U.S. Environmental Protection Agency
and
Regional Water Quality Control Board
Los Angeles Region

Response to Comments

Order No. R4-2010-XXXX
NPDES No. CA0109991

This document summarizes significant comments received on the May 20, 2010 joint draft NPDES permit for Hyperion Treatment Plant and U.S. Environmental Protection Agency (USEPA) and Los Angeles Regional Water Quality Control Board (Regional Water Board) responses to these comments, including actions taken. This document is supplemented by the attached table (matrix) which summarizes: (1) additional comments received from the City of Los Angeles, Bureau of Sanitation; (2) corresponding USEPA and Regional Water Board responses, and (3) actions taken.

**Responses to City of Los Angeles, Bureau of Sanitation's June 21, 2010 letter "Comments on Tentative Order – City of Los Angeles Hyperion Treatment Plant – NPDES Permit No. CA0109991, CI #1492".**

**Comment 1.a on *Bypass*:**

The permit includes three different bypass prohibitions. For clarity and consistency, the permit should include only the Ocean Plan bypass prohibition and the federal standard condition for bypass. Prohibition III.C, which prohibits all bypasses without regard to whether pollutant concentrations are met or an authorized exception is satisfied, should be deleted.

Response:

The Ocean Plan bypass prohibition is in tentative order section III.A.4. Tentative order section III.C is a general bypass prohibition carried over from the 2005 permit. Both of these prohibitions are consistent with the federal standard condition for bypass at 40 CFR 122.41(m), which prohibits bypass unless certain conditions are met. They should be interpreted in concert with 40 CFR 122.41(m). Consequently, section III.C is retained in the final permit. No changes are made to the final permit in response to this comment.

**Comment 1.b on *Unauthorized Discharge*:**

Tentative order section III.B, and tentative order section VII.A.2.j are identical. One should be deleted.

Response:

USEPA and the Regional Water Board agree. Consequently, section III.B is deleted from the final permit.

**Comment 1.c on *Prohibition on Discharge of Combustion Waste*:**

The following two prohibitions are identical: "The discharge of any waste resulting from the combustion of toxic or hazardous wastes to any waste stream that ultimately discharges to waters of the United States is prohibited, unless specifically authorized elsewhere in this Order/Permit." No regulatory basis for this prohibition is provided. It is possible that industrial waste permitted by the Bureau could meet this definition, but would still be allowed for discharge provided it meets pretreatment and other regulatory requirements. Both prohibitions should be deleted. At minimum, one of the two identical prohibitions must be removed to avoid subjecting the City to multiple violations of an identical requirement for a single occurrence.

Response:

USEPA and the Regional Water Board believe the commenter is referencing tentative order section III.F, a prohibition carried over from the 2005 permit, and tentative order section VII.A.2.t, a prohibition in the Regional Water Board's standard conditions. The Discharger has operated under this prohibition and pretreatment conditions without issue during the timeframe of the 2005 permit. USEPA and the Regional Water Board see no conflict between the prohibition and the pretreatment conditions of the tentative order. Consequently, section VII.A.2.t is retained in the final permit and section III.F is deleted as an identical condition.

**Comment 1.d on *Discharge of Sludge to the Ocean*:**

Under tentative order section III, prohibition A.3 is based on the Ocean Plan and includes all of the activity described in prohibitions D and E. Prohibitions D and E should be deleted.

Response:

USEPA and the Regional Water Board agree that tentative order sections III.D and E, carried over from the 2005 permit, duplicate tentative order section III.A.3. Consequently, sections III.D and E are deleted from the final permit.

**Comment 1.e on *Civil Liability*:**

The permit conditions dealing with liability are redundant and should be consolidated (tentative order section VII.A.2.g and h and tentative order section VII.A.3.j and k.

Response:

USEPA and the Regional Water Board agree that USEPA Region 9 standard condition VII.A.3.k nearly duplicates Regional Water Board standard condition VII.A.2.g, and USEPA Region 9 standard condition VII.A.3.j nearly duplicates Regional Water Board standard condition VII.A.2.h. However, to meet the needs of the joint federal and State permit, all four conditions

are retained as separate USEPA Region 9 and Regional Water Board standard conditions. Consequently, no changes are made to the final permit in response to this comment.

**Comment 1.f on *Receiving Water Bacteria Limitations*:**

Rather than specifying a single set of receiving water limitations for bacteria, tentative order section VI.A.1 imports USEPA, State, and California Department of Public Health sources of bacterial requirements along with explanations for the basis of these limitations. These restate similar requirements multiple times and do not clearly define where federal waters and bathing beaches can be found within Hyperion Treatment Plant's (HTP) monitoring and reporting program. This results in some duplicative and confusing limitations. This section should set applicable limitations alone, with the remaining explanatory text regarding how the limitations were established moved to the fact sheet.

Response:

These bacterial receiving water limitations are consistent with Ocean Plan objectives and implementation provisions where the REC-1 use is designated, in the Los Angeles Region basin plan, for nearshore and offshore zones in coastal waters of the State. Consequently, sections VI.A.1.b through e are retained in the final permit, consistent with applicable water quality standards for ocean waters of the State, surface-to-bottom. Tentative order section VI.A.1.a is a federal condition ensuring that primary contact recreation in federal waters visited by HTP's undisinfected plume (within the contiguous zone) is protected where the activity occurs. At this time, USEPA has been presented no evidence that primary contact recreation is occurring in federal waters visited by the plume. Consequently, section VI.A.1.a is retained in the final permit to be used as the water quality criterion for improving effluent quality only in areas where primary contact recreation is reported to occur in federal waters. No changes are made to the final permit in response to this comment.

**Comment 2:**

The detailed requirements for collection system monitoring and reporting SSOs conflict with Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (Order 2006-003-DWQ; General Order) and should be removed. Tentative order section VII.C.5.c contains detailed reporting requirements that either duplicate or conflict with the General Order. The State Water Board has provided guidance to Regional Water Boards that the General Order and associated monitoring and reporting program are to be the "primary mechanism" for regulating sanitary sewer systems. Only the federally mandated standard conditions should be included in individual NPDES permits: 40 CFR 122.41(e), (d), (l)(6) and (l)(7). To be consistent with State Water Board guidance, provisions VII.C.5.c.1 through 4 should be deleted, as these provisions either re-state or conflict with requirements in the General Order.

One provision, in particular, imposes an unreasonable burden. The tentative order requires that the Bureau obtain grab samples upstream and downstream of the spill location, regardless of spill volume. This requirement should be deleted because it is unreasonable, will not generate information relevant to containing or responding to the spill, and is not required of collection

systems statewide. Alternatively, if the Regional Water Board is not willing to delete the requirement in its entirety, the Bureau urges that this monitoring be subject to a 1,000 gallon volume threshold for upstream/downstream monitoring. In addition, the Regional Water Board should make clear that the sampling requirement is intended to be reasonable in light of all the circumstances. The following language change is recommended:

"To define the geographical extent of the impact, the Discharger shall obtain grab samples (if feasible, accessible, reasonable, and safe) for spills, overflows, or bypasses of 1,000 gallons or more ~~any volume~~ that reach any waters of the State.~~and for all spills, overflows, or bypasses of 1,000 gallons or more.~~ The Discharger shall analyze the samples for total and fecal coliforms or E. coli, enterococcus, and relevant pollutants of concern, upstream and downstream of the point of entry of the spill (if feasible, accessible, reasonable, and safe). This monitoring shall be done on a daily basis from time the spill is known until the results of two consecutive sets of bacteriological monitoring indicate the return to the background level or the County Department of Public Health authorizes cessation of monitoring."

The permit should be revised to be consistent with the existing requirements for collection system monitoring and reporting or, at a minimum, incorporate the requested changes related to a threshold for sampling.

Response:

The Regional Water Board and USEPA disagree that all Sanitary Sewer Overflow (SSO) conditions in the tentative order, except for the federal NPDES standard conditions, should be deleted from the joint final permit. While it is the intent of the State Water Board that sanitary sewer systems be regulated, *at minimum*, in a manner consistent with General Waste Discharge Requirements for Sanitary Sewer Systems (Order 2006-003-DWQ, as amended), nothing in the General Order should be interpreted or applied to prohibit a Regional Water Board from issuing more stringent SSO requirements in an individual NPDES permit (General Order, pp. 2-3 and 7 of 20). The final permit continues the Regional Water Board's longstanding practice of including SSO provisions in NPDES permits for Publicly Owned Treatment Works (POTWs), including HTP.

Also, the Regional Water Board and USEPA disagree that sections VII.C.5.c.1 through 4 should be deleted from the permit. Provision 1 is consistent with both (California Water Code) CWC and (California Code of Regulations) CCR reporting requirements and reporting timeframes specified in the amended General Order. These conditions clarify the specific reporting that must occur if there is a probability of discharge. Provisions 3 and 4 further clarify what information, at minimum, must be reported and recorded by the Discharger under the applicable federal NPDES standard conditions (referenced in the comment), as supplemented by the mandatory information required for SSO online reporting under the General Order.

Regarding the spill threshold for monitoring under section VII.C.5.c.2, the Regional Water Board and USEPA are not willing to delete or increase the volume threshold for upstream/downstream monitoring. However, section VII.C.5.c.2 is further clarified, as follows:

"To define the geographical extent of the impact, the Discharger shall obtain grab samples (if feasible, accessible, and safe): (1) for all spills, overflows, or bypasses of any volume that reach any waters of the State; and (2) for all spills, overflows, or bypasses of 1,000 gallons or more."

Also, 13 citations under the permit's "Spill Reporting Requirements for POTWs" have been corrected:

On tentative order, page 46, all references to section "VI.C.6.A" are changed to "VII.C.5.c.1".

