Response to Comments

City of Burbank
Burbank Water Reclamation Plant
Tentative NPDES Permit

(This table summarizes the comments received from interested parties with regard to the above-mentioned tentative permit. Each comment presented in this table has a corresponding Regional Water Board response and/or action taken.)

Issue/ Document Reference	#	Comment	Agree	Disagree	Response to Comment	Action Taken
City of Burbank's Comments (Cover Letter) dated January 23, 2012						
Background Information About the *Copper Water Effect Ratio (WER) Study* and the Los Angeles River Metals TMDL (*LA River Metals TMDL*)	C1	In June 2004, the cities of Burbank and Los Angeles submitted a work plan to conduct a copper study. Technical review and public participation for the study consisted of an independent Technical Advisory Committee, a stakeholder committee, and public workshops. The final study report, submitted to the Regional Water Board on June 3, 2008, recommended WERs of 5.871 for Burbank Western Channel and LA River Reach 4 and 3.958 for LA River Reaches 1, 2, and 3. On May 6, 2010, the Regional Water Board adopted the amended Los *Angeles River Metals TMDL* modifying the copper Waste Load Allocations (WLAs) for the Burbank Water Reclamation Plant (Burbank WRP) based on the results of the *Copper WER Study*. As noted in the Fact Sheet (p. F-40), "the revised *Los Angeles River Metals TMDL* incorporated a 3.96 WER for copper." Additionally, as noted in	X		The results of the *Copper WER Study* were incorporated into the *LA River Metals TMDL* during the TMDL revision process. The revised language includes a footnote that was added in response to degradation concerns expressed by the United States Environmental Protection Agency (USEPA) during the TMDL public comment period. As explained on page F-40 of the Fact Sheet, the revised *LA River Metals TMDL* precludes the direct application of the full copper WER for the derivation of final effluent limitations, and instead requires that the copper effluent limitations be based on the current performance of the facility's treatment technologies.	None necessary

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		the Fact Sheet, the TMDL stated "Regardless of the WER, effluent limitation shall ensure that effluent concentrations and mass discharges do not exceed the levels of water quality that can be attained by performance of this facility's treatment technologies."				
Determining a Facility's Treatment Technology Performance-Based Effluent Limits (TTPBELs)	C2	The TMDL does not specify the manner in which to determine performance or set effluent limits, as noted in the State Water Board response to comments on the 2010 Metals TMDL amendment: "Whatever approach permit writers take must be supported, but it may not necessarily be limited to the use of the 95th percentile of performance." Additionally, there is no guidance for calculating performance based limits… in either *USEPA's Technical Support Document for Water-Quality Based Toxics Control* (TSD) or the State Implementation Plan.		X	The commenter is correct that the TMDL does not specify the manner in which to determine performance or set effluent limits. However, it is incorrect to state that the TSD does not contain guidance for calculating performance-based limits. The approach used by Regional Water Board staff to determine a Monthly Average Limitation of 30 µg/L and a Daily Maximum Limitation of 39 µg/L is supported by language in the *LA River Metals TMDL* Implementation section, by comments received from USEPA, and by Appendix E of USEPA's TSD and yields limits which are representative of the levels of water quality that can be attained by performance of this facility's treatment technologies at the time of this permit reissuance. While the TMDL does not specify a distinct manner in which to calculate a facility's TTPBELs, the TMDL implementation section does contain the following language for non-stormwater NPDES permits (including POTWs): "Permit writers may translate applicable waste load allocations into daily maximum and monthly average effluent limits for the major, minor and general NPDES permits by applying the effluent limitation procedures in Section 1.4 of the State Water Resources Control Board's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed bays, and Estuaries of California [SIP] or other applicable engineering practices authorized under federal regulations." In addition, the State Water Board addressed this comment in their response to comments when it considered the revision to the *LA River Metals TMDL* in April 2011. The City of Burbank's cited quote did not capture the State Water Board's response in its entirety. The full response to comment states: "**There are numerous guidance documents available to permit writers to use when**	None necessary

