Los Angeles Water Board and are subject to rigorous technical analysis and a multi-step public engagement process. The two primary TMDLs applicable here are the Los Angeles River and Tributaries Metals TMDL and the Calleguas Creek Watershed Metals and Selenium TMDL. For the reaches and tributaries to which SSFL stormwater is discharged, the Los Angeles River TMDL addresses cadmium, copper, lead, selenium, and zinc, and the Calleguas Creek TMDL addresses copper, mercury, and nickel. Both TMDLs, and their revisions, were circulated for public review and then considered by the Los Angeles Water Board at a public hearing prior to the Board’s actions to adopt them as regulatory provisions of the region’s Basin Plan. The very purpose of a TMDL is to ensure that water quality standards are achieved so that beneficial uses are protected by the deadlines established in the TMDL. Thus, setting effluent limits consistent with wasteload allocations for the discharge that are established in a TMDL ensures the protection of waterbodies and their beneficial uses. For this reason, federal regulations require that effluent limits in NPDES permits are consistent with available wasteload allocations in TMDLs. (40 C.F.R. § 122.44(d)(1)(vii)(B).)</p> <p>The specific concern about the copper WER study was raised by some of these commenters in 2015 at the time the Los Angeles Water Board considered the amendments to the Basin</p>	<p>Revised effluent limits for lead at Outfalls 008, 011 and 018 and effluent limit for nickel at Outfalls 003-007, 009 and 010.</p>

<sup>9</sup> Mercury was inadvertently left out of Table F-14.

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	<p>most protective requirements where applicable for this Tentative WDR. At a minimum, the Regional Board should maintain the existing requirements from the previous WDR.</p>		<p>Plan to incorporate the copper WERs and lead site-specific objectives, and revise the metals TMDL accordingly. The Los Angeles Water Board addressed the concern at that time. The copper WERs, lead site-specific objectives, and revised TMDL were submitted for independent scientific peer review, and the peer reviewers found that they were scientifically defensible and consistent with U.S. EPA guidelines. The copper WERs, lead site-specific objectives, and revised TMDL were adopted by the Los Angeles Water Board at a public hearing, then approved by the State Water Board at a public meeting, and finally, approved by the State Office of Administrative Law and the U.S. EPA. The U.S. EPA stated in its approval letter that the copper WERs and lead site-specific objectives comply with EPA guidance and are protective of aquatic life. Los Angeles Waterkeeper challenged the Los Angeles Water Board and State Water Board's decision to incorporate the copper WERs and lead site-specific objectives into the TMDL in Court and the Water Boards prevailed (Case No. BS 163391).</p> <p>However, Board staff re-evaluated each of these changes to effluent limits, and revised some of these, on a case-by-case basis, including the lead effluent limits for Outfalls 008, 011 and 018, because the applicability of the lead site-specific objectives is limited to the urbanized portions of the watershed, and the nickel effluent limits for Outfalls 003-007, 009 and 010, to ensure protection of the Groundwater Recharge (GWR) use, for which a lower WQO is used than for protection of aquatic life. See also, response to comment #4.</p> <p>Finally, the conclusion in the comment that relaxing the effluent limits in the Tentative Permit will make it take longer to achieve the TMDL is incorrect. The goal of the TMDL is to achieve the numeric targets set forth in the TMDL, which are expressed as concentration based limits equivalent to the WQOs. The effluent limits in the Tentative Permit are expressed as concentration based limits that will achieve these numeric targets. See also, response to comment #18.</p>	
25	<p><b>The Tentative WDR contains incomplete antibacksliding analysis.</b>                  The Tentative WDR violates antibacksliding policies by weakening numerous standards for discharging pollutants from the site. More specifically, the Tentative WDR's analysis justifying the clear backsliding of a multitude of standards is legally inadequate and incomplete because it excludes benchmarks from its antibacksliding analysis.                  The justification in the Tentative WDR to exclude benchmarks from the antibacksliding analysis is that the antibacksliding statute only refers to "effluent limitations," not other forms of regulating discharges such as benchmarks that are not strictly "limitations." But the Clean Water Act defines the term "effluent limitation" broadly to mean "any restriction . . . on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into" waterways. 33 U.S.C. § 1362(11) (emphasis added). Benchmarks that trigger mandatory requirements for the discharger certainly fall within the definition of a "restriction" on the concentrations of pollutants that can be discharged under the permit.                  The Tentative WDR itself supports the Clean Water Act's articulation that benchmarks can constitute effluent limitations. As the Regional Board acknowledges, failing to meet benchmarks under the Tentative WDR triggers a mandatory process to evaluate or reevaluate Boeing's Best Management Practices ("BMPs") employed at the facility to reduce pollution from its discharges. As the Tentative WDR states, if Boeing exceeds benchmarks in its discharges, the Regional Board will evaluate BMPs at the site and "may determine that the BMPs require augmentation, upgrading, or replacement."</p>	05	<p>The exclusion of benchmarks from the antibacksliding analysis does not violate Section 402(o) of the Clean Water Act. As an initial matter, benchmarks are not effluent limitations, because they are not – by definition or intent – designed to be "restrictions" on "quantities, rates, and concentrations of any constituents which are discharged from point sources into waterways." (33 USC § 1362(11).) Rather, a "benchmark" is a performance-based value that is used to evaluate the performance of BMPs with regard to the removal of pollutants present in the discharge. In the Tentative Permit, benchmarks are applicable only at Outfalls 001 and 002. They were established in response to concerns raised in the State Water Board Order WQ 2006-0012, in which the State Water Board remanded Boeing's 2004 NPDES Permit (R4-2004-0111, as amended, R4-2006-0008 and R4-2006-0036) to the Los Angeles Water Board to reconsider the issue of potential double counting of violations in both upstream and downstream compliance locations along the same drainage path. In its conclusions, the State Water Board states:</p> <p>"Outfalls 001 and 011 and Outfalls 002 and 018 are duplicative because Outfalls 011 and 018 flow directly to Outfalls 001 and 002, respectively, without any change in flows or discharge in the interim and with only open space between them. The Permit should include only one set of these outfalls as compliance points subject to numeric effluent limitations." (p. 22)</p> <p>In this Order, the benchmarks are established, numerically, consistent with the effluent limitations that apply to the corresponding upstream outfall. Exceedance of a benchmark triggers an evaluation of the BMPs implemented in the drainage area. The evaluation may</p>	<p>Revisions have been made to the Tentative Permit to clarify the definition of benchmarks and to discuss the benchmarks as part of the anti-backsliding analysis.</p>