On tentative order, page 47, the reference to section "VI.6.C.1" is changed to "VII.C.5.c.3.a" and the reference to section "VI.C.6.D" is changed to "VII.C.5.c.4".

On tentative order, page 48, the reference to section "VI.C.6.B" is changed to "VII.C.5.c.2".

On tentative order, pages 48-49, the references to sections "VI.C.3.b", "VI.C.4", and "VI.C.6" are changed to "VII.C.3.b", "VII.C.4", and "VII.C.5.c".

No other changes are made to the final permit in response to this comment.

**Comment 3:**

The use of a trigger level based on secondary design capacity for requiring a written report of plans to provide additional capacity is inconsistent with long-standing Regional Water Board practice. Requiring a schedule for studies, design, and other steps needed to provide additional capacity for waste treatment is unnecessary and impracticable. Tentative order section VII.C.2.a requires the Bureau to submit a written report within 90 days after the monthly average influent flow rate equals or exceeds 75 percent of the secondary design capacity of HTP. This language is not consistent with the standard conditions used in other NPDES permits issued by the Regional Water Board or the standard conditions in the 2005 permit. The Bureau requests that this section be revised as follows:

"The Discharger shall submit a written report to the Executive Officer and Water Division Director within 90 days after the 30-day (monthly) average daily dry-weather flow equals or exceeds 75 percent of the design capacity of waste treatment and/or disposal facilities subject to this order and permit ~~monthly average influent flow rate equals or exceeds 75 percent of the secondary design capacity of the POTW.~~ The Discharger's senior administrative officer shall sign a letter, which transmits the report and certifies that the Discharger's policy-making body is adequately informed of the report contents. The report shall include the following: 1. Daily average ~~influent~~ flow for the calendar month, the date on which the maximum daily flow (peak flow) occurred, and the rate of that maximum flow. 2. The Discharger's best estimate of when the monthly average daily dry-weather flow ~~daily average influent flow for a calendar month~~ will equal or exceed the dry weather design capacity of the POTW. ~~3. The Discharger's intended schedule for studies, design, and other steps needed to provide additional capacity for waste treatment and/or disposal facilities before the waste flow exceeds the capacity of the POTW.~~"

The Bureau requests deletion of paragraph 3, above, because it has already invested substantial resources in developing a "Facilities Plan" as part of its "Integrated Resources Plan". This document describes the extensive, inclusive process that addresses future needs in water and wastewater management based on a collaborative stakeholder driven process. In particular, the Facilities Plan deals extensively with contingency options and planning scenarios for addressing projected increases in wastewater flows. The Bureau encourages Regional Water Board staff to review the "Summary Report: Brief Description of Key Facilities Planning Documents" and "Volume 1 Wastewater Management" in the Facilities Plan to verify there is no need for paragraph 3. Alternatively, the Bureau requests the following changes to paragraph 3:

"3. The Discharger's ~~intended schedule for studies, design, and other steps needed~~ plans to provide additional capacity for waste treatment and/or disposal facilities before the waste flow exceeds the capacity of the POTW." This requirement can be satisfied by referencing and attaching to the report relevant portions of the City's Integrated Resources Management Plan and/or other available wastewater planning documents developed in response to this Plan that provide a roadmap for infrastructure and program upgrades and strategies to meet projected increases in the City's wastewater treatment capacity."

Response:

USEPA and the Regional Water Board agree that the referenced provision in the tentative order is different from the Regional Water Board's standard conditions for reporting exceedance of the design capacity at waste treatment/disposal facilities. Consequently, this condition is revised to be consistent with the existing condition in the 2005 permit (Attachment S, section E.7, pp. S-15 – S-16), considering the Discharger's existing Facilities Plan. Tentative order section VII.C.2.a is replaced in its entirety by the following language in the final permit:

"The Discharger shall submit a written report to the Regional Water Board Executive Officer and USEPA Director within 90 days after the "30-day (monthly) average" daily dry-weather flow equals or exceeds 75 percent of the 30-day (monthly) average daily dry weather design capacity (i.e. 450 mgd) of waste treatment and/or disposal facilities subject to this Order/Permit. The Discharger's senior administrative officer shall sign a letter, which transmits the report and certifies that the Discharger's policy-making body is adequately informed of the report contents. The report shall include the following:

1. Daily average flow for the calendar month, the date on which the maximum daily flow (peak flow) occurred, and the rate of that maximum flow.

2. The Discharger's best estimate of when the monthly average daily dry-weather flow will equal or exceed the design capacity of the POTW.

3. The Discharger's plans to provide additional capacity for waste treatment and/or disposal facilities before the waste flow exceeds the design capacity of the POTW. This requirement can be satisfied by referencing and attaching to the report relevant portions of the wastewater planning documents developed in response to this requirement that provide a roadmap for

infrastructure and program upgrades and strategies to meet projected increases in the Discharger's wastewater treatment capacity."

**Comment 4:**

Performance goals for the one-mile outfall are unnecessary and impracticable and should be removed from the tentative order. Discharges to the one-mile outfall do not represent the performance of the treatment plant (e.g., treatment efficiency) as this outfall is used only for discharges during plant maintenance or emergencies. Constituents without reasonable potential in the tentative order are, by definition, not threatening to cause or contribute to exceedances of Ocean Plan objectives. For the one-mile outfall, this procedural safeguard should be sufficient. The Regional Water Board and USEPA did not include performance goals for the one-mile outfall in the 2005 permit, based on similar considerations.

Response:

Since Discharger Point 001 is used only intermittently for emergency discharges and does not represent the performance of the treatment plant, USEPA and Regional Water Board staff agree that performance goals for Discharge Point 001 are not necessary. Consistent with the 2005 permit, performance goals for Discharge Point 001 are removed for the final permit.

**Comment 5:**

The Constituents of Emerging Concern (CEC) special study should be modified to acknowledge the scientific limitations of CEC monitoring and made consistent with State efforts to develop monitoring programs for discharges to coastal and marine ecosystems. The tentative order includes a requirement to conduct a CEC special study, with specific conditions in monitoring and reporting program section VII.A.1. This requirement should be changed to: recognize the state of the science regarding CEC monitoring, complement ongoing State efforts that specifically target the development of scientifically appropriate monitoring programs for ocean discharges, and to make the best use of Bureau and Regional Water Board resources.

The April 15, 2010 draft report (Attachment 3 to the Bureau's comments) released by the State of California CEC Recycled Water Policy Science Advisory Panel (Recycled Water Panel) and discussions at the May 21, 2010 Recycled Water Panel meeting show that panel members have little confidence in the collection of reliable CEC data at this time. The Recycled Water Panel also recommended that, prior to requiring monitoring for the next list of priority CECs, the State should conduct a performance evaluation of all laboratories to gauge the robustness of analytical methods available for priority CECs. (CEC Recycled Water Panel Draft Report, April 15, 2010, pp. 57-58.)

The list of constituents specified for monitoring in Table 17 of the monitoring and reporting program lacks a technical basis for selection. The constituents for monitoring should be based on a transparent and scientifically defensible framework that considers CEC occurrence and toxicological/biological relevance, as recommended by the Recycled Water Panel. The State of California CEC Coastal and Marine Ecosystems Science Advisory Panel (Coastal and Marine

Panel) will develop a framework appropriate for ocean discharges and specific CECs for monitoring. The timing for submittal of the CEC work plan by the Bureau and the release of the Coastal and Marine Panel report containing monitoring recommendations are so close that requiring the Bureau to submit a work plan in advance of these recommendations wastes Bureau and Regional Water Board resources. The CEC work plan should be submitted after the Coastal and Marine Panel's final report is issued.

The monitoring and reporting program also requires the Bureau to use the most sensitive analytical methodology available. It is critical for the Regional Water Board to acknowledge that one of the key issues for CEC monitoring is not sensitivity but the most reliable method available, as evidenced by the Water Research Foundation study and input from the Recycled Water Panel. Methodology and quality assurance/quality control will also be addressed by the Coastal and Marine Panel and is, thus, critical to the development of the Bureau's work plan. The Bureau requests that monitoring and reporting program section VII.A.1 be revised as follows:

"CEC Special Study Requirements

1. The Discharger shall initiate an investigation of CECs by conducting a special study. Specifically, within two months of the release of the final report of the CEC Coastal and Marine Ecosystems Science Advisory Panel (Coastal and Marine Panel) ~~6 months of the effective date of this Order/Permit~~, the Discharger shall develop a CEC Special Study Work Plan (Work Plan) and submit it for approval by the Regional Water Board Executive Officer and USEPA Director. Immediately upon approval of the Work Plan, the Discharger shall fully implement the Special Study.

~~This Work Plan shall include, but not be limited to, the following:~~

~~i. Identification of CECs to be monitored in the effluent, sample type (e.g. 24-hour composite or grab sample), sampling frequency, and sampling methodology. Table 17 identifies the minimum parameters to be monitored.~~

[Delete Table 17]

~~Once the SCCWRP's recommended list of CEC monitoring in ambient waters, including ocean waters, is finalized, the above list of minimum parameters to be monitored by the Discharger and the sampling frequency may be re-evaluated and modified by the Executive Officer and Director. At such time, upon request by the Executive Officer and Director, the Discharger shall monitor the requested CEC parameters at the specified frequency. In the Work Plan, the Discharger may also propose, for consideration and approval by the Executive Officer and Director, surrogate or indicator CECs that may contribute towards a better understanding of CECs in its effluent.~~

Sample Type – The Discharger shall propose in the Work Plan the appropriate sample type for each type of constituent.