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					developing effluent limitations to ensure no degradation of existing water quality (e.g. SIP, TSD). Whatever approach permit writers take must be supported, but it may not necessarily be limited to the use of the 95th percentile of performance." (emphasis added.) Accordingly, while the State Water Board did not mandate the use of the 95th percentile, it also did not preclude the use of the 95th percentile. Additionally, on January 23, 2012, USEPA submitted comments supporting the tentative permit's proposed performance-based effluent limits for copper stating that the percentiles used in the tentative permit are recommended by USEPA for calculating performance-based effluent limits in NPDES permits. (Also see response to comment # E1.) The Regional Water Board has consistently relied upon Appendix E of USEPA's TSD for the statistical derivation of performance-based limitations, where the monthly average limitation is set at the 95th percentile and the daily maximum is set at the 99th percentile. The introduction of Appendix E reads: "This appendix provides supporting information for the statistical methodology used in permit limit calculations. The methodology described in this appendix applies to many types of data including data that are used to develop both technology-based and water-quality based permit limits." Regional Water Board staff calculated performance based-effluent limitations for copper using the same engineering practice that has been used historically for calculating interim limits for NPDES permits, TMDLs, and Time Schedule Orders (TSOs). This is the exact same method that was used to calculate performance-based interim limits for copper in Burbank's existing TSO.	
Discretion to Select TTPBELs	C3	The City of Burbank recommends that the Regional Water Board use discretion to consider alternative approaches to calculate TTPBELs that 1) do not pose a compliance issue and 2) are consistent with the WER-adjusted WLA of 75.2 µg/L (WLA x WER = 19 µg/L x 3.96 = 75.2		X	The revised *LA River Metals TMDL* requires that effluent limitations for copper "shall ensure that effluent concentrations and mass discharges do not exceed the levels of water quality that can be attained by performance of this facility's treatment technologies existing at the time of permit issuance, reissuance, or modification." Based on the current performance of the facility's treatment	None necessary

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		µg/L).			technologies, the TMDL precludes the direct application of the full copper WER for the derivation of final effluent limitations. This is also consistent with federal anti-backsliding laws, the federal Antidegradation Policy (40 CFR § 131.12), and California's Antidegradation Policy (State Water Board Resolution 68-16). A Monthly Average Limitation of 30 µg/L and a Daily Maximum Limitation of 39 µg/L should not pose a compliance issue for the City of Burbank for the following reasons: • Between December 2007 and August 2011 the Burbank WRP effluent had a maximum effluent concentration (MEC) of 30.2 µg/L; an average of 17.7 µg/L; a median of 16 µg/L; and a standard deviation of 6 µg/L. • The tentative permit contains a provision which would allow the City of Burbank to collect additional samples within a calendar month to comply with the monthly average effluent limitation. • Violations subject to mandatory minimum penalties (MMPs) for copper, a Group 2 pollutant, are not likely based on recent plant performance. A serious violation would take place if the effluent exceeded the reported effluent limitations by 20% (i.e. the Monthly Average Limitation would have to exceed 36 µg/L and a Daily Maximum Limitation would have to exceed 46.8 µg/L). For a chronic violation to take place, the effluent must exceed a monthly average effluent limitation more than three times in a six month period. Furthermore, as indicated by the State Water Board in its response to comments on the revised LA River Metals TMDL, "[i]f a need for change in an effluent limitation is demonstrated, due to changing influent concentrations or other factors, it must be shown that the changed effluent limitation meets the exception requirements under federal anti-backsliding law, including a consideration of water quality standards and anti-degradation laws." To date, the City has not provided evidence regarding the facility's current performance that would warrant using an alternative methodology to yield higher	

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					effluent limits closer to the full WER-adjusted WLA of 75.2 µg/L. If the facility's performance changes during the term of this permit, the City is encouraged to provide evidence of that fact to the Regional Board so that it can consider that evidence during the next permit reissuance. See also response to comment # C2.	
Use of a 99.91st Percentile	C4	The City of Burbank references the following portions of Appendix D of the TSD, regarding aquatic life criterion continuous concentration (CCC), and requests that the copper effluent limits be based on a 99.91st percentile: "Because organisms can tolerate higher concentrations for short periods of time, it is expected that a concentration of a pollutant in a body of water can exceed the CCC without causing an unacceptable effect if a) the magnitudes and durations of exceedances are appropriately limited and b) there are compensating periods of time during which the concentration is below the CCC." (p.D-1) "…as a general rule, the purpose of the average frequency of allowed excursions will be achieved if the frequency is set at once every 3 years on average." (p. D-5)		X	Appendix D (*Duration and Frequency*) of the TSD is not applicable to the establishment of effluent limits. Appendix D is intended to be used for the derivation of water quality criteria itself, not for the calculation of effluent limitations. Also, Appendix D discusses the number of exceedances in a three-year period; not the 99.91st percentile. Rather, use of the 95th and the 99th percentiles is specifically discussed in Appendix E (*Lognormal Distribution and Permit Limit Derivations*) of the TSD, beginning on page E-1. Section 1 of Appendix E reads: "The daily maximum limits are usually based on the 99th percentile of the distribution of daily measurements… Monthly average limits are in most cases based on the 95th percentile of the distribution of averages of daily values." USEPA has also consistently used the 95th percentile as the basis for monthly average limitations and the 99th percentile as the basis for daily maximum limitations for a number of years. USEPA has determined, as a matter of policy, that the use of these percentiles is an appropriate basis for establishing effluent limitations. Several courts have also upheld USEPA's approach of using the percentiles chosen by USEPA for technology-based effluent limitations and no court has ever required USEPA to base effluent limitations on a high percentile level than that chosen by USEPA. To the contrary, several federal Courts of Appeal have explicitly rejected that approach. For example, the Ninth Circuit Court of Appeal in *Marathon Oil Co. v. E.P.A.* (564 F.2d 1253, 1272-1274 (9th Cir. 1977)), while endorsing the need for an upset provision, specifically rejected the notion of setting effluent limitations at a confidence interval higher than the 99th percentile. In that case, the Court	None necessary