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	<p>Tentative WDR at Part 7.13 (emphasis added). In such a case, Boeing “shall develop a plan to implement the required upgrades.” Id. (emphasis added). The Tentative WDR elaborates that Boeing “shall comply with benchmarks and receiving water limitations through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the BMP plan.” Id. (emphasis added). And if the BMP plan is insufficient to remedy exceedances of water quality objectives or water quality standards, Boeing “shall assure compliance with benchmarks and receiving water limitations” through a specified BMP compliance implementation plan and reporting procedure. Id. (emphasis added).</p> <p>From these provisions, the benchmarks in the Tentative WDR act as enforceable restrictions that require Boeing to implement BMPs to reduce the degree of pollutants in its discharges. Continuing exceedances of the benchmarks triggers additional BMP implementation requirements. For this reason, the benchmarks included in the Tentative WDR must be considered “effluent limitations” as defined under the Clean Water Act, and the Regional Board is obligated to conduct an antibacksliding analysis for all benchmarks that are less stringent in the Tentative WDR compared to the previous permit. As such, failing to apply the antibacksliding policy to these benchmarks is unlawful and violates the antibacksliding statute.</p> <p>The language in the Tentative WDR confirms that these particular benchmarks amount to enforceable restrictions on Boeing’s discharges of pollutants from the site, sufficient to fall under the Clean Water Act’s definition of “effluent limitations” subject to the antibacksliding policy. The Regional Board’s assertion that benchmarks do not constitute “effluent limitations” and are not subject to the antibacksliding policy directly conflicts with the plain language of the Tentative WDR and is legally incorrect.</p>		<p>determine that the BMPs require augmentation, upgrading, or replacement. And while they are permit terms that may be enforced pursuant to the Board’s discretionary authority to enforce permit terms (see, Water Code section 13385(a)), they are not considered effluent limitations that are subject to stipulated penalties under the 2017 Consent Judgment, or mandatory minimum penalties, or MMPs, under Water Code section 13385. Instead, exceedances of benchmarks act as triggers to take additional actions: Evaluate, augment, replace and/or upgrade BMPs. The failure to evaluate and / or upgrade BMPs, if necessary, would be enforceable. A benchmark is not a restriction on the quantity, rates or concentration of a pollutant.</p> <p>With this further explanation, it is clear that benchmarks are separate and different from effluent limitations. Thus, the antibacksliding analysis is complete, valid, and legal. However, in consideration of the commenters’ concern, a discussion of modifications to benchmarks at Outfalls 001 and 002 has been added to the antibacksliding analysis in section 4.4.1 of the Fact Sheet, even though it is not legally required. Note that the analysis and basis for modifications to benchmarks at Outfalls 001 and 002 is the same as that for effluent limits at their corresponding upstream Outfalls, 011 and 018, respectively. In addition, the Los Angeles Water Board acknowledges that the definition and explanation of the function of benchmarks may not be clearly stated in the Tentative Permit and it has revised the Tentative Permit to remedy this issue. See also response to comment# 5.</p>	
26	<p><b>The Tentative WDR contains inadequate Reasonable Potential Analysis to justify backsliding of permit requirements.</b></p> <p>The Tentative WDR bases the removal of a variety of effluent limitations on the new Reasonable Potential Analysis (“RPA”) produced from recent monitoring data, from which the Regional Board determined that the discharges from these outfalls “did not show reasonable potential to cause or contribute to an exceedance of the applicable water quality criteria for these pollutants.” Tentative WDR, Attachment F, at F-55–F-56. The Tentative WDR asserts that, under the antibacksliding policy, the RPA constitutes “new information” justifying the removal of these effluent limits, pursuant to Section 402(o)(2)(B)(i) of the Clean Water Act. 33 U.S.C. § 1342(o)(2)(B)(i). However, the RPA included in the Tentative WDR is facially deficient and cannot support the Regional Board’s findings for several reasons.</p> <p>First, and most importantly, the Tentative WDR does not include the full RPA and only provides a “summary” table of the results of the RPA. Id. at F-35–F-41. The failure to include a fulsome RPA analysis in the fact sheet of the Tentative WDR is inconsistent with the requirements of the EPA Permit Writers’ Manual. Chapter 6 of the Permit Writers’ Manual (attached to this letter for ease of reference) states that “permit writers need to document the details of the reasonable potential analysis in the NPDES permit fact sheet” to provide stakeholders and the public with “a transparent, reproducible, and defensible description of how each pollutant was evaluated.” EPA Permit Writers’ Manual § 6.3.2.4 (2010). The Permit Writers’ Manual provides a detailed explanation of how to</p>	05	<p>The RPA is not facially deficient. A direct comparison with the 2015 Permit, starting with Table F-6a on page F-30, shows similar tables with the same seven (7) columns as in the Tentative Permit, and a similar explanation of the process used to determine whether there is reasonable potential and, if so, the procedure for establishing an effluent limit. Reasonable potential is determined using one of three “triggers.” In Attachment F - Fact Sheet of the Tentative Permit, the Los Angeles Water Board documented the details of the reasonable potential analysis, including whether there was reasonable potential and, if so, which trigger was used. The RPA tables in the Tentative Permit also provide: (i) the applicable water quality criteria used in the RPA, (ii) the maximum effluent concentration for the pollutant from the monitoring data, and (iii) the background concentration, if applicable. However, in the interest of even greater transparency, the Los Angeles Water Board will include more detailed RPA tables as an attachment to the Revised Tentative Permit.</p> <p>With respect to the comment that references the EPA NPDES Permit Writers’ Manual and the need to include four steps in the RPA, it should first be clarified that these steps pertain to establishing an effluent limit once reasonable potential is determined. The Los Angeles Water Board has considered all these steps in deriving effluent limits for pollutants with reasonable potential. (See, Attachment F - Fact Sheet, sections 4.3.5, and 4.3.6.) For example one of these steps refers to mixing zones and dilution credits. The Tentative Permit states that no dilution credit is allowed, which if there were a dilution credit, would actually make the effluent limits less stringent by allowing more pollutant discharge on a mass basis.</p>	<p>Revisions have been made to the Tentative Permit to incorporate missing units in column headers for Tables F-12 through F-14 and to add back a mercury effluent limit at Outfall 008 as well as other effluent limits based on reasonable potential triggered by data collected</p>

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	<p>conduct a sufficient RPA analysis, which must, at minimum, include the following four steps:</p> <ol style="list-style-type: none"> <li>1. A determination of the appropriate water quality model between steady-state or dynamic modeling techniques, considering the mixing of effluent with the receiving water (EPA Permit Writers' Manual § 6.3.2.1);</li> <li>2. A determination of the expected downstream receiving water concentration from the effluent under critical conditions, based on the mixing characteristics identified in Step 1 and utilizing mass-balance equations (EPA Permit Writers' Manual § 6.3.2.2);</li> <li>3. A determination of whether there is "reasonable potential" that the effluent will cause or contribute to exceedances of water quality standards in the receiving water, considering the mixing characteristics and calculated concentrations from the mass-balance equations (EPA Permit Writers' Manual § 6.3.2.3); and</li> <li>4. A documentation of the details of the first three analytical steps (EPA Permit Writers' Manual § 6.3.2.4).</li> </ol> <p>The summary of the RPA in the Tentative WDR fails to satisfy the requirements of an RPA as set forth above. The RPA does not explain the water quality modeling techniques used. The RPA does not explain how it determined expected downstream receiving water concentrations from the effluent at the discharge points, and it does not show any mass-balance equations used or the results of those calculations. The RPA provides only the "reasonable potential" results in a conclusory manner, without offering details about how the conclusions were reached, the sources of data used and what those data sets contained, or the calculations made. Consequently, the Tentative WDR is inconsistent with the EPA Permit Writers' Manual and does not provide public transparency regarding the basis to eliminate a variety of effluent limitations based on the RPA. Accordingly, the Tentative WDR does not contain sufficient findings regarding the RPA and lacks documented and objectively-verifiable evidence to support the removal of effluent limits, rendering the decision to do so arbitrary and capricious.</p> <p>Furthermore, the conclusions in the RPA are highly suspect from a substantive perspective. The history of extensive contamination suggests there is a high probability of these constituents being discharged from the site moving forward. Past self-reported monitoring results show significant concentrations of a variety of toxic chemicals, metals, and radioactive materials on the site and leaching into the surrounding receiving waters, groundwater tables, and ecosystems. Without the ability to assess the data sources or calculations made under the RPA, the conclusions reached in the RPA are inconsistent with the history of the site and common sense. And regardless, the Regional Board was required to provide sufficient details of the RPA analysis directly in the fact sheet, which it failed to do.</p>		<p>In conclusion, the removal of some effluent limits from the Tentative Permit is neither capricious nor arbitrary but rather a step-by-step procedural analysis based on evaluation of site-specific monitoring data that spans five years and applicable WQOs and TMDLs. For example, at Outfall 008, antimony has an applicable water quality criteria (C) of 6.0 µg/L; during 2015-2020, the maximum effluent concentration observed was 2.0 µg/L, and the receiving water concentration was 0.82 µg/L, both less than C. This demonstrates that neither Trigger 1 nor Trigger 2 for determining reasonable potential are met. Additionally, in consideration of Trigger 3, there is no applicable TMDL for antimony; it is not identified on the State's Clean Water Act Section 303(d) list for the Los Angeles River or its tributaries as causing water quality impairment; and there have been no exceedances of the effluent limit during the 2015 Permit term. The same conclusions apply for nickel and thallium at Outfall 008, and nickel at Outfalls 011 and 018. In response to comments, Board staff re-evaluated the monitoring data used for the RPA and determined that there is reasonable potential for mercury at Outfall 008 and, so, has added back a mercury effluent limit. See also response to comment #6 and #23.</p> <p>With respect to the remaining comments regarding missing units, the Board accepts those comments and has revised the Tentative Permit to incorporate the changes.</p>	<p>immediately after the Woolsey Fire.</p>
27	<p>Second, even assuming the details about the RPA in the fact sheet are sufficient—which is false—the RPA in the Tentative WDR is based on an incomplete source of data and is therefore inadequate on its face. The Tentative WDR itself states the RPA will be considered incomplete if there is insufficient data regarding background concentrations of contaminants in the receiving waters, in which case Boeing would "be required to gather the appropriate data." Tentative WDR, Attachment F, at F-34. However, the Tentative WDR's RPA contains no data whatsoever concerning the background concentration of any pertinent constituent in the receiving waters for Outfalls 011 and 018. Id. at F-35–F-38. Without this background data, there is no justification for eliminating the effluent limitations for nickel at these outfalls, rendering the decision to do so arbitrary. Similarly,</p>	05	<p>The monitoring data is not incomplete. For a discussion of the step-by-step procedural analysis to determine reasonable potential based on evaluation of site-specific monitoring data from 2015-2020, and applicable WQOs and TMDLs, see response to comment #26.</p> <p>The Los Angeles Water Board agrees that there is no data on the background concentrations of pollutants in receiving waters for Outfalls 011 and 018; however, data on upstream (i.e., background) receiving water concentrations is not required if it is not applicable in the circumstances. This is the case here. The SSFL facility sits at the top of the Santa Susana mountains at the headwaters. Therefore, there is no upstream receiving water to consider. The purpose of considering pollutant concentrations in receiving waters <i>upstream of a</i></p>	None