Sampling Period – ~~At minimum, the~~ The Discharger shall monitor the specified CECs at a frequency and schedule consistent with the recommendations of the Coastal and Marine Panel.~~once per year. The Work Plan shall propose the appropriate sampling month or quarter for each year, consistent with the goals of the analyses.The rationale for selecting the particular sampling month or quarter shall be explained in the Work Plan.~~

Analytical Test Methodology and QA/QC – The Discharger shall review and consider all available reliable analytical test methodologies and appropriate QA/QC procedures, including but not limited to those listed in USEPA Methods 1694 and 1698, and methodologies approved or utilized by U.S. Geologic Survey, California Department of Public Health, and other federal or State agencies. ~~Based on its review, the Discharger shall propose the most sensitive analytical methodology available.~~"

Response:

The Regional Water Board and USEPA recognize that CEC monitoring in POTW effluents is an evolving area of environmental study and management. Consequently, CEC monitoring is proposed in the context of a special study, rather than as part of the routine monitoring conducted under the permit's core monitoring program. CEC monitoring is already underway where POTWs and adjacent advanced treatment facilities are producing recycled water. It is also understood that CEC monitoring methods are undergoing further investigation and refinement for routine use in monitoring programs investigating CECs in California.

USEPA and the Regional Water Board agree on the importance of fully considering the results of the Coastal and Marine Panel's final report. As such, the Permit/Order includes a provision under section VII.a.1.a that allows the list of minimum parameters and the sampling frequency to be re-evaluated and modified by the Regional Water Board Executive Officer and US EPA Director once the SCCWRP's recommended list of CEC monitoring in ambient water, including ocean waters, is finalized.

The list of CECs proposed for monitoring in Table 17 of the monitoring and reporting program was developed using the Regional Water Board's best professional judgment (BPJ). This list is representative of the constituents monitored under other NPDES permits for POTWs recently issued by the Regional Water Board (e.g., Terminal Island, Tapia). To address concerns over the list of constituents for monitoring, the Regional Water Board and USEPA have added footnote language which notes that the list of CECs for monitoring may be modified during the permit term, as monitoring recommendations improve and change, with respect to constituents and methodologies. Also, some individual CEC parameters have been revised based on comments made by County Sanitation Districts of Los Angeles County, dated June 18, 2010 and to be consistent with other POTW permits issued by the Regional Water Board.

In Table 17, footnote 2 is added to "Parameter[2]", as:

"[2] Given the evolving state of research, science, and policy involving CECs, the Regional Water Board Executive Officer and USEPA Director may add or remove CECs from the monitoring and reporting program."

The following parameters are deleted from Table 17 based on County Sanitation Districts of Los Angeles County comments on CECs:

Cortisol, 11-Ketotestosterone, ocylphenol polyethoxylates, Ethylenedaimine tetra acetic acid (EDTA), Methadone, Morphine, Primidone.

The following CECs are added to Table 17 based on other POTW permits issued by the Regional Water Board:

"17α-Ethinyl estradiol", "Caffeine", "Iodinated contrast media (i.e., iopromide)", "Fire retardants (e.g., TCEP)".

To address laboratory performance concerns raised by the Discharger, the final paragraph under monitoring and reporting program section VII.A.1.i is revised to:

"Analytical Test Methodology and QA/QC – The Discharger shall review and consider all available analytical test methodologies and appropriate QA/QC procedures, including but not limited to those listed in USEPA Methods 1694 and 1698~~, and methodologies approved~~ or utilized by the U.S. Geologic Survey, California Department of Public Health, ~~and~~or other federal or State agencies. Based on its review, the Discharger shall propose the most ~~sensitive~~ appropriate analytical methodology, considering sensitivity, accuracy, availability, and cost ~~available~~."

The CEC special study is retained in the final permit, with minor revisions.

**Comment 6:**

Paragraph No. 7 in Attachment I (Pretreatment Program Requirements) represents an unreasonable and unauthorized change from the requirements of the 2005 permit. The new paragraph requires the Bureau to "continue to develop and implement its nonindustrial source control program and public education program" and "periodically [review] and [address]" this program in the Bureau's Annual Pretreatment Program Compliance Report. This proposed requirement evidently stems from paragraph A.9 in Attachment P of the 2005 permit, which requires the Bureau to "describe in the Annual Report any program the POTW implements to reduce pollutants from the non-domestic sources". The 2005 permit requires the Bureau to describe its federally mandated pretreatment program to which the Bureau has no objection. However, nonindustrial source control is not required by federal pretreatment regulations at 40 CFR 403. The federal regulations only apply to industrial sources. The Bureau does participate in the voluntary "No Drugs Down the Drain" program. There is no legal or regulatory authority that allows the City to implement and enforce a nonindustrial source control program. The tentative

order language is vague and unclear as to what is required of the Bureau to satisfy the proposed requirement. Mandating a currently voluntary program would go far in discouraging the Bureau from proactively implementing voluntary programs in the future.

Response:

Pollution prevention is the practice of reducing or eliminating waste at the source by modifying production processes, promoting the use of non-toxic or less-toxic substances, implementing conservation techniques, and re-using materials rather than placing them into the waste stream. Pollution prevention has been shown to reduce costs as well as pollution risks through education, reduction, and recycling/reuse techniques. Under section 6602(b) of the Pollution Prevention Act of 1990, Congress established a national policy for a hierarchy of environmental management:

- Pollution should be prevented or reduced at the source, whenever feasible.
- Pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible.
- Pollution that cannot be prevented or recycled should be treated in an environmentally safe manner, whenever feasible.
- Disposal or other releases into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

The Pollution Prevention Act emphasizes that pollution prevention means source reduction and defines source reduction as any practice that:

- Reduces the amount of hazardous substances, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal.
- Reduces the threats to public health and the environment associated with the release of hazardous substances, pollutants, or contaminants.
- Increases the efficiency of using raw materials, energy, water, or other resources, or protects natural resources by conservation.

Pollution prevention is a key policy in USEPA's national environmental protection activities. Water pollution prevention and control measures are critical to improving water quality and reducing the need for costly wastewater and drinking water treatment. Applicable pollution prevention mandates in the Clean Water Act include, but are not limited to, sections 1251, 1252, and 1342. USEPA's NPDES permit program plays an important role in minimizing the wastes and pollution load released into receiving water bodies. Because water pollution can come from many different sources, a variety of pollution prevention and control measures and public education programs can be applied, as needed.

The purpose of nonindustrial source control and public education programs implemented by a POTW under its NPDES permit is to identify the specific nonindustrial sources of toxic pollutants to the sewer and develop means for their reduction. Public education programs are often helpful. Through this permit condition, USEPA simply endeavors to have the City continue its successful nonindustrial source control and public education programs. As the City notes in

its comments, it participates in the voluntary "No Drugs Down the Drain" public outreach program. It addition, the City participates in the Environmental Stewardship Program, which is an interactive experience for high school teachers and students in the Los Angeles Unified School District. This program addresses the long-term effects of water pollution. The City's leadership in nonindustrial source control programs is also evidenced by its creative "Grease Avenger" public outreach campaign regarding the reduction of fats, oil and grease (FOG) in the sanitary collection system. USEPA is interested in having the City continue these pollution prevention efforts.

Consequently, provision I.~~7~~8, in Attachment I is retained in the final permit with minor changes:

"~~7~~8. Nonindustrial Source Control ~~Program~~and Public Education Programs

The Discharger shall continue to develop and implement its nonindustrial source control program and public education program. The purpose of these programs is to ~~eliminate~~reduce ~~the entrance of~~ nonindustrial toxic pollutants and pesticides into the POTW. ~~The nonindustrial source control program will be supplemented with an updated survey of industrial and nonindustrial contaminant sources.~~ These programs shall be periodically reviewed and addressed in the annual report."

Also, the final permit has been revised to include (as section I.7) existing provision A.9 in Attachment P of the 2005 permit. This permit condition was inadvertently omitted, as a typographical error, during development of the tentative order and must be retained in the final permit to avoid backsliding from existing permit conditions (40 CFR 122.44(l)):

"The Discharger is required to describe in the annual report any programs the POTW implements to reduce pollutants from ~~the~~ non-domestic sources."

Pretreatment program conditions are retained in the final permit, with minor revisions.

**Comment 7:**

Tables 8 and 9 of the tentative order include daily maximum effluent limitations for gross alpha, gross beta, radium 226 & 228, tritium, strontium-90, and uranium based on California drinking water maximum contaminant levels (MCLs), without dilution factors. In addition, tentative order section IV.A.5 includes the narrative radioactivity objective from CCR, Title 17, section 30253, which does not include limitations. As noted in the fact sheet for the tentative order, the Regional Water Board used Title 22 drinking water MCLs for radioactivity as effluent limitations because the descriptive water quality objective for radioactivity in the Ocean Plan does not contain narrative or numerical effluent limitations for radionuclides. At minimum, this should be noted in the fact sheet and footnoted in Tables 8 and 9.

Table 3 in the fact sheet does not include historical alpha- and beta-radioactivity effluent data, even though monthly data were analyzed and reported and these compounds were detected at levels below the effluent limitations. Similarly, data evaluated for the 2005 permit showed that these radionuclides were detected at levels below the effluent limitations. This condition

invalidates the BPJ argument to establish effluent limits. These data constitute new information pertinent to anti-backsliding; thus, the effluent limitations do not have to be retained to comply with anti-backsliding regulations. In addition, the tentative order already includes a discharge prohibition that addresses the issue of radiological contaminants.