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					pointed out that an overly high limitation would be "worthless as a control standard." As a matter of practice, the Regional Water Board has consistently followed USEPA's policy using the 95th percentile for monthly average performance-based limitations and the 99th percentile for daily maximum performance-based limitations for a number of years. Accordingly, Regional Water Board staff calculated performance based-effluent limitations for copper for the tentative permit using the same engineering practice that has been used historically for calculating interim limits for NPDES permits, TMDLs, and Time Schedule Orders. Additionally, on January 23, 2012, USEPA submitted comments supporting the tentative permit's proposed performance-based effluent limits for copper stating that the percentiles used in the tentative permit are recommended by USEPA for calculating performance-based effluent limits in NPDES permits. (Also see response to comment # E1.)	
10% Degradation in Tier 2 High Quality Waters	C5	Based on the City's interpretation of an August 10, 2005 USEPA memorandum titled *Tier 2 Antidegradation Reviews and Significance Thresholds*, from the Director of the Office of Science and Technology, regarding anti-degradation policies with respect to protection of high quality waters, the City of Burbank requests that effluent limits for copper also include a 5 µg/L performance variability factor to allow a 10% lowering of water quality, with the intended purpose of ensuring that consistent performance will not result in a violation of an effluent limit.		X	The 2005 USEPA memorandum referenced by the commenter is not applicable in this matter because that memo applies to Tier 2 high quality waters. The Burbank Western Channel is impaired for copper and other constituent and as such is currently on the Clean Water Act section 303(d) list of impaired waterbodies. Accordingly, it is not considered a high quality water. With respect to the possibility of future violations of the copper effluent limitations, Regional Water Board staff cannot guarantee that the copper limits will not be exceeded. Based on current facility performance, the tentative effluent limits should not pose a compliance issue. In addition, the tentative permit contains provisions allowing Burbank an opportunity to attain compliance with monthly average effluent limits by collecting additional samples within a calendar month. (Also see response to comment # C3.) In addition, section VI.C.1.k of the tentative permit contains a reopener that allows the Regional Water Board to reopen the permit	None necessary

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					to modify the copper effluent limitations consistent with the *LA River Metals TMDL* and its Implementation Plan. If unforeseen events, as eluded to by the State Water Board in its response to comments on the TMDL, such as variability of copper concentrations in source water, have the effect of raising the final effluent copper concentration, then the City of Burbank has the burden of providing such data to the Regional Water Board for evaluation and consideration. At such time as the permit is reissued or modified, the permit writer could determine (based on available data) whether the effluent limit should be modified and recommend modifications to the Regional Water Board.	
Dataset Representa-tive of Upgrade	C6	The dataset used for the determination of reasonable potential (RP) and calculation of effluent limits in the tentative permit is December 2007 to August 2011. The rational given for this dataset is given in the Fact Sheet which states, "The monitoring data cover the period from December 2007, when the Discharger has completed the nitrification and denitrification (NDN) process upgrade, up to August 2011." This statement is incorrect since the NDN process upgrade was completed in 2003, as stated on page F-5.	X		The statement in section IV.C.3 of the Fact Sheet has been corrected as follows: "The monitoring data cover the period from December 2007, when the Discharger has completed construction of the ~~NDN~~chloramination process ~~upgrade~~facilities up to August 2011."	Modified page F-35 of the Fact Sheet
Dataset for Reasonable Potential (RP)	C7	The City of Burbank requests that the dataset for RP purposes be from January 2007 to August 2011 for most constituents, but from the date when chloramination began to August 2011for total trihalomethanes. If only one dataset is used for all constituents, the City of Burbank requests that it be from January 2007 to August 2011.		X	The December 2007 to August 2011 dataset used by Regional Water Board staff is representative of the current treatment process utilized by the City of Burbank, commencing when chloramination facilities were utilized and extending to August 2011 (the last monthly report that was available when the tentative was drafted). The dataset must be uniform and cannot be selectively truncated for different groups of pollutants.	None necessary
Detected but Not Quantified (DNQ) values	C8	The City of Burbank requests that the limits for these pollutants be removed because the analytical results were DNQ values: • Benzo(a)anthracene		X	DNQ values are valid data points that may be used in reasonable potential (RP) calculations. The mere fact that a lab can determine a DNQ value does not imply that proper quality assurance/ quality control (QA/QC) protocols were not followed. Because the	None necessary