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	<p>this lack of data means that there is no basis for the conclusion that these constituents would not cause or contribute to exceedances of receiving water quality criteria.</p>		<p><i>discharge</i> is to account for potentially diminished assimilative capacity where the pollutant concentration upstream is already greater than the WQO. The discharges from Outfalls 011 and 018 are the most upstream discharges for the site. For nickel, the maximum effluent concentration at these most upstream points was 28 µg/L compared to a C of 52.2 µg/L. This provides a sound basis to conclude that stormwater discharges from SSFL do not have reasonable potential to cause the nickel WQO to be exceeded in downstream receiving waters.</p> <p>Because of the location of this site at the headwaters, for purposes of monitoring receiving water quality, as described in Table E-1 (page E-6), RSW-001 (receiving water station 001) is satisfied by sampling at monitoring stations EFF-001, EFF-002, EFF-011, and EFF-018.</p> <p>The Board acknowledges the commenters' concerns about removing any effluent limit. As such, the Tentative Permit still requires monitoring of stormwater discharges for nickel. If the concentration of nickel increases and reaches a level that would indicate reasonable potential, the Los Angeles Water Board will reopen the permit to add back effluent limits for the pollutant.</p>	
28	<p>Third, although the RPA is used to justify the removal of mercury effluent limitations at Outfall 008, mercury is not even included as a constituent under the Tentative WDR's RPA summary, and thus there is no data on which to base any conclusion regarding its effects. See <i>id.</i> at F-40–F-41. Accordingly, it is arbitrary to remove effluent limitations for mercury from Outfall 008 while relying on the RPA, without any data in the RPA about mercury from that outfall.</p>	05	<p>Board inadvertently omitted mercury from Table F-14 in the Tentative Permit. The Tentative Permit has been revised to include this information. Additionally, in response to comments, Board staff re-evaluated the monitoring data used for the RPA for Outfall 008. The mercury effluent limits for Outfall 008 have been added back based on a sample result on January 7, 2019 of "Detected, but Not Quantified" or "DNQ" and an estimated concentration of 0.1 µg/L, which is above the WQO of 0.051 µg/L.</p>	<p>Revision has been made to the Tentative Permit, Table F-14, to incorporate mercury RPA data for Outfall 008 and add back mercury effluent limits for Outfall 008.</p>
29	<p>Finally, the decision to remove effluent limitations due to the RPA is partly based on the Tentative WDR's antidegradation analysis for discharges into waters not currently impaired for those constituents, as required by 33 U.S.C. § 1342(o)(1) and 33 U.S.C. § 1313(d)(4)(B). Tentative WDR, Attachment F, at F-55–F-56. However, that antidegradation analysis is legally insufficient as discussed in Section 7 below. For these reasons, the inadequate description of the RPA in the Tentative WDR is insufficient to establish exceptions to the antibacksliding policy that would justify relaxing the effluent limitations. Accordingly, the Tentative WDR violates the antibacksliding statute.</p>	05	<p>The Los Angeles Water Board disagrees with this comment. Please refer to responses to comments #25 and #26, and response to comment #30, below, for additional responses to this comment.</p>	<p>See changes noted in response to comments #25, #26 and #30.</p>
30	<p><b>The Tentative WDR contains an inadequate antidegradation analysis.</b>          The Tentative WDR's antidegradation analysis is legally inadequate to justify relaxing effluent limitations. The discharges permitted under the Tentative WDR by definition would degrade high quality waters, and the Tentative WDR fails to conduct the requisite analysis explaining how the degradation is to the maximum benefit of the people of the State. As a result, the Tentative WDR violates federal and state antidegradation policies. More specifically, the Tentative WDR's antidegradation analysis is legally insufficient in the following ways:</p>	05	<p>Although there is insufficient data to determine whether the receiving waters into which the SSFL stormwater discharges flow are high quality waters, the antidegradation analysis in the Tentative Permit assumes that the receiving waters at issue are in fact high quality. (Attachment F - Fact Sheet at F-58.) As explained in the Fact Sheet, and as further set forth below, the antidegradation analysis is more than adequate.</p> <p><b>Antimony, Nickel, and Thallium at Outfall 008</b>          There are no effluent limitations anymore at Outfall 008 for antimony, nickel and thallium; and the available evidence supports their removal. Note that, in response to comments, Board staff</p>	<p>Anti-degradation analysis revised to reflect addition of mercury effluent limit for Outfall 008</p>