Response:

Since the descriptive water quality objective for radioactivity in the Ocean Plan does not establish narrative or numerical effluent limitations for radionuclides, Regional Water Board staff used BPJ to establish effluent limitations using the MCLs for drinking water specified in Title 22, California Code of Regulations because they are the only scientifically-based regulatory criteria available for protecting designated beneficial uses (40 CFR 122.44(d)(1)(vi)). The current federal and California MCLs for gross alpha and gross beta are 15 pCi/l and 4 millirems/year, respectively. Based on BPJ, Regional Water Board staff conducted the Reasonable Potential Analysis (RPA) for gross beta using 50 pCi/l as the water quality objective, because this level was the Title 22 MCL for gross beta prior to the 2006 California update and all gross beta effluent data for HTP are reported in pCi/ml. Both gross alpha and gross beta exhibited no reasonable potential (RP) to exceed water quality standards at discharge points 002 and 001. RPA was not performed for uranium, strontium-90, tritium, and combined radium-226 and radium-228 because no data had been reported for these constituents. These constituents are required to be monitored only if the effluent limitations for gross alpha and gross beta are exceeded. Neither gross alpha nor gross beta were exceeded during the term of the 2005 permit.

Therefore, effluent limitations for all radioactivity are removed from the final permit for discharge points 002 and 001. For discharge point 002, the performance goals for gross alpha and gross beta are set at their maximum observed effluent concentrations, which are 0.00972 pCi/ml and 0.0275 pCi/ml, respectively. Furthermore, until an appropriate translator is developed to assess water column impacts based on the new body burden MCL of 4 millirems/year, Regional Water Board staff will continue to use the gross beta level of 50 pCi/l to guide the RPA process.

**Responses to Heal the Bay's June 21, 2010 letter "Comments on the Tentative Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) Permit – City of Los Angeles Hyperion Treatment Plant (NPDES Permit No. CA0109991, CI #1492)".**

**Comment 1:**

Heal the Bay (HTB) supports inclusion of the proposed monitoring for constituents of emerging concern (CECs). Annual monitoring is necessary to adequately capture year-to-year variability in the discharge and is consistent with the monitoring requirements for Terminal Island and Tapia treatment plants.

Response:

Comment noted. The CEC special study is being retained in the final permit, with minor revisions.

**Comment 2:**

HTB supports retaining the effluent limits for radioactivity.

Response:

Comment noted. See response to City of Los Angeles, Bureau of Sanitation Comment 7.

**Comment 3:**

HTB supports increasing the effluent monitoring frequency for ammonia from monthly to weekly.

Response:

Comment noted. No change is made to the final permit in response to this comment.

**Comment 4:**

HTB supports including numerical water quality based effluent limitation (WQBELs) for chronic and acute toxicity. These WQBELs are consistent with the Ocean Plan.

Response:

Comment noted. No change is made to the final permit in response to this comment.

**Comment 5.a:**

The tentative order should include WQBELs for all constituents listed in Table B of the Ocean Plan. The RPA approach can greatly reduce the number of WQBELs in an NPDES permit. As a result, many Table B parameters have no WQBEL in the tentative order. While HTB understands the need for adapting permits to account for changes that occur between permit cycles, the current practice using the RPA approach favors dropping WQBELs and weakening monitoring programs, creating progressively less protective permits. HTB questions whether such relaxation in WQBELs is sound public policy, given that the discharge from Hyperion's main outfall may change during the permit term. Stormwater and nuisance runoff in Los Angeles is high in metals and the Discharger may increase such diversions to HTP in the future, as a compliance measure for Total Maximum Daily Loads (TMDLs). In addition, the West Basin Municipal Water Recycling Facility (West Basin) discharges brine to Hyperion's main outfall, where it comingles with Hyperion's effluent and is discharged to the ocean. According to the current West Basin permit, the water recycling facility began an expansion project in September 2005 to increase the amount of recycled water for the West Coast Basin Barrier Project from 7.5 mgd to 12.5 mgd and the Title 22 process train from 30 mgd to 40 mgd. West Basin requested a flow increase for

the discharge of brine, from 2.75 mgd to 4.5 mgd, to accommodate the expansion. If these plans move forward, West Basin will nearly double the amount of brine being sent through Hyperion's outfall and the quality of the comingled effluent may significantly change. Thus, it is unjustified to conclude that the quality of Hyperion's discharge is expected to remain relatively constant or improve during the permit term. The tentative order does not address how comingling of the West Basin and Hyperion discharges impact pollutant loading to the receiving water. Was the increase in brine discharge taken into account during calculation of dilution credits for the Hyperion discharge? This should be mentioned in the tentative order and taken into account during the RPA. The RPA approach grants dischargers "free exceedances" of Table B objectives without the risk of enforcement. Including additional WQBELs in permits provides no additional burden, as permittees only need to maintain current wastewater performance; the additional WQBELs would act as a safety net to ensure that water quality objectives are met in the future. As discussed above, there is no guarantee that Hyperion's influent quality will remain constant.

Response:

The RPA approach used to develop the tentative order follows NPDES regulations at 40 CFR 122.44(d) for establishing reasonable potential and setting WQBELs, and is implemented using the conservative RPA procedures in Appendix VI of the Ocean Plan. The tentative order incorporates concentration-based effluent performance goals for Table B parameters. Consequently, even when WQBELs are not established as an outcome of the RPA, the permit contains an applicable performance goal that requires the Discharger to maintain its treatment level and effluent quality, consistent with federal and State antidegradation policies. Increases in effluent pollutants over time are benchmarked and evaluated for compliance using these performance goals.

Discharges from West Basin to Hyperion's 5-mile outfall are regulated under a separate NPDES permit (CA00634401). During development of the 2006 permit for West Basin, the Regional Water Board and USEPA conducted statistical RPAs using the Hyperion outfall dilution factor of 84:1. As a result, WQBELs for ammonia were established using the Hyperion outfall dilution factor, a dilution credit for the mixing of the West Basin and Hyperion effluents in the outfall of 65.78 (i.e., 296 mgd, Hyperion's lowest monthly average effluent flow: 4.5 mgd, West Basin's maximum discharge capacity), and the background ammonia concentration in the outfall (represented by the one-sided upper confidence bound for ammonia concentration in the Hyperion effluent). The West Basin permit complies with Ocean Plan Table B objectives. In addition, the chronic toxicity of the combined discharge was evaluated as a special study which showed compliance with the Table B objective for chronic toxicity. Impacts of the combined discharge are evaluated for trends over time and compliance with Ocean Plan water quality standards through Hyperion's receiving water monitoring program. These analyses are described in the fact sheet for West Basin's 2006 permit.

The RPAs used to develop the WQBELs in the tentative order do not grant free exceedances of Ocean Plan Table B objectives. Rather, the WQBELs in the HTP permit follow applicable NPDES regulations and the Ocean Plan policy framework for establishing pollutant restrictions in permits. These WQBELs, in combination with concentration-based performance goals,

represent the necessary controls on discharge quality so that applicable water quality standards are protected.

**Comment 5.b:**

HTB is concerned that WQBELs for cyanide and N-nitrosodiphenylamine (NDMA) are being removed for Discharge Point 002. Due to the large industrialized segment of HTP's user base and the resulting complex influent, and the high toxicity of cyanide, it is important that WQBELs for cyanide remain in the permit. NDMA, a common disinfection byproduct that results from chlorination, is a potent carcinogen. While Hyperion does not chlorinate its effluent, the three treatment plants upstream of Hyperion do chlorinate, which could lead to NDMA in Hyperion's waste stream. Natural organic matter may contribute a significant portion of NDMA precursors to natural waters, so it could be possible for NDMA to form in Hyperion's discharge and receiving waters. Has the Discharger investigated the formation of NDMA when its discharge comingles with ocean water? Has the Discharger investigated NDMA formation where brine from West Basin comingles with Hyperion's effluent? The Regional Water Board should maintain WQBELs for NDMA to ensure that receiving waters are protected.

Response:

USEPA and the Regional Water Board disagree with the comment that WQBELs for cyanide and NDMA are being removed from Discharge Point 002. Neither the tentative order nor the 2005 permit contain cyanide and NDMA WQBELs for Discharge Point 002, based on consecutive RPAs conducted for permit reissuance. During the 2005 permit term, effluent performance goals show that cyanide concentrations have slightly decreased and NDMA concentrations have remained the same. The proposed effluent performance goal for cyanide is 5 ug/l while the most limiting (6-month median) Ocean Plan Table B objective for cyanide (with initial dilution) is 85 ug/l. Cyanide effluent levels are low relative to applicable Table B objectives and generally below detectable levels. The proposed effluent performance goal for NDMA continues to be 0.45 ug/l while the most limiting (30-day average) Table B objective for NDMA (without initial dilution) is 2.5 ug/l. The limited potential for detecting NDMA within the outfall, or following discharge, poses no need for further investigation at this time, as discharged levels of NDMA are low relative to the Table B objective and below detectable levels.

**Comment 5.c:**

The Regional Water Board should employ BPJ in prescribing WQBELs in the tentative order and not use the RPA approach. This is supported by the complex nature and numerous sources of influent to HTP from industrial, commercial, and residential discharges. There is latitude under the Ocean Plan to use BPJ to include WQBELs for Table B parameters that are not prescribed WQBELs under the RPA approach. HTB believes WQBELs should be included for all parameters listed in Table B of the Ocean Plan. Staff should use BPJ to retain WQBELs for those constituents that exceed Ocean Plan objectives prior to applying the dilution factor. The tentative order should require immediate reporting of any exceedances of Table B objectives with the dilution factor applied. If an exceedance occurs, the tentative order should require the Regional Water Board to add a WQBEL for that parameter at the next public hearing.