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for Polynuclear Aromatic Hydrocarbons (PAHs)		• Benzo(a)pyrene • Benzo(b)fluoranthene • Benzo(k)fluoranthene • Chrysene • Dibenzo(a,h)anthracene • Hexachlorobenzene • Indeno(1,2,3-cd)pyrene The City of Burbank believes that the Regional Water Board has discretion to do so under section 1.2 of the SIP which states that they shall have discretion to consider if any data are inappropriate or insufficient for use.			Discharger failed to provide evidence to demonstrate that there was lab error, questionable QA/QC, or sample contamination, Regional Water Board staff does not have reason to exclude the data from the dataset. Therefore, the limits will remain in the tentative permit.	
Pollution Minimization Program (PMP) Requirements	C9	The City requested that they not be required to prepare PMPs for the PAHs in comment C8, as required by provision VI.C.3.c. of the tentative permit because they believe that it is highly unlikely that significant sources of PAHs will be found in wastewater. The City of Burbank also believes that a PMP would not provide any useful information.		X	Regional Water Board staff disagree. Section VI.C.3.c. of the Reopener Provisions is standard language for all POTWs and it has been taken verbatim from section 2.4.5. and subsection 2.4.5.1. of the State Implementation Policy's Pollutant Minimization Program	None necessary
City of Burbank's Comments (Appendix A) dated January 23, 2012						
Title correction	A1	The title for the facility contact incorrectly lists Daniel Rynn as Principal Civil Engineer. His correct title is Assistant Public Works Director - Wastewater. The City of Burbank requests that the title be changed on pages 5 and F-3.	X		Daniel Rynn's title has been changed in the revised tentative permit and in the Fact Sheet.	Changed title on WDR page 5 and Fact Sheet page F-3
Title correction	A2	The City of Burbank requests that the title of table 6 of the tentative permit be modified to read "Discharge 002" instead of "Discharge 001."	X		The title to table 6 has been changed in the revised tentative permit.	Changed title on WDR page 20

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Revision of Ammonia Effluent Limitations	A3	The ammonia effluent limits for the Burbank WRP in the tentative permit are set equal to the WLAs in the *Los Angeles River Nitrogen Compounds TMDL (Nitrogen Compounds TMDL)*. The *Nitrogen Compounds TMDL* became effective in March 2004. During TMDL development, the City of Burbank, in cooperation with the City of Los Angeles and the Los Angeles County Sanitation District, were in the process of developing a site-specific objective (SSO) for ammonia. The TMDL acknowledges the SSO development but did not incorporate the SSO because at the time the TMDL was adopted the SSO was not effective. In March 2009, the ammonia SSO became effective for the Los Angeles River. From the time the SSO became the effective Basin Plan ammonia water quality objective for the Los Angeles River, the City of Burbank has been encouraging Regional Water Board staff to modify the TMDL targets and allocations to reflect the revised ammonia objectives. Additionally, the City of Burbank has provided information demonstrating that, using the new Basin Plan objectives, the Los Angeles River is no longer impaired for ammonia and could be delisted in 2012. However, to date, the TMDL revision and/or delisting decision have not been completed. As a result, the ammonia effluent limits in the Burbank WRP tentative permit are currently set equal to the TMDL WLAs without an adjustment for the effective Basin Plan ammonia objectives. The City of Burbank is concerned that the currently effective Basin Plan ammonia		X	On March 30, 2009, a Basin Plan Amendment incorporating the SSOs for ammonia 30-day average objective was approved by USEPA. However, the implementation schedule of the *Nitrogen Compounds TMDL* specifies that, "If a site specific objective is adopted by this Regional Water Board, and approved by relevant approving agencies, this TMDL will need to be revised, readopted, and reapproved to reflect the revised water quality objectives." The *Nitrogen Compounds TMDL* has not yet been revised by the Regional Water Board. Once the Regional Water Board revises the *Nitrogen Compounds TMDL* to incorporate the ammonia SSO, and the revised TMDL is approved by USEPA, Regional Water Board staff will recommend revision of this NPDES permit. A review of the ammonia data submitted since December 2007 shows that the Burbank WRP is able to comply with the recommended ammonia effluent limitations. The daily maximum effluent limitation of 9.1 mg/L and the average monthly effluent limitation of 2.1 mg/L have not been exceeded between December 2007 and the present. The maximum ammonia concentration ever detected as of August 2011 was 1.20 mg/L.	None necessary