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<p><b>A. Antimony, Mercury, Nickel, and Thallium at Outfall 008, and Nickel, Iron, and Manganese at Outfalls 011 and 018</b></p> <p>The Tentative WDR fails to conduct the requisite analysis under the antidegradation policies to ensure that the baseline water quality for Dayton Canyon Creek for antimony, mercury, nickel, and thallium at Outfall 008, and for Bell Creek for nickel, iron, and manganese at Outfalls 011 and 018, will be maintained and protected. The Tentative WDR concedes that the water quality of Dayton Canyon Creek and Bell Creek exceeds levels necessary to support the beneficial uses in the water body, and these water bodies are not impaired for the constituents for which effluent limitations are being removed, thereby qualifying as high quality waters for those constituents. Tentative WDR, Attachment F, at F-59–F-60. The Tentative WDR relies on the revised RPA to remove these effluent limitations, which—as explained in Section 6 above—is incomplete and insufficient to justify removal of these effluent limitations. Even putting the RPA deficiencies aside, the Tentative WDR cites no scientific studies or other evidence establishing that there will be no degradation of these receiving waters.</p> <p>To the contrary, authorizing the discharge of these constituents into Bell Creek and Dayton Canyon Creek by definition results in degradation of those waters. There are years of monitoring data available, which the Regional Board references in the Tentative WDR, that establish Boeing has discharged a wide variety of toxic pollutants and radioactive materials into Bell Creek and Dayton Canyon Creek. These discharges conclusively establish that high quality waters are being degraded by discharges from the site to levels below the highest water quality achieved since 1968. Moreover, without the effluent limits from the previous permit, Boeing would be authorized to discharge greater concentrations of pollution in its effluent, which would further lower water quality standards for those water bodies. As such, the removal of effluent limitations from the Tentative WDR authorizes the discharge of constituents into high quality waters and therefore results in degradation of high quality waters.</p> <p>Whenever degradation of high quality waters is authorized under a permit, the Regional Board must include findings to establish that (1) any possible lowering of the water quality authorized under the Tentative WDR is “necessary to accommodate important economic or social development in the area in which the waters are located”; (2) “water quality adequate to protect existing uses fully” is assured; and (3) “the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control” are achieved. 40 C.F.R. § 131.12(a)(2). The Regional Board is required to make findings that lowering the water quality of high quality waters is “consistent with the maximum benefit to the people of the State” and “will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies.” State Water Board Resolution No. 68-16.</p> <p>The Tentative WDR does not even attempt to make these findings for the degradation of Bell Creek and Dayton Canyon Creek that would result from removing the effluent limitations for antimony, mercury, nickel, and thallium discharges from Outfall 008, or for nickel discharges from Outfalls 011 and 018. Tentative WDR, Attachment F, at F-59–F-60. Instead, the Tentative WDR makes conclusory and self-serving statements—contradicted by the history of monitoring results—that these discharges will not degrade the receiving waters. In the absence of any findings that degradation of Bell Creek and</p>	<p>re-evaluated the monitoring data used for the RPA for Outfall 008. The mercury effluent limits for Outfall 008 have been added back based on a sample result on January 7, 2019 of “Detected, but Not Quantified” or “DNQ” and an estimated concentration of 0.1 µg/L, which is above the WQO of 0.051 µg/L.</p> <p>Specifically, the history of monitoring results for antimony, nickel and thallium indicates that there is no reasonable potential for the discharge to cause or contribute to exceedances of water quality standards, or to degrade what may be high quality water. This is supported by the fact that Boeing conducted ISRA within the Happy Valley drainage, which flows to Outfall 008, pursuant to a Water Code section 13304 CAO issued by the Los Angeles Water Board on December 3, 2008. Pursuant to this CAO, Boeing excavated approximately 5,000 cubic yards of soil, thereby cleaning up and removing many of the pollutants that would otherwise have drained to Dayton Canyon Creek. Put another way, these pollutants are not present in stormwater discharges from Outfall 008 at levels that would cause water quality standards to be exceeded. Since there is no evidence of any degradation here, there is no need to justify whether degradation can occur, or make findings under, either State Water Board Resolution 68-16, or 40 C.F.R. § 131.12(a)(2). However, to ensure that there is no degradation, monitoring for these constituents at Outfall 008 is included in the Tentative Permit. See, also, response to comment #23.</p> <p><b>Nickel, Iron, and Manganese at Outfalls 011 and 018</b></p> <p>For Outfalls 011 and 018, the paired effluent limits for nickel were removed. The RPA is shown in Tables F-10 and F-12. The basis for this is that the MEC for nickel during the 2015 Permit term (monitoring data from 2015-2021) was 28 µg/L, which is well below the lowest water quality objective of 52.2 µg/L. Again, where, as here, there is no possibility that water quality could be degraded by the discharge, there is no need to justify whether degradation can occur, or make findings under, either State Water Board Resolution 68-16, or 40 C.F.R. § 131.12(a)(2). However, to ensure that there is no degradation, monitoring is included in the Tentative Permit. See, also, response to comment #23.</p> <p>Effluent limits for iron and manganese were removed from Outfalls 011 and 018 for the reasons set forth in the antidegradation analysis at p. F-60, and in the response to comment #22. There have been ongoing studies demonstrating that iron and manganese are naturally occurring in soils at SSFL, and the Los Angeles Water Board finds that the elevated concentrations of iron and manganese at the site are not coming from past industrial activities. Nonetheless, this Order retains effluent monitoring.</p>	<p>and to clarify the basis for the removal of iron and manganese effluent limits.</p>
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	<p>Dayton Canyon Creek for these constituents is consistent with the “maximum benefit” to the people of the State, as well as evidence supporting those findings, the Tentative WDR’s removal of those effluent limitations violates federal and state antidegradation policies.</p> <p>As for iron and manganese discharges from Outfalls 011 and 018, the Tentative WDR makes no such required antidegradation findings to justify the degradation of Bell Creek and instead conclusory states that “[t]he waste discharge requirements in this Order hold the Discharger to performance levels consistent with the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with the maximum benefit to the people of the State will be maintained.” Tentative WDR, Attachment F, at F-60. As courts have repeatedly held, “mere conclusory findings without reference to the record are inadequate.” <i>Asociacion de Gente Unida por el Agua v. Cent. Valley Reg’l Water Quality Control Bd.</i> (2012) 210 Cal. App. 4th 1255, 1281 (quoting <i>Envtl. Prot. Info. Ctr. v. Cal. Dep’t of Forestry &amp; Fire Prot.</i> (2008) 44 Cal.4th 459, 516-17). In the absence of any evidence supporting the conclusion that this degradation is consistent with the maximum benefit to the people of the State, the Tentative WDR’s removal of effluent limitations for iron and manganese when discharged into Bell Creek violates federal and state antidegradation policies.</p>			
31	<p><b>B. Selenium at Outfalls 011 and 018</b></p> <p>The Tentative WDR asserts that there will be no surface water discharges of selenium at Outfalls 011 and 018, due to the modified groundwater extraction treatment system that will reinject treated groundwater back into the subsurface groundwater table and eliminate dry-weather discharges from these outfalls entirely. Tentative WDR, Attachment F, at F-59. However, nothing in the Tentative WDR suggests that the modified groundwater treatment system will prevent selenium from being discharged from those outfalls during wet weather, which would be authorized under the Tentative WDR without any limits.</p> <p>Bell Creek is not impaired for selenium, so it is a high quality water for that constituent. Authorized discharges of selenium, at any concentration, by definition cause degradation of Bell Creek. Therefore, the Tentative WDR must include an antidegradation analysis justifying the removal of effluent limitations for selenium discharges into Bell Creek as consistent with the maximum benefit to the people of the State. Because the Tentative WDR fails to include such an analysis and merely makes unsupported and conclusory statements that no degradation will occur from wet-weather selenium discharges, the Tentative WDR’s analysis is arbitrary and violates antidegradation policies.</p>	05	<p>The antidegradation analysis for selenium at Outfalls 011 and 018 is legally adequate. For dry weather, the limits are removed because they were based on water discharged from the GETS, but those discharges – which are dry weather discharges – are no longer permitted. Accordingly, dry weather discharges of selenium will no longer occur, and so there will be no degradation at all from those discharges.</p> <p>With respect to wet weather discharges, the Los Angeles River Reach 6 is listed as impaired for selenium on the most recent Clean Water Act Section 303(d) List, and the Los Angeles River and Tributaries Metals TMDL assigns a wet-weather concentration-based <i>load allocation</i> for selenium to Reach 6 and its tributaries, which includes Bell Creek. Therefore, the receiving waters are not high quality waters for selenium for purposes of the antidegradation analysis. Additionally, the TMDL’s source analysis determined that the sources of selenium are related to natural levels of selenium in soils in the upper watershed; therefore, the Los Angeles Water Board finds that concentrations of selenium in stormwater discharges are not associated with past industrial activity at SSFL. For these reasons, the effluent limits for selenium are removed from the Tentative Permit, consistent with the assumptions and requirements of the TMDL, which does not assign <i>wasteload allocations</i> for selenium to point sources during wet weather, and antidegradation requirements. (CWA § 303(d)(4)(A)(i).)</p>	None
32	<p><b>C. Mercury at Outfall 008</b></p> <p>The Tentative WDR concedes that Dayton Canyon Creek, the receiving water for Outfall 008, is not listed as impaired on the 303(d) list, and therefore qualifies as a high quality water for mercury. Tentative WDR, Attachment F, at F-59. Nevertheless, the Tentative WDR asserts that the new RPA confirms that no degradation of the receiving water will occur for mercury. <i>Id.</i> As explained in Section 6 above, the RPA fails to include mercury as a listed constituent for Outfall 008, making it arbitrary and capricious to remove the effluent limitations for mercury on this basis. See <i>id.</i> at F-40–F-41. Authorizing the</p>	05	See response to #23, #28, and #30.	Revised Tentative Permit to add back effluent limits for mercury at Outfall 008 based on re-