Response:

At this time, USEPA and the Regional Water Board disagree that WQBELs for Ocean Plan Table B objectives should be established using only the BPJ approach described by HTB. For some parameters (e.g., dichlorodiphenyltrichloroethane (DDT), polychlorinated biphenyls (PCBs)), USEPA and the Regional Water Board have used other information about the receiving water body (i.e., 2006 303(d) listings) to establish WQBELs based on BPJ. However, most Table B parameters need additional statistical analyses, using facility-specific effluent data, in order for USEPA and the Regional Water Board to conduct RPAs and establish WQBELs. These analyses are conducted with an initial dilution factor, following Appendix VI procedures in the Ocean Plan. At this time, USEPA and the Regional Water Board believe that WQBELs, concentration-based performance goals, and their associated reporting protocols adequately protect Ocean Plan water quality objectives.

No changes are made to the final permit in response to this comment.

**Comment 6:**

Performance goals and mass emission benchmarks are poor regulatory mechanisms and should be replaced with enforceable WQBELs. The tentative order argues that this approach is consistent with antidegradation policies in that it requires the Discharger to maintain its treatment level and effluent quality, recognizing normal variations in treatment efficiency and sampling and analytical techniques. However, the tentative order does not explain how these goals and benchmarks will help to ensure that effluent quality will not backslide or cause degradation of receiving water quality. In fact, it appears to HTB that the performance goals provide an invitation for the Discharger to violate Ocean Plan water quality objectives: "If the exceedance [of a performance goal] persists in three successive monitoring periods, the Discharger shall submit a written report to the Regional Water Board and USEPA on the nature of the exceedance, the results of the investigation as to the cause of the exceedance, and the corrective actions taken or proposed corrective measures with timetable for implementation, if necessary." (Fact Sheet, p. F-50.)

What happens if the Discharger exceeds a performance goal every other monitoring period? Under the tentative order, the Discharger may be exceeding water quality objectives without being held accountable. How many performance goals were exceeded in the 2005 permit cycle? What actions, if any, were taken by the Regional Water Board and the Discharger?

If the Regional Water Board fails to eliminate the performance goals, it should, at minimum, modify the performance goal provisions to allow effluent quality to decrease. For instance, according to the tentative order, performance goals may be increased if the Discharger requests and has demonstrated that the change is warranted. In fact, several performance goals in the tentative order have increased from the concentrations in Order No. R4-2005-0020. Does this mean that when a performance goal is exceeded the only result is an increase in the performance goal, itself? The Discharger should not be allowed this mechanism to decrease their effluent

quality, especially when the tentative order correctly touts that secondary treatment has improved effluent quality.

Secondly, the approach used to develop performance goals should be changed, as it may lead to a decrease in receiving water quality. For instance, if a Table B parameter is not detected in any monitoring data, the Regional Water Board sets the performance goal at five times the Method Detection Limit (MDL) reported in the 2008 Annual Report. This approach is inappropriate. The more conservative approach would be to set the performance goal at the MDL. Why are there no performance goals established for instantaneous or daily maximums, as well as monthly averages? A logical approach would be to include performance goals for these categories as well.

Response:

The Regional Water Board and USEPA disagree with HTB's proposal to eliminate performance goals in favor of less stringent WQBELs. The WQBELs in the tentative order follow Ocean Plan procedures for conducting RPAs and establishing WQBELs; this procedure includes the HTP initial dilution of 84:1 for Outfall 002. For most Table B parameters, effluent quality continues to remain far better than that needed to achieve Table B objectives following initial dilution. The concentration-based performance goals for Table B parameters are set using either the normal distribution one-side upper 95 percent tolerance bounds for the 95$^{th}$ percentile ($UCB_{95/95}$)of effluent quality, or a "quantitation limit" based on the MDL×5 if 80% or greater of the effluent data during the previous permit term were non-detect. The Discharger reports excursions above concentration-based performance goals in their monitoring reports to the Regional Water Board. During the term of the 2005 permit, concentration-based performance goals were exceeded for the following Table B parameters: ammonia (33x), chloroform (5x), tributyltin (TBT) (1x), copper (2x), nickel (1x), and halomethanes (1x). No excursions were reported for chloroform in 2008 and 2009. Excursions for ammonia are reported with increasing frequency as Total Kjeldhal Nitrogen (TKN) loading to HTP increases. The Discharger periodically conducts simple mass balance studies to evaluate increasing TKN and ammonia concentrations and loadings to HTP and the resulting changes in treatment plant performance. These simple studies show that while about 15 percent of the influent TKN load is removed to biosolids during the treatment process, nitrogen is converted to ammonia during sludge digestion which ultimately results in higher ammonia concentrations in the effluent discharge. Statistical RPAs for all six parameters show no reasonable potential for the discharge to exceed Ocean Plan Table B objectives at Discharge Point 002. HTB's proposal does not support the environmental management of NPDES discharges to Tier II waters and is not consistent with antidegradation policies.

No changes are made to the final permit in response to this comment.

**Comment 7.a:**

The final order should include a detailed spill reporting protocol. HTB appreciates that the tentative order requires the Discharger to maintain a Spill Clean-Up Contingency Plan (SCCP). In light of numerous sewage spills over the term of the 2005 permit, strong spill reporting requirements are of particular concern. The Discharger continues to have significant problems

with the conveyance system component of its wastewater program, most notably at pumping plants. Strong spill reporting requirements are a vital mechanism for ensuring that public health and water quality are not compromised. Although the City's spill response has been excellent over the last few years, the spill reporting requirements in the tentative order are inadequate. While the required development of a SCCP is a step in the right direction, the tentative order does not require its completion until two years into the permit term. In the meantime, the spill reporting requirements in the permit must be strong. The standard language for spill reporting in the tentative order and other NPDES permits for POTWs in the Los Angeles Region is weak and nonspecific. The permit language can be interpreted many ways, which translates into inconsistent applications of the spill response protocol. Thus, the Regional Water Board and USEPA should re-examine the proposed language and include a more detailed protocol for appropriate spill response measures, in addition to requiring submission of a SCCP.

Response:

The Regional Water Board and USEPA disagree that the SSO reporting language in the tentative order is weak and nonspecific. The SSO reporting conditions are consistent with the initial notification requirements for spill reporting in California's Health and Safety Code and Water Code and follow the monitoring and reporting requirements for the State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems (Order 2006-003-DWQ, as amended).

**Comment 7.b:**

Public notification should take place as soon as possible but not later than two hours after knowledge of an incident for all spill incidents, regardless of volume. HTB supports that the tentative order requires the Discharger to notify the Regional Water Board or California Emergency Management Agency (Cal EMA) of any unauthorized release of sewage from its POTW that causes, or probably will cause, a discharge to any waters of the State as soon as possible, but no later than two (2) hours after becoming aware of the release. However, the tentative order goes on to put a 1,000 gallon threshold on spills that require monitoring and reporting. For spills over a certain volume, the spill reporting requirements in the tentative order require the initial notification be followed by a report to the Regional Water Board and USEPA that Cal EMA has been notified of the discharge "As soon as possible, but not later than twenty-four (24) hours after becoming aware of an unauthorized discharge of sewage or other waste from its POTW to any waters of the State or of 1,000 gallons or more." (Tentative Order, p. 46.) This language does not contain a provision for notifying the public. After a spill is identified by a responsible party, notification of the public should take place immediately, so that water quality and public health are not compromised due to a reporting time-lag and appropriate protective measures are implemented in a timely fashion. A two-hour maximum for completing public notification, in addition to notification of the Regional Water Board and Cal EMA, is appropriate because public notification should be a priority for the Discharger in the event of a spill. Notification cannot consist of leaving a message on an answering machine. Notification must be directly to a Regional Water Board staff person. In addition, the Regional Water Board should require the Discharger to include local media as part of the public notification protocol for spills deemed a threat to public health.

The tentative order only requires grab samples to determine the geographical extent of a spill if it is greater than 1,000 gallons. The 1,000 gallon spill volume trigger is arbitrary and unnecessary. In addition, these requirements fail to account for other circumstances such as proximity to receiving waters, time of spill, and flow volumes entering the receiving water. In many cases, the location of the spill is a more important factor than the volume spilled. Shouldn't factors such as proximity to the receiving water, receiving water flow, and time of day be accounted for in the requirements for spill reporting and public notification? In addition, frequent, small volume spills can be indicative of a larger issue with POTW performance. Thus, receiving early notification on sewage spills under the proposed 1,000 gallon trigger would be extremely valuable.

Response:

The Regional Water Board and USEPA disagree with HTB's comment. There is no volume cut-off for monitoring sewage spills, overflows, or bypasses that reach waters of the State and notification of such spills by the Discharger must occur no later than two hours after the Discharger becomes aware of the release. The 1,000 gallon reporting threshold for CalEMA, under section VII.C.5.c.1.b of the tentative order, follows the referenced applicable requirements of the California Water Code and California Code of Regulations. Sections VII.C.5.c.1 through 3 of the tentative order specify that all spills, overflows, or bypasses *of any volume that reach any waters of the State* must be reported and monitored; and that all spills, overflows, or bypasses *of 1,000 gallons or more which do not reach waters of the State* must be reported and monitored. Together, these requirements are consistent with the SSO General Order and NPDES standard provisions for reporting noncompliance at 40 CFR 122.41.

Regarding after hours SSO reporting, information pertaining to the Regional Water Board's after hours and weekend call numbers for reporting spills is held by those agencies with first responder duties, including CalEMA and local public health agencies, such as Los Angeles County Department of Public Health. When callers report spills to CalEMA or the local health agency, they are given the Regional Water Board's after hours call numbers. However, in response to this comment, the after hours and weekend call numbers for spill reporting are included in the final permit. The following sentence is added to section VII.C.5.c.1.c of the final permit: "<u>The phone numbers for after hours and weekend reporting of releases of sewage to the Regional Water Board are (213) 305-2284 and (213) 305-2253</u>."