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		objectives are not the basis for the effluent limits in the tentative permit. The proposed effluent limits in the tentative permit present a compliance risk for the City of Burbank, and this risk is as a result of an administrative timing issue (i.e., the TMDL was not revised prior to the development of the tentative permit and therefore the revised WLAs could not be incorporated) rather than a water quality issue. The Regional Water Board staff has indicated they will be revising the *Nitrogen Compounds TMDL* to incorporate the new Basin Plan ammonia objectives in early to mid-2012. However, even if the TMDL is revised by the Regional Water Board as planned, it will take approximately a year to become effective and at least several months to revise Burbank WRP's permit. Until such time as the effluent limitations are revised, the City of Burbank will potentially be subject to enforcement liability even though the discharge is meeting limits consistent with current Basin Plan objectives and the receiving water is meeting water quality objectives. To resolve this administrative issue, the City of Burbank requests that the tentative permit be modified to include effluent limitations based on the SSO-adjusted WLAs to be consistent with the Basin Plan objectives.				
Receiving Water Station Description	A4	The City of Burbank requests that the statement "monitoring station RSW-001D (formerly referred to as R-2) located immediately downstream of the discharge" be changed to read "monitoring station RSW002D (formerly referred to as R-2) located ~~immediately~~ downstream of the discharge."	X		The receiving water station description in section V.A.17 of the WDR was modified as requested.	Modified WDR page 27

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Chronic Toxicity Requirement	A5	The City of Burbank requests that the language in section V.A.18.c of the tentative permit be revised to read as follows: "If the chronic toxicity in the receiving water at the monitoring station immediately downstream of the discharge, exceeds the monthly median of 1.0 TUc trigger in a critical life stage test, the discharge from Discharge Point 002 exceeds the monthly median of 1.0 TUc in a critical life stage test, and the toxicity cannot be attributed to upstream toxicity, as assessed by the Discharger, then the Discharger shall immediately implement all accelerated chronic toxicity testing according to MRP Cl No. 4424, section V. B.3."		X	Regional Water Board staff disagree. Even though the effluent may be non-toxic by itself, when combined with upstream receiving water, the resulting mixture may be toxic due to synergistic effects. The purpose of section V.A.18.c of the tentative is to assess the persistence of toxicity in the receiving water, while section IV.A.2.h.c pertains to toxicity in the effluent. The chronic toxicity requirements have been standardized and should remain consistent with language used in recently adopted permits for the Los Angeles Glendale and Donald C. Tillman WRPs.	None necessary
Spill Clean-up Contingency PIan (SCCP) & Spill Reporting Requirements	A6	The City of Burbank requests that the SCCP on page 34, section VI.C.3.b and the Spill Reporting Requirements on page 38, section VI. C. 6 be listed as "Not Applicable."		X	The SCCP requirements in the tentative permit are applicable to the Burbank WRP. Individual NPDES permits may have more prescriptive requirements than the State Water Board's General WDR Order for Sanitary Sewer Overflows. This is a standard requirement in all recently adopted NPDES POTW permits. Sections VI.C.3.b and VI.C.6 have not been changed.	None necessary
Beryllium Frequency of Testing	A7	The City of Burbank requests that the frequency of monitoring be reduced from quarterly to semiannually for beryllium because it has not been detected in this permit cycle.	X		The frequency of testing was reduced to semiannually.	Reduced beryllium frequency of testing in the MRP
Monitoring of PAHs with DNQ values	A8	The City of Burbank requests that that the frequency of monitoring be reduced from quarterly to semiannually for the following constituents which had DNQ values: benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene. dibenzo(a,h)anthracene, hexachlorobenzene, and indeno(1,2,3-cd)pyrene.		X	The applicable PMP provisions in the SIP, which have been incorporated into the tentative permit, require quarterly monitoring of constituents that have DNQ values.	None necessary