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	discharge of mercury into Dayton Canyon Creek will result in degradation of a high quality water, and the Tentative WDR must include an analysis justifying the removal of effluent limitations for mercury discharges into Dayton Canyon Creek as consistent with the maximum benefit to the people of the State. The Tentative WDR includes no such analysis whatsoever, and thus, the removal of mercury effluent limitations at Outfall 008 violates antidegradation policies.			examination of RPA.
33	<p><b>The Regional Board should strive for better transparency in the permit renewal process.</b> Time should be allowed to allow for meaningful public engagement and urge the Los Angeles Water Board to postpone the vote a few months. ****</p> <p>More specifically for this tentative WDR, we are aware of the confidential mediation that has taken place involving Boeing (the permittee for this Tentative WDR) and the Regional Board. There was no engagement with non permittee stakeholders beyond this mandated public comment period, which makes negotiations over this Tentative WDR very one-sided.</p>	05	<p>The Los Angeles Water Board understands the timing of the release of the Tentative Permit is a concern. However, the Board accounted for the holidays by giving a few more days than the required 30-day period when it originally noticed the Tentative Permit on December 8, 2021. Upon request, the Board then extended the due date for written comments another week until January 18, 2022, and provided a summary of key changes in the Tentative Permit, and a table comparing the current permit limits with those that are proposed to help facilitate the review.</p> <p>To the extent that the commenter is concerned that the Tentative Permit was the subject of, or is being discussed in, the confidential mediation between DTSC, the Los Angeles Water Board, and Boeing, this is not true. The Los Angeles Water Board and Boeing have not discussed the Tentative Permit, or any of its requirements, during the confidential mediation , as explained in response to comment #11.</p>	None
34	Commenter states that she would like to submit a link to comments that she sent to the Water Board in 2010; and they appear to be provided for reference. Commenter also provided updates and requests for additional people to be included in future communication.	06	Although it is a bit unclear why commenter submitted a link to comments made on the 2010 Permit, the Los Angeles Water Board appreciates the references to past comments. These comments were addressed during the permit hearing in 2010 and therefore are not included here. Specific comments to the Tentative Permit are provided below. The Water Board will also update our distribution list with your preferred email address.	None
35	<p>Regarding the removal discharges associated with the groundwater extraction Treatment System (GETS).</p> <p><b>Comment:</b> I am glad to see the GETS system working again. It has been my opinion for some time that it should always be running to try to contain the TCE plume onsite. I do realize that it does go offsite to an area just east of Sage Ranch where I have attended meetings with DTSC staff and observed the cores being drilled historically. In addition to reinjection of the GETS water - which I believe may help them extract more Contaminants of Concern (COCs), it has been my wish that they could build new storage facilities to use the treated water for wetting down the soil when remediation or demolition is necessary rather than importing drinking water purposes for dust control, etc.</p>	06	<p>The GETS is an interim measure to begin addressing the groundwater contamination at the site, and the intent for reinjection is to reduce surface water discharges from the site.</p> <p>The Los Angeles Water Board supports water conservation and responsible use of potable water supplies given the increased frequency of droughts in California. However, the Tentative Permit does not permit the use of the treated groundwater for dust suppression and irrigation purposes. Construction activities at this site and others are subject to separate permitting under the State Water Board's General Permit for stormwater discharges from construction activities.</p>	None
36	<p>Regarding the removal of effluent limitations and monitoring and reporting requirements for Discharge Points 019 and 020 (note that Discharge Point 020 was never constructed).</p> <p><b>Comment:</b> Please explain why discharging that water would be a violation of the Boeing Permit? Is this related to Climate Change, the Drought, and the need for Boeing to use their own water for site specific usage?</p>	06	The Tentative Permit prohibits all non-stormwater discharges to surface waters from the site. So, any non-stormwater discharge from the Facility is a violation of this discharge prohibition. This is not related to climate change or drought but rather because all treated groundwater from the GETS is now injected back into the aquifer in order to reduce the surface water discharges from the site.	None
37	<p>Regarding the removal of limitations for total suspended solids (TSS) and settleable solids at Discharge Points 001, 002, 011 and 018</p> <p><b>Comment:</b> As someone that was engaged with the City of Los Angeles more than a decade ago on the TMDLS for metals, am I understanding that this is similar to the concept that members of the public are not supposed to hose off their sediment into the street where it will ultimately end up in the Los Angeles River, and therefore potentially violate the City and the County's NPDES for suspended solids, etc.?</p>	06	Yes, the Tentative Permit for SSFL is for discharges of stormwater runoff only and prohibits non-stormwater discharges, much like the NPDES permit for municipal separate storm sewer system (MS4) discharges applicable to the City and County in which most non-stormwater discharges are prohibited.	None