Regarding notification of the public, the tentative order requires SSO initial notification to the local health officer or director of environmental health with jurisdiction over the affected water body. The tentative order does not require local media to be notified as part of the public notification protocol for SSOs. The current response protocol implemented by Los Angeles County Department of Public Health is as follows: Once the Department of Public Health receives a notification that sewage has entered a water body, several factors are considered prior to deciding to close the affected beaches—a decision that automatically prompts a press release, as well as sampling of coastal waters until two consecutive samples are returned below the applicable bacteria water quality objectives. The primary factors considered for beach closure are the volume of sewage spilled, the distance from where the sewage entered the receiving water body to coastal waters, and whether the affected beach is within the local public health agency's

jurisdiction. The Los Angeles County Department of Public Health places advisories online and at the affected beaches to alert the public of beach closures. The Regional Water Board deems that the responsibility and specific method of communication of a potential public health threat from (sewage) spills is best left to the local public health agency with jurisdiction over the affected water body.

Finally, the tentative order does not limit spill monitoring and upstream and downstream monitoring to spills of 1,000 gallons or more. Rather, the tentative order requires spill monitoring and upstream and downstream monitoring *for all spills of any volume that reach waters of the State*. In addition, spill monitoring is required *for all spills of 1,000 gallons or more which do not reach waters of the State*. In response to this comment, this reporting requirement is clarified, as such, in section VII.C.5.c.2 of the final permit.

No additional changes are made to the final permit in response to this comment.

**Comment 8.a:**

What is the Discharger's plan for biosolids and sludge management? HTB is concerned about the ongoing confusion over where to place solids generated at HTP. In 2006, Kern County passed a law, known as Measure E, to block Southern California shipments of more than 450,000 tons per year of biosolids. If the City does not win its case against this ban, how will the City dispose of its biosolids? Does the City have a back-up plan if its solids are no longer accepted in Kern County? HTB understands that some of Hyperion's biosolids have been sent to San Pedro for use in the Terminal Island renewable energy project. What percentage of HTP's biosolids can this project utilize? The tentative order should contain more detail on these issues in its section on biosolids and sludge management.

Response:

The Discharger maintains an existing Environmental Management System (EMS) that includes a sludge management plan with backup contracts for alternative sludge disposal (land application). The Terminal Island project is able to receive about a third of the biosolids produced by HTP. No changes are made to the final permit in response to this comment.

**Comment 8.b:**

The Regional Water Board and USEPA should require the Discharger to participate in the Santa Monica Bay Comprehensive Monitoring Program by a date certain. As HTB has commented on numerous discharge permits over the past 17 years, there is still a huge need for a Bay-wide comprehensive monitoring program, as recommended by the Santa Monica Bay Restoration Project. The Santa Monica Bay Restoration Commission has put together and updates a Bay-wide monitoring plan. This plan is not being fully implemented. One reason is because the NPDES permits for ocean dischargers are open ended and the roles of dischargers under the permits are ambiguous and largely deferred. This approach has resulted in inconsistent Bay monitoring program implementation. As with the Joint Water Pollution Control Plant (JWPCP) permit, the Regional Water Board is making a decision on a Monitoring and Reporting Program

(MRP) without having an approved the Santa Monica Bay monitoring program. Developing and implementing a Bay-wide monitoring program is critical for assessing the health of the Bay. HTB supports the Regional Water Board's efforts to require discharger participation in Bay-wide monitoring, but is frustrated at the slow pace of the program's development and implementation. It is pertinent that the Regional Water Board and USEPA show leadership on this issue by writing requirements of the comprehensive monitoring program into the final order. The Discharger should partner with the Santa Monica Bay Restoration Commission or Southern California Coastal Water Research Project (SCCWRP) to evaluate habitat conditions throughout Santa Monica Bay. HTB suggests including in the permit a requirement to help implement the Bay-wide monitoring plan by June 2012, at the latest.

Response:

USEPA and the Regional Water Board agree, in part, with the commenter that the final permit should continue to facilitate implementation of a Bay-wide monitoring program. In response, the following reopener condition is added to the permit, as renumbered section VII.C.1.i. Also, this same condition is added under monitoring and reporting program section I.F:

"This Order/Permit may be reopened and modified by the Regional Water Board and USEPA to incorporate conforming monitoring requirements and schedule dates for implementation of the Comprehensive Monitoring Program for Santa Monica Bay (Santa Monica Bay Restoration Commission, January 2007)."

In conjunction, the following reporting condition is added to monitoring and reporting section I.F: "Each year, at a Spring Regional Water Board meeting, the Discharger shall provide an informational report summarizing to date its contributing activities towards coordinated implementation of the Comprehensive Monitoring Program for Santa Monica Bay (Santa Monica Bay Restoration Commission, January 2007)."

**Comment 8.c:**

The permit should include a special study to look at nutrient impacts on receiving water quality and the Discharger should participate in comprehensive monitoring of habitat in Santa Monica Bay. The Discharger has collected data for many years on nutrient discharge and benthic community health in receiving waters within its area of influence. However, no study has been undertaken to determine the nexus and correlation between the two. This information would be valuable in protecting ocean water quality and critical coastal resources. The permit should include an additional special study requiring the Discharger to look at existing data and data collected during the term of this permit, in order to assess the impacts of nutrients on benthic community health and other aspects of water quality in Santa Monica Bay. In particular, dissolved oxygen measured at various depths is an important parameter to be compared with nutrient concentrations in the effluent.

Response:

USEPA and the Regional Water Board agree that a summary assessment of existing nutrient data and effects of the discharge on receiving water quality is timely, given that the Bight '08 offshore water quality project for nutrients and algal blooms will be completed in 2012. The Discharger is already a Bight '08 participant working in close cooperation with SCCWRP scientists and member agencies. Therefore, duplication of effort on the summary assessment and Bight '08 nutrient project can be avoided. The following condition is added to the final permit's monitoring and reporting program as new section VII.B (subsequent permit conditions are renumbered):

"Special Study – Nutrient Loading and Receiving Water Impacts. By November 4, 2011, consistent with the logistics described in section I.D.3 of the MRP, the Discharger shall propose, as a special study, a summary assessment of existing nutrient data (both effluent and receiving water) collected under the Order/Permit during the period of secondary treatment and quantify the resulting effects, if any, of the discharge on receiving water quality for dissolved oxygen, pH, and percent transmission."

**Responses to County Sanitation Districts of Los Angeles County (LACSD)'s June 18, 2010 letter "Comments on Tentative Waste Discharger Requirements and NPDES Permit for the City of Los Angeles Hyperion Treatment Plant (NPDES Permit No. CA01009991)".**

**Comment 1:**

The tentative order contains an effluent limit of 50 pCi/l for gross beta radiation. This WQBEL, carried over from the 2005 permit, was set using BPJ. The MCL for gross beta radiation has changed from 50 pCi/l, to 4 millirems/year annual dose equivalent to the total body or any internal organ. The gross beta limitation of 50 pCi/l should therefore be removed from the permit. Effluent limitations for the other radioactivity parameters are sufficient to control discharges of radioactive materials, particularly since limitations are included for strontium-90 and tritium, which are both sources of gross beta radiation.

Response:

Comment noted. See response to City of Los Angeles, Bureau of Sanitation Comment 7 for changes made to the final permit.

**Comment 2.a:**

The CEC special study requires sampling and analysis for cortisol, 11-ketotestosterone, ethylenediaminetetraacetic acid (EDTA), methadone, and morphine. Analyses for these parameters should not be required because commercial services offering such analyses are not readily available.

Response:

Comment noted. See response to City of Los Angeles, Bureau of Sanitation Comment 5 for changes made to the final permit.

**Comment 2.b:**

The CEC special study requires the Discharger to propose the most "sensitive" analytical methodology available for quantitation of the CECs. However, the most sensitive method available may be highly inaccurate, extremely costly, or not locally available. This requirement should be changed as follows: "…the Discharger shall propose the most ~~sensitive~~ appropriate analytical methodology ~~available~~, considering sensitivity, accuracy, availability, and cost.

Response:

Comment noted. See response to City of Los Angeles, Bureau of Sanitation Comment 5 for changes made to the final permit.

**Comment 3.a:**

In Attachment I of the tentative order, even though the Discharger has the authority to require non-domestic users to achieve compliance with pretreatment program requirements, it generally does not have the means to "cause" all users to achieve compliance. The word "cause" could be interpreted to mean that any noncompliance by a nondomestic user is a violation of the NPDES permit, since the Discharger failed to "cause" the user to achieve compliance. As long as HTP is satisfactorily operating its pretreatment program, noncompliance by a nondomestic user should not be considered a violation of the NPDES permit. The last sentence of Attachment I, section I.2, should be revised as follows: "The discharger shall ~~cause~~require all nondomestic users subject to federal categorical standards to achieve compliance …."

Response:

The provisions of section I.2 are retained unchanged from the tentative order, including use of the term "cause", because this language best reflects the general pretreatment regulations at 40 CFR Part 403. The purpose of these regulations is to ensure that POTW pretreatment programs make IUs comply. For example, under 40 CFR 403.8(f), a POTW's legal authority: "... shall at all times be fully and effectively exercised and implemented." POTWs have substantial means to ensure indirect discharger compliance including significant penalties and denial of service. The permit's pretreatment condition has been used for many years and USEPA and the Regional Water Board are unaware of any problems attributable to it.

No changes are made to the final permit in response to this comment.