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Sample Type	A9	The City of Burbank requests that the sample type for benzo(a)anthracene be modified from grab to 24-hour composite.	X		The sample type for benzo(a)anthracene has been modified.	Modified MRP page E-10
Thallium Frequency of Testing	A10	The City of Burbank requests that the frequency of monitoring for thallium be reduced from quarterly to semiannually for thallium because it has not been detected in this permit cycle.	X		The frequency of testing for thallium was reduced to semiannually.	Modified MRP page E-21
Watershed-wide monitoring	A11	The City of Burbank requests that the frequency of monitoring be reduced and bioassessment monitoring be removed to align with the LA River Watershed-wide Monitoring Program (LARWMP).	X		The frequency of testing in the MRP was modified to parallel the frequency of testing in the LARWMP that was approved on January 12, 2009. The bioassessment monitoring requirement was removed form section VII.B and incorporated under the LARWMP section.	Modified MRP pages E-20 through and E-22
Halomethane Nomenclature	A12	The City of Burbank requests that the receiving water monitoring requirement for “halomethanes” be revised to read “total trihalomethanes.”	X		The nomenclature clarification was made to the receiving water section of the MRP.	Modified MRP page E-21
Constituents of Emerging Concern (CECs)	A13	The City of Burbank requests that the requirement to conduct a special study for CECs be removed until recommendations from the State Water Board’s Advisory Panel for CECs in Coastal and Marine Ecosystems have been finalized.		X	This CEC special study requirement is consistent with all other POTW NPDES permits that have been adopted recently by the Regional Water Board. Accordingly, Regional Water Board recommend that this study remain a requirement of the permit. CEC special study requirements will be changed universally, as necessary, in order to create a meaningful CEC database.	None necessary
Description of facility process	A14	The City of Burbank requests that the facility description be modified to reflect the fact that the standard operating procedure is to add disinfection agent after the filters, not prior to filtration.	X		The process description has been modified to reflect the current disinfection operating procedures.	Modified Fact Sheet page F-4
Temperature Effluent Limitation	A15	The City of Burbank requests that the limit for temperature be removed.		X	The temperature limitation was in Burbank’s prior permit, NPDES Permit No. R4-2006-0085, and cannot be removed because none of the exceptions to the federal anti-backsliding laws apply.	None necessary

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Pretreatment Annual Report Due Date	A16	The City of Burbank requests that the due date for the pretreatment annual report in Attachment J be modified to April 15th.	X		Regional Water Board staff conferred with USEPA and agreed to change the due date.	Modified Attachment J page J-1
United States Environmental Protection Agency's (USEPA) Comments dated January 23, 2012						
Support Performance-based Copper Effluent Limits	E1	USEPA supports the tentative permit's proposed performance-based effluent limits for copper implementing the recent *LA River Copper TMDL* amendment, incorporating WLAs that can result in performance-based effluent limits for POTWs. The proposed limits reflect improvements in effluent quality at the Burbank treatment plant and will ensure the protection of water quality standards in the receiving water, including antidegradation. These limits have been calculated using the typical procedures routinely used by Regional Water Board staff to calculate performance based effluent limits in NPDES permits and other Regional Board orders (i.e., the 99th percentile or maximum value for the daily maximum effluent limit and the 95th percentile for the monthly average effluent limit). These percentiles are recommended by USEPA for calculating performance-based effluent limits in NPDES permits (see Appendix E in USEPA's 1991 *Technical Support Document for Water Quality-based Toxics Control*). We support their application, here. Similarly, our March 11, 2010, comment letter on the TMDL amendment provides examples of how "current performance" effluent limits for the Los Angeles River POTWs affected by the amendment could be determined, based on effluent performance data available to us in 2010.	X		Comment noted.	None necessary

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Toxicity Requirements	E2	USEPA supports the Regional Water Board's continued use of reporting for the narrative chronic toxicity limit when permit requirements for a Toxicity Reduction Evaluation (TRE) are triggered. This narrative reporting requirement ensures that both the State and USEPA can efficiently track evidence of when chronic toxicity is present in an NPDES discharge and a TRE has been triggered.	X		Comment noted.	None necessary