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38	<p>Regarding the removal of the dry-weather limitations for cadmium at Discharge Points 001, 002, 011, 018, and 008. <b>Comment:</b> The previous order included dry- and wet weather limitations for cadmium, however, the Los Angeles River Metals TMDL only contains a wet-weather waste load allocation (WLA for cadmium) applicable to stormwater discharges. The effluent limitations and benchmarks for stormwater discharges will remain unchanged.</p> <p>Is Cadmium a primary Contaminant of Concern for The Boeing SSFL site? I have not recalled hearing mention of Cadmium as exceeding its permit in the past. Is Cadmium naturally occurring at the SSFL site, is it known for its historic use as a specific location, or both?</p>	06	<p>Cadmium has not been detected in stormwater runoff from the Facility at concentrations that pose a risk to human health or the environment. However, cadmium is resistant to corrosion and is used as a protective finish on other metals and DTSC considers cadmium a constituent of potential concern. In addition, there is a wet-weather waste load allocation for cadmium assigned by the Los Angeles River Metals TMDL. Therefore, the effluent limitations and benchmarks for stormwater discharges are included the Tentative Permit pursuant to federal regulations (40 C.F.R. § 122.44(d)(1)(vii)(B).).</p>	None
39	<p>Removal of both the dry- and wet-weather limitations for selenium at Discharge Points 001, 002, 011, 018, and 008. <b>Comment:</b> The previous Order included dry- and wet weather limitations for selenium, however, the Los Angeles River Metals TMDL only contained a dry-weather WLA for selenium and dry-weather discharges are no longer permitted as noted above. As above, is Selenium a naturally occurring element at the SSFL site, or is it known for its historical work at this site, or both?</p>	06	<p>The Los Angeles River and Tributaries Metals TMDL only contains dry-weather waste load allocations and since dry-weather discharges are no longer permitted as noted, the Los Angeles Water Board removed effluent limits for this constituent. With respect to wet weather conditions, the Los Angeles River Reach 6 is listed as impaired for selenium on the most recent Clean Water Act Section 303(d) List, and the Los Angeles River and Tributaries Metals TMDL assigns a wet-weather concentration-based load allocation for selenium to Reach 6 and its tributaries, which includes Bell Creek. The TMDL's source analysis determined that the sources of selenium are related to natural levels of selenium in soils in the upper watershed; therefore, the Los Angeles Water Board finds that concentrations of selenium in stormwater discharges are not associated with past industrial activity at SSFL.</p>	None
40	<p>Removed references to storage tanks and transfer of runoff at Discharge Points 012-014.</p> <p><b>Comment:</b> Thank you for clarifying that the BMPS have been implemented in a manner to divert the water from running off at these discharge locations, and there they therefore will be conveyed to the Silvernale pond or other BMPs where they will be treated. It is extremely important to the public that they understand that everything that runs off of the SSFL site is not contaminated, or if it is, in some cases the materials are naturally occurring, or in cases of biological exceedances, they may be the result of the wildlife on site.</p>	06	<p>Comment noted. The Tentative Permit contains effluent limits for surface water discharges from the site to protect water quality, human health, and the environment.</p>	None
41	<p>Removed the limitations for iron and manganese. <b>Comment:</b> Thank you to Water Board staff for pointing out that iron and manganese are not related to site activities and that they are most likely naturally occurring. I was looking for the DTSC SSFL Look Up Table for Chemicals which was created after their Background Study which was completed around December 2012. I was a member of both the DTSC Chemical Background Study and the EPA Radiological Background Study. Unfortunately, even though I attended numerous meetings on "Background", these meeting slides and the Chemical Look Up Table do not seem to be available in the document library? I would like to point out that these Look Up Tables also were sampling to levels that some of the requested labs could not achieve. This document reflects some of the DTSC Chemical Background levels but not the labs that were tested for QA/QC purposes: <a href="https://www.dtsc-ssfl.com/files/lib_look-up-tables/chemical/66073_06112013LUTand_cover.pdf">https://www.dtsc-ssfl.com/files/lib_look-up-tables/chemical/66073_06112013LUTand_cover.pdf</a></p> <p>According to this document, Cadmium and Selenium clean up standards are based on the Background Test Value which would imply that they may be naturally occurring. Manganese is also referenced as having a Background Test Value - BTV. This is for a Background level cleanup. Iron is not given a look up table value for some unknown to me reason. it is referenced in the document however.</p>	06	<p>Comment noted. The pollutant limits for iron and manganese for Discharge Points 011/001 and 018/002 have been removed because these pollutants are not related to past industrial activity at the site and are naturally occurring at elevated concentrations in soils at the site and across California.</p>	None

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42	Removed the effluent limitations for antimony, mercury, nickel, and thallium for Discharge Point 008. <b>Comment:</b> Thank you to Regional Board staff for pointing out that these COCs are unlikely to be discharged from Outfall 8 - Dayton Creek since we do have a new home development at the bottom of Dayton Canyon. Antimony, Nickel, and Thallium are listed as having a BTV (Background Test Value). Mercury does not. Mercury is based on the Method Reporting Limit of a specific laboratory by DTSC. The primary location of Mercury that I am aware of is a plume of mercury that was released by accidentally cutting a line in the Sodium Reactor Complex area of AREA IV. That Mercury area is covered by a black tarp to prevent it from moving downward into the groundwater. This area is at the opposite end of the SSFL site from Outfall 008.	06	Comment noted. As noted in response to comment #17 and #23, significant soil removal activities were completed in 2010 and monitoring data at Outfall 008 do not show a reasonable potential for antimony, nickel, and thallium to be present in stormwater discharges at levels that pose a risk to human health or the environment. The Tentative Permit has been revised to include an effluent limit for mercury at Outfall 008 because, based on a re-evaluation of the monitoring data in response to comments, Board staff determined there is reasonable potential. See also, response to comment #23, #28, and #30.	None
43	Regarding the removal of limitations for nickel at Discharge Points 001, 002, 011 and 018 <b>Comment:</b> Thank you for bringing to the attention of the public that nickel is not a problem at Discharge Points 011, 018, 001, and 002. Nickel is also a chemical that may be naturally occurring or used on site as well because it is listed on the link above as having a BTV.	06	Comment noted.	None
44	Regarding the proposed effluent limitations and benchmarks for copper, lead, and zinc are less stringent than in the prior permit for Discharge Points 001, 002, 011, 018 and 008 to make the permit consistent with the LA River Metals TMDL. <b>Comment:</b> Thank you for making the Santa Susana Field Laboratory benchmarks consistent with the LA River TMDLs for metal. I worked with the City of LA on the TMDLs for metal group, and I recall that copper and lead were two of the most contributing COCs to the TMDLs for the LA River. They were primarily attributed to the best of my memory to transportation aka: vehicles.	06	Comment noted. We appreciate commenter's participation in the TMDL.	None
45	Regarding the proposed effluent limitations for copper and nickel are less stringent and the proposed effluent limitations for mercury are more stringent than in the prior permit for Discharge Points 003 through 007, 009, and 010 to make the permit consistent with the Calleguas Creek Metals TMDL. <b>Comment:</b> As stated above, it is my understanding that Copper and Nickel both have BTVs. I support their consistency with the Calleguas Creek Metals TMDL. As stated earlier, to me, Mercury is not only a COC, but it is known to be in the area under the tarp at the Sodium Reactor Complex - I believe that they were released by cutting a line accidentally that may have gone to one of the other structures - possibly the power plant that was on site if I recall correctly. I support a stringent requirement for mercury, and in fact, I wish that the Regional Board would request that the DOE and Boeing would remediate that known patch of mercury as an Interim measure just like the previous ISRA cleanups and the 2008 Order by DTSC for the Northern Drainage which was an Imminent and Substantial Endangerment Order.	06	Comment noted. In response to comments, Board staff has re-evaluated the monitoring data used for the RPA and has revised the nickel effluent limit for Discharge Points 003 through 007, 009 and 010 to ensure protection of the groundwater recharge beneficial use, since the water quality objective to protect the groundwater recharge use is lower than that to protect aquatic life uses. Thus, the effluent limit ensures protection of all beneficial uses. The request to require an ISRA cleanup in the noted area is outside the scope of the NPDES permit.	Revised nickel effluent limits.