**Comment 3.b:**

Attachment I, section 4.a, specifies that influent and effluent priority pollutant sampling be conducted using representative flow-proportioned 24-hour composite sampling. However, certain pollutants such as cyanide require grab samples to obtain accurate results. Section 4.a should be revised as follows: "A summary of analytical results from representative flow-

proportioned 24-hour composite sampling (except for constituents that require grab samples such as cyanide) of the Discharger's influent and effluent …."

Response:

USEPA and the Regional Water Board are unaware of any confusion by POTWs regarding when influent and effluent grab sampling is appropriate. However, to clarify this matter, a new second sentence is included in section 4.a of Attachment I which states:

"Representative grab sampling shall be employed for pollutants that may degrade after collection, or where the use of automatic sampling equipment may otherwise result in unrepresentative sampling. Such pollutants include, but are not limited to, cyanide, oil and grease, volatile organic compounds, chlorine, phenol, sulfide, pH, and temperature."

**Comment 3.c:**

Attachment I, section 4.d, requires the pretreatment program annual report to include the names of significant industrial users (SIUs) required to submit baseline monitoring reports and the names of SIUs currently discharging under Baseline Monitoring Reports (BMRs). It is unclear what the purpose and meaning are for this requirement. SIUs do not "discharge under" baseline monitoring reports, but rather discharge under approved Industrial Wastewater Discharge Permits. BMRs contain no authorization for discharge, but rather simply contain information regarding compliance with federal categorical pretreatment standards. Requirements to submit BMRs are part of routine permitting procedures for new dischargers that may be subject to categorical standards, or for existing dischargers that may be subject to new categorical standards. Therefore, no additional reporting should be required regarding baseline monitoring reports. Requirement 4.d should be deleted. If not deleted, at minimum, it should be revised to clarify that the annual report need only include the names of SIUs required to submit baseline monitoring reports during the calendar year covered by the annual report, not any SIUs that have ever submitted a baseline monitoring report.

Response:

The provision of section 4.d, in Attachment I, regarding BMRs has been removed from the permit, as follows:

"~~The name(s) of any SIU(s) required to submit a baseline monitoring report and any SIUs currently discharging under a baseline monitoring report;~~"

**Comment 3.d:**

Attachment I, sections 4.d and 6.e, require submission of information regarding SIUs that are required to prepare or implement pollution prevention plans pursuant to CA Senate Bill (SB) 709 and SB 2165. However, under SB 709 and SB 2165, the State and Regional Water Boards, in addition to POTWs, can require preparation and implementation of pollution prevention plans. If the State or Regional Water Board requires the plans, the POTW will not necessarily be notified.

The POTW should not be held responsible for reporting on events of which it has no knowledge. Therefore, sections 4.d and 6.e should be revised as follows: "… of any SIUs required by the Discharger to prepare and/or implement a pollution prevention plan pursuant to CA SB 709 and SB 2165."

Response:

The provisions of sections 4.d and 6.e in Attachment I, regarding submission of information regarding SIUs that are required to prepare or implement pollution prevention plans pursuant to CA SB 709 and SB 2165, have been removed from the final permit, as follows:

Under section 4.d: "~~The names of any SIUs required to prepare and/or implement a pollution prevention plan pursuant to CA SB 709 and SB 2165~~."

Under section 6.e: "~~The status of any IUs required to prepare reports and/or implement a pollution prevention plan pursuant to CA SB 709 and SB 2165.~~"

**Comment 3.e:**

Attachment I, section 7, contains requirements related to development and implementation of a nonindustrial source control program. While many POTWs maintain robust nonindustrial source control programs, it is not clear under what legal authority the Discharger is being required to continue implementation of this program beyond what is necessary to ensure that pass through and interference do not occur at HTP. It is LACSD's understanding that requirements relating to nonindustrial source control programs are only included in NPDES permits when the Discharger is operating under a 301(h) waiver, as specified at 40 CFR 122.66(d). Section 7 should be deleted in its entirety.

Response:

See response to City of Los Angeles, Bureau of Sanitation Comment 6 for changes made to the final permit.

**Comment 4:**

Monitoring and reporting program section I.E describes the general process for participation by NDPES permittees in implementation of the Santa Monica Bay Restoration Project (SMBRP) Comprehensive Monitoring Program for Santa Monica Bay. As written, there is an implication that any and all of the missing monitoring elements identified in this section may be funded through changes to HTP's monitoring program. This redirection of funds would only be appropriate for monitoring programs relevant to potential impacts from the HTP discharge. The need for this relationship should be clearly stated in the permit to avoid having HTP's ratepayers fund monitoring programs unrelated to the service being provided by this treatment plant.

Therefore, it is requested that this section be modified as follows: "It is anticipated that funding ~~for these programs~~from the City of Los Angeles for monitoring programs addressing resources

potentially impacted by the Hyperion discharge will be supplied through a combination of modifications to the Hyperion Treatment Plant's Monitoring and Reporting Program, including redirection of existing effort and new monitoring efforts relevant to the Hyperion Treatment Plant's discharge. Redirection of existing monitoring requirements and/or the imposition of additional monitoring efforts conducted under the terms of this Order/Permit are subject to a public hearing before the Regional Water Board and public notice by USEPA."

Response:

USEPA and the Regional Water Board point out that monitoring and reporting program section I.E of the tentative order (renumbered in the final permit) has been revised to address this concern, in response to editorial comments received from the Santa Monica Bay Restoration Commission. The revised permit condition describes a collaborative process for funding determinations, implementation, and redirection of monitoring efforts and a public review process for additional monitoring efforts. This revision adequately addresses the concern raised by LACSD for the Bureau's ratepayers. See response to Santa Monica Bay Restoration Commission comment for changes made to the final permit.

**Response to Guangyu Wang (Santa Monica Bay Restoration Commission) email: Editorial changes to Hyperion Draft Permit Language, dated June 29, 2010.**

**Comment:** Language describing the Santa Monica Bay Comprehensive Monitoring Program in section E of the tentative order's monitoring and reporting program are out of date and should be changed, as follows:

"E. The Santa Monica Bay Restoration Commission adopted a new comprehensive monitoring program for Santa Monica Bay in April 2007. This new monitoring program, developed by the Commission's Technical Advisory Committee, culminates efforts that began in the mid 1990s with the identification of key management questions and monitoring priorities. It lays out new monitoring designs for five major habitats within the Bay: ~~The conceptual framework for the SMBRP Comprehensive Monitoring Program was designed to be implemented in part through modifications to existing receiving water monitoring programs for major NPDES dischargers into coastal ocean waters. Some elements of this monitoring program already have been implemented, for example through establishment of periodic Bight-wide regional monitoring surveys (Southern California Bight Pilot Project '94, Bight '98, Bight '03, and Bight '08) and annual kelp bed monitoring. However, other elements of the program have yet to be developed, including:~~

~~- rocky intertidal monitoring~~
~~- resident fish monitoring~~
~~- pelagic ecosystem monitoring~~
~~- wetlands monitoring~~
~~- bird and mammal monitoring~~
~~- commercial shellfish monitoring~~
~~- stormwater mass emission loading and plume tracking monitoring~~
- Pelagic Ecosystem

- Soft Bottom Ecosystem
- Hard Bottom Ecosystem
- Rocky and Sandy Intertidal
-Wetlands.

Design for each habitat includes a core motivating question, a number of related objectives, specific monitoring approaches, indicators, and data products, and sampling designs detailing number and locations of stations, sampling frequency, and measurements to be collected. The Bay Monitoring Program also includes an implementation plan that includes a detailed schedule, cost estimates for individual Program elements, and recommendations on the Program's management structure, including data management and assessment strategies.

The Bay Monitoring Program is designed to be implemented in part through modifications to existing receiving water monitoring programs for major NPDES dischargers into coastal ocean waters. Some elements of this monitoring program already have been implemented, for example through establishment of periodic Bight-wide regional monitoring surveys (Southern California Bight Pilot Project '94, Bight '98, Bight '03, and Bight '08) and annual kelp bed monitoring. However, other elements of the program have yet to be implemented.
~~The Santa Monica Bay Restoration Commission's Technical Advisory Committee has agreed to develop a detailed workplan outlining the monitoring surveys required to complete implementation of the Comprehensive Monitoring Program framework developed in 1993. This workplan should include formulation of management goals and objectives, identification of suitable monitoring indicators, detailed sampling designs, and cost estimates for each monitoring component. Upon completion of this workplan,~~ USEPA, the Regional Water Board, affected NPDES permit holders, and other interested agencies and stakeholders ~~will~~shall develop ~~implementation~~ plans to collaboratively fund these elements of the program~~s~~ and determine each party's level of participation. It is anticipated that funding for thi~~s~~se program~~s~~ from the City of Los Angeles will be supplied through a combination of modifications to the Hyperion Treatment Plant's Monitoring and Reporting Program, including redirection of existing effort and new monitoring efforts relevant to the Hyperion Treatment Plant's discharge. Redirection of existing monitoring requirements and/or the imposition of additional monitoring efforts conducted under the terms of this Order/Permit are subject to a public hearing before the Regional Water Board and public notice by USEPA."

