Response to Comments Received
Regarding the Tentative NPDES Order
For
Las Virgenes Metropolitan Water District (LVMWD)'s Tapia Water Reclamation Facility (Tapia WRF)

Subject	#	Comment	Agree	Disagree	Reply	Action taken
Comments Received on May 4, 2010 from Las Virgenes Metropolitan Water District Regarding the Tentative Dated April 7, 2010						
Request for TSO with an interim limitation for Dichlorobro-momethane	1	The tentative Order provides an effluent limitation of 46 µg/L for dichlorobromomethane (DCBM). The existing Order (R4-2005-0074) provides an interim limitation for DCBM of 62 µg/L. It is likely that Tapia will exceed the effluent limitation of 46 µg/L in the tentative Order. The JPA requests a Time Schedule Order for meeting the final DCBM limits because under the Water Code the proposed limitations are: "a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective data of the waste discharge requirements and after July 1, 2000." (Water Code, §13385(j)(3)(B)(i). Further, new or modified control measures are necessary for the JPA to comply with the effluent limitations, and these control measures cannot be designed, installed and put into operation within 30 calendar days ((Water Code, §13385(j)(3)(B)(i) related to meeting the proposed effluent limitation for DCBM.		X	The existing Order (R4-2005-0074) contained an interim average monthly effluent limitation of 62 µg/L, along with the requirement for the Discharger to submit quarterly progress reports to describe the progress of studies and/or actions undertaken to reduce DCBM in the effluent, <u>in order to achieve compliance with final effluent limitation by May 17, 2010</u>. Past quarterly progress reports submitted to this Regional Water Board indicate a lack of specific, concrete actions or studies planned or undertaken by the Discharger to ensure compliance with the final effluent limitation by the specified deadline of May 18, 2010. For instance, most of the progress reports contained brief, vague statements, such as: "Evaluation is being conducted for intermittent non-compliance with the final monthly average limitation of 46 mg/L." (Fourth quarter 2008)".. Since the Discharger did not adequately demonstrate a good-faith effort to achieve compliance by May 17, 2010, as required by Order R4-2005-0074, despite the fact that the effluent still showed periodic	Will solicit Board direction on June 3rd.

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					exceedances of the effluent limitation of 46 µg/L, staff does not see a compelling reason to support the issuance of a TSO at this time, which would extend the time granted to the Discharger to comply with the final permit effluent limitation for DCBM. In addition, staff is not convinced that TSO would be the most effective approach to ensure the Discharger's compliance with the DCBM effluent limitation in a timely manner. At the public hearing on June 3rd, staff will provide options and solicit direction from the Board regarding this request.	
Citation of inappropriate Water Code provision as a basis for TSO request	2	The JPA has requested a Time Schedule Order for meeting the final DCBM limits because under the Water Code the proposed limitations are: "a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000." (Water Code, § 13385(j)(3)(B)(i).) Further, new or modified control measures are necessary for the JPA to comply with the effluent limitations, and these control measures cannot be designed, installed and put into operation within 30 calendar days (Water Code, § 13385(j)(3)(B)(i)) related to meeting the proposed effluent limitation for DCBM.		X	The citation of Water Code §13385(j)(3)(B)(i) as a basis for the Discharger's TSO request for DCBM is inappropriate because this provision provides clarification on specific exemptions from the minimum mandatory penalty assessment. In Tapia's case, the referenced provision §13385(j)(3)(B)(i) does not apply because the DCBM effluent limitation is not a "new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000…" The DCBM effluent limitations are already part of the existing 2005 Order.	None necessary
TTHM interim	3	The tentative Order contains an effluent limitation of 80 µg/L for TTHM for discharge point 005 and provides an			Subsequent to the issuance of the tentative Order, staff consulted USEPA regarding the	Removed TTHM interim

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limitation in the Permit		interim limitation of 290 µg/L.			applicability of the compliance schedule policy (State Water Resources Control Board, Resolution No. 2008-0025) to this particular case, in which the rationale for including both final and interim effluent limitations for TTHM was based on the need to protect groundwater recharge beneficial use and groundwater MUN beneficial use. Based on consultation with USEPA, staff concludes that the compliance schedule policy does not extend to TTHM in this case, and consequently, the TTHM interim limitation is removed from the revised tentative Order and will be included in a future Time Schedule Order.	effluent limitation (may be included in a future TSO).
CEC Special Study	4	(Page 40, Provision VIII.C.2. of the Order and pages E-26 through E-28 of the MRP) The requirement to conduct this CEC special study is premature given the efforts underway by two panels of scientific experts that are addressing the same questions identified in the draft permit, with access to technical resources beyond those available to the JPA for a study of this magnitude. The JPA believes it makes sense to allow these panels to complete their work before asking the JPA to address the same questions. Even in the absence of these panels, the CEC study objectives proposed in the draft permit are unreasonable, essentially asking a single discharger to conduct a study on how best to resolve a national issue.		X	Contrary to the Discharger's comment, the special study in the tentative Order does not require the Discharger to "conduct a study on how best to resolve a national issue." The primary objective of the CEC special study contained in the tentative Order is to characterize, if and to what extent, a select group of CECs are present in Tapia WRF's effluent. The tentative Order recognizes the ongoing efforts of CEC expert panels and provides an opportunity to incorporate, where necessary, any pertinent recommendations from the final CEC technical report: "Once	None necessary.