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46	Regarding the effluent limitation for temperature has been updated from 86 °F to 80 °F. <b>Comment:</b> this project site is at elevation. I don't know the daily temperature at this site, but I know that the Pierce College Weather Station has monitored the temperature in Woodland Hills which is probably less than 10 miles from the SSFL site since the 1940's. <a href="https://theroundupnews.com/2019/10/23/70-years-of-the-weather-station/">https://theroundupnews.com/2019/10/23/70-years-of-the-weather-station/</a> <a href="https://piercollege.westernweathergroup.com/">https://piercollege.westernweathergroup.com/</a> The temperature at the Pierce College Weather Station reached 121 degrees at Pierce College on September 6th, 2020. How can the water discharged from the site be controlled to a certain temperature if no GETS water is allowed to be discharged? And if you altered the temperature in the Silvernale Pond, wouldn't you risk impacting wildlife that thrive there? Isn't there a potential for the water to become hotter than 86 degrees? I believe our temperatures are controlled by Climate Change and the wildlife will need to adapt just as humans and other wildlife will need to adapt.	06	The temperature effluent limit was revised to align with the temperature water quality objective in the Basin Plan applicable to inland surface waters with warm water aquatic habitat (the "WARM" beneficial use designation in the Basin Plan). The temperature effluent limit is for discharges of stormwater runoff only, which do not generally occur during high temperature days. The temperature effluent limit does not apply to temperatures of stormwater retained in the ponds; the temperature effluent limit applies to the treated stormwater discharged from the ponds.	None
47	Regarding the requirement to monitor the stormwater entering the two stormwater treatment systems ("influent"). <b>Comment:</b> How do the Responsible Parties detect what is being treated in these systems in the dry periods? Would this require someone to physically regularly capture and analyze the COCs, or would this be similar to a device as I saw at Outfall 8 around 2008 that captured stormwater runoff and analyzed the COCs?	06	To monitor influent, the Discharger will need to collect samples in the influent pipe from the ponds to the treatment system. Samples would be collected and analyzed by a certified lab consistent with the monitoring requirements for discharges at the outfalls.	None
48	Regarding the added requirement to sample for asbestos at Discharge Points 003-007, 009, and 010 <b>Comment:</b> I support the requirement for sampling for asbestos because I am aware that the test stands and supporting structures have been removed or are in the process of being removed, and that Boeing will also have other structures that will most likely contain asbestos in the structures. I would hope that Boeing, DOE, and NASA would all be using certified trained asbestos contractors as these facilities are demolished.	06	Comment noted.	None
49	Regarding the removal of in-stream bioassessment monitoring during dry weather since there is no dry-weather discharge from the site. <b>Comment:</b> I support this removal from the permit. I have been to the SSFL site probably at least 50 times at all times of the year. I recognize that there are no sources of water to naturally flow from the SSFL site during the dry season.	06	Comment noted.	None
50	Regarding the revised language to specify that no additional daily sampling for E. coli is required at monitoring location RSW-002 when there is no observed discharge from the site. <b>Comment:</b> I support this removal from the permit. Since there are few people at the SSFL, it is likely that any E. coli is from the large mammals that roam the site including mountain lions and deer. And for these samples to be found 4 miles from the site, there is no way to know if these samples actually came from the SSFL site.	06	Comment noted.	None
51	Comments raising concern about any weakening or removal of discharge limits for contaminants that would allow vastly higher levels of contaminants to flow into surrounding waterways, harming human health, wildlife, and the environment. The permit should be tightened, not weakened, and it should protect the public and the environment, not Boeing.	07, 08, 09 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 25, 27, 28, 29, 30, 31,	The Tentative Permit contains some effluent limits that are higher than the 2015 Permit based on watershed-specific regulations called TMDLs. Though some of the effluent limits are higher based on these TMDLs, they still protect water quality, human health, and the environment. TMDLs are required by the Clean Water Act and federal regulations require that NPDES permits contain effluent limits that are consistent with the assumptions and requirements of the waste load allocations in TMDLs. The Tentative Permit implements these TMDLs by setting the effluent limits equivalent to the waste load allocations in the TMDLs. Therefore, the TMDL	Revised lead effluent limits for Outfalls 008, 011, and 018 and benchmarks for Outfalls

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	Specific comments raising concern that the Tentative Permit changes a quarter of the limits, and would weaken 95% of the limits that are being changed, and eliminate limits entirely for others. Specific comments that lead limits are increasing from 5.2 to 94 µg/L and mercury limits are going from 0.13 µg/L to no limit.	32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 101, 102, 103, 104, 105, 106, 107, 108	<p>based effluent limits for discharges from SSFL are protective of water quality. With respect to those effluent limits for stormwater discharges that were removed in the Tentative Permit, the limits have been removed because data, collected from April 1, 2015 to September 30, 2021, show that stormwater discharges from SSFL have no reasonable potential to cause or contribute to an exceedance of water quality standards to protect human health and the environment.</p> <p>In response to comments, Board staff re-examined each of these changes and has reinstated the lead effluent limits for Outfalls 008, 011, and 018 from the 2015 Permit because the lead site-specific objectives for the Los Angeles River and its tributaries only apply to urbanized portions of the watershed. Board staff also re-examined the monitoring data for each of these pollutants, and revised the nickel effluent limits for Outfalls 003-007, 009, and 010 to ensure protection of the Groundwater Recharge (GWR) use for which there is a lower water quality objective than that for protection of aquatic life uses in the Calleguas Creek Watershed. Regarding the effluent limit for mercury, it is being included in the revised Tentative Permit based on an updated reasonable potential analysis. In addition, see responses to comments #s 4, 6, 9, and 20-24.</p>	001 and 002; revised nickel effluent limits for Outfalls 003-007, 009, and 010; and reinstated mercury effluent limit at Outfall 008.
52	Comments expressing concern that Boeing has been excused from past exceedances, only to later be fined for exceedances, such as was the case in the aftermath of the 2018 Woolsey fire.	07, 32, 44, 53, 100	The Discharger cannot waive its own violations; however, the Water Code contains provisions which enable the Discharger to request relief from MMPs. On April 15, 2019, the Los Angeles Water Board received such a request from the Discharger pursuant to Water Code Section 1338S(j)(l)(B). On June 27, 2019, the Board's chief prosecutor, Assistant Executive Officer Hugh Marley, signed a letter determining that the effects of the Woolsey Fire could not have been prevented or avoided by the exercise of due care or foresight by the Discharger. The relief was limited to effluent limit violations occurring over a 3-month period from December 7, 2018 through March 7, 2019. No relief was granted for violations of the effluent limits for TCDD (dioxin) during that time. No additional relief has been granted beyond that time period.	None
53	Comments about the inadequacy of the fines levied on Boeing to date or the quantity and costs of remediation actions completed to date as disproportionate to the harm to public and ecological health.	07, 08, 11, 12, 13, 14, 15, 16, 17, 19, 20, 22, 23, 37, 47, 60, 77, 79, 91, 100	Until December 31, 2021, Boeing was subject to fines for violations of effluent limits pursuant to the 2017 Consent Judgment and the California Water Code. For fines and penalties levied for any future violations of effluent limits and permit terms, penalties would be assessed pursuant to the California Water Code and the State Water Resources Control Board's Water Quality Enforcement Policy (2017). See also responses to comment #13 and #15.	None
54	Comments that the weakening of limits can lead to increased exposure and number of cancer cases in children and impacts to parents.	8, 9, 10, 11, 14, 18, 19, 20, 22, 23, 24, 34, 46, 47, 60, 77, 90, 91	In the Tentative Permit, most effluent limits have remained the same as those in the 2015 Permit, and no changes have been made to effluent limits for carcinogenic chemicals, including TCDD (dioxin) and radionuclides. The effluent limits are set at levels that ensure that human health and the environment are protected. As discussed in response to comment #4, where limits have been revised, the changes were made based on watershed specific TMDLs approved by U.S. EPA, and Board staff confirmed that these changes would be protective of human health and the environment. Where effluent limits have been removed, it was based on	Revised certain effluent limits based on re-examination of proposed changes and