~~F. In attempt to bridge the foregoing gap in information, this monitoring program for Hyperion Treatment Plant is comprised of requirements to demonstrate compliance with the conditions of the NPDES permit, ensure compliance with State water quality standards, and mandate participation in regional monitoring and/or area-wide studies.~~

~~G. Discharger participation in regional monitoring programs is required as a condition of this Order/Permit. The Discharger shall complete collection and analysis of samples in accordance with the schedule established by the Steering Committee directing the Bight-wide regional monitoring surveys. The level of participation shall be similar to that provided by the Discharger in previous regional surveys conducted in 1994, 1998, 2003, and 2008. The regional programs which must be conducted under this Order/Permit include:~~

~~1. Future Southern California Bight regional surveys, including benthic infauna, sediment chemistry, fish communities and fish predator risk;~~

~~2. Santa Monica Bay Restoration Commission's Seafood Safety Survey – The Local Seafood Safety Survey stipulated in this Order/Permit is a contribution to the Santa Monica Bay Restoration Commission's Seafood Safety Survey. The level of participation shall be similar to that provided for the 2008 Regional Bioaccumulation Survey.~~

~~3. Central Kelp Monitoring Program – coordinated by the Regional Water Board; and,~~

~~4. Central Bight Water Quality Cooperative Program – coordinated monitoring conducted by Orange County Sanitation District, County Sanitation Districts of Los Angeles County, City of Los Angeles and City of Oxnard through appropriate agencies for water quality monitoring.~~

~~H. Regular regional monitoring for the Southern California Bight has been established, occurring at five-year intervals, and coordinated through SCCWRP with discharger agencies and numerous other entities. The fourth regional monitoring program (Bight '08) occurred primarily during summer 2008. The next (fifth) regional monitoring program (Bight '13) is expected to take place during 2013. While participation in regional programs is required under this Order/Permit, revisions to the Discharger's monitoring program at the direction of the Regional Water Board and USEPA may be necessary to accomplish the goals of regional monitoring or to allow the performance of special studies to investigate regional or site-specific water issues of concern. These revisions may include a reduction or increase in the number of parameters to be monitored, the frequency of monitoring, or the number and size of samples to be collected. Such changes may be authorized by the Regional Water Board Executive Officer and USEPA Director upon written notification to the Discharger.~~

~~I. The Regional Water Board has helped to establish the Central Region Kelp Survey Consortium to conduct regional kelp bed monitoring. This program is designed to require ocean dischargers in the Regional Water Board's jurisdiction to undertake a collaborative program (which may include participation by Orange County ocean dischargers) to monitor kelp beds in the Southern California Bight, patterned after the successful program implemented by the San Diego Regional Water Board since 1985. Data collected in this regional survey will be used to assess status and trends in kelp bed health and spatial extent. The regional nature of the survey will allow the status of beds local to specific dischargers to be compared to regional trends. The regional kelp monitoring survey was initiated during 2003.~~"

**Response:**

USEPA and the Regional Water Board have reviewed the requested editorial changes. The monitoring and reporting program's general monitoring provisions have been revised to: (1) update language describing the Santa Monica Bay Comprehensive Monitoring Program and (2) distinguish between Bight Regional Monitoring and associated permit requirements and the Santa Monica Bay Comprehensive Monitoring Program.

Section I.H is renumbered as section I.E and clarified as Bight Regional Monitoring:

"I.~~H~~E. Bight Regional Monitoring. Regular regional monitoring for the Southern California Bight has been established, occurring at five-year intervals, and is coordinated through SCCWRP with discharger agencies and numerous other entities. The fourth regional monitoring program (Bight '08) occurred primarily during summer 2008. The next (fifth) regional monitoring program (Bight '13) is expected to take place during 2013. While participation in regional monitoring programs is required under this Order/Permit, revisions to the Discharger's monitoring program at the direction of the Regional Water Board and USEPA may be necessary to accomplish the goals of regional monitoring or to allow the performance of special studies to investigate regional or site-specific water issues of concern. These revisions may include a reduction or increase in the number of parameters to be monitored, the frequency of monitoring, or the number and size of samples to be collected. Such changes may be authorized by the Regional Water Board Executive Officer and USEPA Director upon written notification to the Discharger.

~~I.G.~~ Discharger participation in regional monitoring programs is required as a condition of this Order/Permit. The Discharger shall complete collection and analysis of samples in accordance with the schedule established by the Steering Committee directing the Bight-wide regional monitoring surveys. The level of participation shall be similar to that provided by the Discharger in previous regional surveys conducted in 1994, 1998, 2003, and 2008.~~The regional programs which must be conducted under this Order/Permit include:~~

~~1. Future Southern California Bight regional surveys, including benthic infauna, sediment chemistry, fish communities and fish predator risk;~~

~~2. Santa Monica Bay Restoration Commission's Seafood Safety Survey - The Local Seafood Safety Survey stipulated in this Order/Permit is a contribution to the Santa Monica Bay Restoration Commission's Seafood Safety Survey. The level of participation shall be similar to that provided for the 2008 Regional Bioaccumulation Survey.~~

~~3. Central Kelp Monitoring Program - coordinated by the Regional Water Board; and,~~

~~4. Central Bight Water Quality Cooperative Program - coordinated monitoring conducted by Orange County Sanitation District, County Sanitation Districts of Los Angeles County, City of Los Angeles and City of Oxnard through appropriate agencies for water quality monitoring.~~"

Section I.E is renumbered as section I.F, clarified as the Bay Comprehensive Monitoring Program, and updated following SMBRC's recommended editorial revisions:

"I.~~E~~F. Bay Comprehensive Monitoring Program. The Santa Monica Bay Restoration Commission adopted a new comprehensive monitoring program for Santa Monica Bay in April 2007. This new monitoring program, developed by the Commission's Technical Advisory Committee, culminates efforts that began in the mid 1990s with the identification of key management questions and monitoring priorities. It lays out new monitoring designs for five major habitats within the Bay:~~The conceptual framework for the SMBRP Comprehensive Monitoring Program was designed to be implemented in part through modifications to existing~~

~~receiving water monitoring programs for major NPDES dischargers into coastal ocean waters. Some elements of this monitoring program already have been implemented, for example through establishment of periodic Bight-wide regional monitoring surveys (Southern California Bight Pilot Project '94, Bight '98, Bight '03, and Bight '08) and annual kelp bed monitoring. However, other elements of the program have yet to be developed, including:~~

~~- rocky intertidal monitoring~~
~~- resident fish monitoring~~
~~- pelagic ecosystem monitoring~~
~~- wetlands monitoring~~
~~- bird and mammal monitoring~~
~~- commercial shellfish monitoring~~
~~- stormwater mass emission loading and plume tracking monitoring~~
- Pelagic Ecosystem
- Soft Bottom Ecosystem
- Hard Bottom Ecosystem
- Rocky and Sandy Intertidal
-Wetlands.

Design for each habitat includes a core motivating question, a number of related objectives, specific monitoring approaches, indicators, and data products, and sampling designs detailing number and locations of stations, sampling frequency, and measurements to be collected. The Bay Monitoring Program also includes an implementation plan that includes a detailed schedule, cost estimates for individual Program elements, and recommendations on the Program's management structure, including data management and assessment strategies.

The Bay Monitoring Program is designed to be implemented, in part, through modifications to existing receiving water monitoring programs for major NPDES dischargers into coastal ocean waters. Some elements of this monitoring program already have been implemented, for example through establishment of periodic Bight-wide regional monitoring surveys (Southern California Bight Pilot Project '94, Bight '98, Bight '03, and Bight '08) and ~~annual~~ kelp bed monitoring. However, other elements of the program have yet to be implemented.

~~The Santa Monica Bay Restoration Commission's Technical Advisory Committee has agreed to develop a detailed workplan outlining the monitoring surveys required to complete implementation of the Comprehensive Monitoring Program framework developed in 1993. This workplan should include formulation of management goals and objectives, identification of suitable monitoring indicators, detailed sampling designs, and cost estimates for each monitoring component. Upon completion of this workplan,~~SMBRC, USEPA, the Regional Water Board, the Discharger, affected NPDES permit holders, and other interested agencies and stakeholders will develop ~~implementation~~ plans to collaboratively fund these elements of the program~~s~~ and determine each party's level of participation. It is anticipated that funding for th~~ese~~ program~~s~~ from the City of Los Angeles will be supplied through a combination of modifications to the Hyperion Treatment Plant's Monitoring and Reporting Program, including redirection of existing effort and new monitoring efforts relevant to the Hyperion Treatment Plant's discharge. Redirection of existing monitoring requirements and/or the imposition of additional monitoring

efforts conducted under the terms of this Order/Permit are subject to a public hearing before the Regional Water Board and public notice by USEPA. This Order/Permit may be reopened and modified by the Regional Water Board and USEPA to incorporate conforming monitoring requirements and schedule dates for implementation of the Comprehensive Monitoring Program for Santa Monica Bay (Santa Monica Bay Restoration Commission, January 2007)."

Each year, at a Spring Regional Water Board meeting, the Discharger shall provide an informational report summarizing to date its contributing activities towards coordinated implementation of the Comprehensive Monitoring Program for Santa Monica Bay (SMBRC, January 2007)."

Following the SMBRC staff recommendation, section I.I is deleted in the final permit:

"~~I.I. The Regional Water Board has helped to establish the Central Region Kelp Survey Consortium to conduct regional kelp bed monitoring. This program is designed to require ocean dischargers in the Regional Water Board's jurisdiction to undertake a collaborative program (which may include participation by Orange County ocean dischargers) to monitor kelp beds in the Southern California Bight, patterned after the successful program implemented by the San Diego Regional Water Board since 1985. Data collected in this regional survey will be used to assess status and trends in kelp bed health and spatial extent. The regional nature of the survey will allow the status of beds local to specific dischargers to be compared to regional trends. The regional kelp monitoring survey was initiated during 2003~~."

Section I.F is renumbered as section I.G, with minor editorial revisions:

"I.~~F~~G. ~~In attempt to bridge the foregoing gap in information, t~~This monitoring program for Hyperion Treatment Plant is comprised of requirements to demonstrate compliance with the conditions of the NPDES permit, ensure compliance with State water quality standards, and mandate participation in regional monitoring and/or area-wide studies."