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			recent monitoring data and information, which showed that the pollutants had no reasonable potential to cause or contribute to an exceedance of a human health or aquatic life water quality standard. In response to comments, Board staff re-evaluated the proposed changes to effluent limits in the Tentative Permit, considering applicable state and regional water quality control plans, including TMDLs, and monitoring data, and made several revisions as a result. See response to comment #4 and comment #13.	applicable state and regional water quality control plans, including TMDLs, and monitoring data.
55	Comments expressing concern about increased pollution of waterways from Boeing and other waste discharges including the Dominguez Channel (4M gal untreated sewage spill) and Santa Monica Bay (17M gal sewage spill)	9	Comment noted. See response to comment #13.	None
56	Comments requesting that Boeing, NASA, and U.S. Department of Energy (DOE) take action to clean up the land and ensure remaining contaminants do not migrate off the site. The Board should insist or pass a resolution on full cleanup of the site according to legally binding agreements that mandate site clean-up by 2017, and that those agreements should be enforced as is or strengthened - not weakened. The required soil cleanup hasn't begun and Boeing has received no consequences from the Board for refusing to clean up the site. Permit limits should not be removed before cleanup at the SSFL.	10, 12, 13, 15, 16, 17, 21, 22, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 61, 62, 64, 65, 67, 68, 69, 70, 72, 73, 74, 76, 78, 79, 80, 81, 82, 83, 85, 86, 88, 89, 92, 93, 95, 96, 97, 98, 100, 101, 103, 104, 105, 106, 107, 108	The Tentative Permit under consideration by the Los Angeles Water Board is for stormwater discharges from the SSFL site. DTSC is currently overseeing a RCRA facility assessment and cleanup at SSFL (42 U.S.C. §§ 6901 et seq.). The Los Angeles Water Board is closely tracking cleanup of the site. NASA and DOE have already enrolled for coverage under the State Water Board's Construction General Permit for decommissioning and demolition activities, and the Los Angeles Water Board may issue additional NPDES permits for stormwater discharges to DOE and NASA in the future. See also response to comments #12 and #15.	None

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57	Comments expressing concerns about the public review process, including the overlap with holidays. Comments about the lack of transparency and the difficulty of discerning changes to permit limits in the tentative permit due to the nature and length of the permit. Concerns that a summary of changes was not made available until requested.	17, 32, 37, 46, 47, 79, 89, 99, 100	<p>The Los Angeles Water Board takes public participation and comments seriously. Federal regulations and the California Water Code require that the Board provide notice and a period of at least 30 days for the public to comment on NPDES permits. The Board provided notice of the opportunity to comment on the tentative permit on December 8, 2021 and allowed for a 35-day comment period. Notifications were sent to a list of interested persons via email and posted on the Los Angeles Water Board's website. On January 3, 2022, the Board received a request to extend the comment deadline and to provide a breakdown of the changes between the 2015 permit and the Tentative Permit. In recognition of the heightened interest in the SSFL site, the comment deadline was extended by 7 days and a document summarizing the changes in the Tentative Permit was provided and posted on the Board's website. The Los Angeles Board is committed to transparency and working actively to engage and accommodate all interested stakeholders and local community members.</p> <p>While the Board is not required to identify every single provision that has been changed in a permit reissuance, information on key changes was provided. It should be noted the changes are reflected in the Tentative Permit. The Fact Sheet (Attachment F) contains background information and rationale for the requirements and changes in the permit, and includes tables that summarize the monitoring data; maximum concentrations of the pollutants measured during the current permit term; effluent limit violations; and changes to effluent limits.</p>	The public comment period was extended for seven (7) days. A summary of key changes was posted on the Los Angeles Water Board website on January 5, 2022.
58	Comments expressing concern that weakening or eliminating effluent limits in the permit may impact groundwater in the area used for agricultural operations or drinking water (30% of residents in this area do in fact consume this water).	24, 44, 66	<p>While the Tentative Permit for SSFL regulates surface water discharges, the permit is protective of groundwater in consideration of groundwater recharge by surface water in some areas. Recognizing that the downgradient groundwater basins are used for drinking water supply, the Tentative Permit prescribes effluent limits based on MCLs for drinking water to protect human health, for certain constituents.</p> <p>The groundwater investigation and cleanup is ongoing with DTSC direction and oversight. Representatives from DTSC can provide the best available information available regarding the concentrations of contaminants in groundwater. See Los Angeles Water Board response to comment #50.</p>	None
59	Comments raising concern that the majority of contaminants at the site do not have permit limits.	25, 27, 28, 29, 30, 32, 35, 37, 38, 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 56, 58, 61, 62, 67, 68, 70, 73, 76, 78, 80, 81, 82, 83, 93, 96, 97, 98, 99, 100, 101, 103, 104, 105, 106, 107, 108	See Los Angeles Water Board response to comment #3	None

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60	Comments that Boeing is being allowed to send contaminated water to unlined ponds where it infiltrates into and further contaminates groundwater. Questions regarding oversight related to these ponds.	25, 27, 28, 29, 30, 34, 35, 37, 38, 40, 41, 42, 44, 45, 46, 48, 49, 50, 51, 54, 56, 58, 61, 62, 65, 67, 68, 69, 70, 73, 76, 78, 80, 81, 82, 83, 86, 92, 93, 96, 97, 98, 99, 101, 103, 104, 105, 106, 107, 108	See Los Angeles Water Board response to comment #8	None
61	Comments about expiration date of the 2015 permit, and Boeing's operation past the expiration date, and concerns that this allowed inadequate pollution limits and unacceptable levels of contamination in runoff from the site past the March 2020 expiration date.	47, 89	Although the expiration date of the 2015 Permit was March 31, 2020, the permit has been administratively extended, pursuant to federal and state regulations (40 CFR § 122.6, California Code of Regulations, title 23, § 2235.4), until the issuance of a new permit. As such, all the terms and conditions, including monitoring and reporting requirements, have remained in place. Furthermore, effluent limits have remained in full effect as well as the Los Angeles Water Board's statutory authority to enforce any effluent limit violations.	None
62	Comments that the tentative permit neglects to disclose that the Water Board is currently in closed-door negotiations with Boeing and DTSC to allow Boeing to walk away from its cleanup obligations at the SSFL.	53	See Los Angeles Water Board response to comment #11	None
63	Comment that the 2022 proposal for outfall 002 would enable lead pollution to increase by as much as 1800%, and for outfall 009 would enable an increase of nickel pollution by as much as 1100%. Many contaminants are falling off the list with no meaningful reason (i.e. manganese and selenium).	79	The Tentative Permit has been revised to include the effluent limits/benchmarks for lead at Outfalls 008, 011, 018, 001, and 002 from the 2015 Permit and to include effluent limits for nickel at outfalls 003-007, 009 and 010 based on MCLs for drinking water to ensure that all beneficial uses are protected. The rationale for removing selenium and manganese from the permit is included on pages F-54 and F-56 of the Tentative Permit's Fact Sheet.	None
64	Comments to overturn the Administrative Orders on Consent (AOC) because the health studies that have been performed and scientific conclusions indicate no link to more cancers at or near SSFL, cancer groups are underrepresented in people living near the SSFL, little or no association between residential distance from SSFL and the incidence of cancers thought to be affected by ionizing radiation.	87	Comment noted. DTSC is the regulatory agency in charge of the soil and groundwater cleanup levels at SSFL pursuant to the AOCs.	None
65	Comments that it is possible to conduct the NASA Area II clean up to "suburban residential" levels at a proposed cost of \$75M. The resulting savings of \$125M would finance preservation and protection efforts of indigenous cultural, archaeological, and sacred areas such as the Burro Flats and other historical sites such as the Coca Test stand.	87	The Los Angeles Water Board is not in a position to respond to the comment on the proposed costs associated with the cleanup to specific risk-based levels. Representatives from DTSC can provide the best available information regarding estimated costs of cleanup under different risk-based levels. DTSC is the regulatory agency in charge of the soil and groundwater cleanup levels at SSFL.	None
66	Comments that clean-up to "background" will destroy the archaeological sites of significance near the Area of Potential Effect, recognized as a sacred site. Additionally, digging more than 8" would release a very harmful fungus leading to Valley Fever - a documented health threat to the community.	87	The Los Angeles Water Board is not in a position to respond to the comment on potential impacts associated with the cleanup to specific risk-based levels. DTSC is the regulatory agency in charge of the soil and groundwater cleanup levels at SSFL.	None

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