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		To be clear, the Las Virgenes-Triunfo Joint Powers Authority (JPA) does not object to future monitoring of CECs. Rather, we believe the requirement for a study of the CEC problem in general is inappropriate, especially given the specific study objectives listed in the draft permit. The fact that two panels of scientific experts are currently addressing the same questions makes the proposed study in the draft permit redundant at best, especially in light of the fact that their findings will be released before the JPA can develop the required Work Plan. The permit findings do not indicate why this effort must begin in advance of ongoing national and state efforts to develop a scientifically defensible approach to CEC monitoring in coastal environments.			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. At such time, upon request by the Executive Officer, the Discharger shall monitor the requested CEC parameters at the specified frequency." (excerpt from the tentative Order R4-2010-xxxx, p. 42, section VIII.C.2.a.1.i) Furthermore, staff has reviewed the "Final Report (Draft for Public Comment) Monitoring Strategies for Chemicals of Emerging Concern (CECs) in Recycled Water – Recommendations of a Science Advisory Panel" dated April 15, 2010, and has come to the conclusion that while the draft report may have merit in serving as a starting point for designing CEC monitoring for recycled water program, using the findings of the report to design a special study for NPDES-permitted flows that discharge to surface waters with different beneficial uses is inconsistent with the scope and purpose of the study.. The aforementioned report has a narrowly defined scope and purpose, and based on	

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					limited available information, provides recommendations for CEC monitoring for specific scenarios of water reuse. Among the key questions not addressed in the report, one that may be of a key interest from the perspective of NPDES regulations is how CEC monitoring may be designed in such a way to adequately account for both human-related and ecological beneficial uses protection in surface waters. Therefore, the CEC study requirements will remain intact.	
CEC study recommended language	5	The JPA recommends that the language beginning on page 41 headed "CEC Special Study Requirements" up to and including paragraph 2.a.iii on page 43, be deleted and replaced with the following: 1. The Discharger shall submit a Work Plan within 6 months from the State Water Board's action on the final recommendations of the Advisory Panel on Chemicals of Emerging Concerns in Recycled Water. The CEC Special Study Work Plan shall be based on the recommendations of the Panel and shall commence after the Executive Officer has approved the Work Plan. This Work Plan must address the following: i. Parameters to be monitored in the effluent and monitoring frequency will be based on the Panel recommendations.		X	Based on our response #4, the requirements for CEC monitoring and Work plan will remain unchanged.	None necessary.

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		ii. Analytical Methodology – The Discharger shall use methodologies included in the Panel recommendations or methodologies approved by the Executive Officer. iii. Monitoring – The Discharger shall implement the Work Plan within 3 months after approval by the Executive Officer. iv. Reports – Once the CEC Special Study has begun, the Discharger shall include CEC data from the CEC Special Study in the Annual Reports in accordance with Provision VIII.C.2.a.2 of the Order and the Monitoring and Reporting Program				
CEC monitoring & Contract laboratory	6	We would like to point out that our contract laboratory cannot test for every parameter listed in Table 18 and Table E-18. IN particular: nonylphenol polyethoxylates, octylphenol polyethoxylates, azithromycin, ciproflocacin, lipitor, and salicylic acid. The laboratory also commented that USEPA method 1694 is a semi-quantitative method (at best) for CECs analysis in water. Given the high profile nature of CEC analysis, they recommend that their clients utilize a more quantitative method with solid precision and accuracy.		X	It is the staff's understanding that there are commercial laboratories in the Ventura and Los Angeles Counties that perform analyses of the constituents mentioned. In addition, this concern has not been raised by other POTW dischargers with same or similar requirements. Therefore, we recommend that the Discharger to seek out laboratories that could perform the analyses. The tentative Order does not specify a specific analytical method for the Discharger to use. USEPA method 1694 is one of many methods the Discharger is required to review and choose from.	None necessary.
Spill Reporting	7	(page 49, provision 6) It is not appropriate for the Regional Board to include		X	The reporting required under the SSO WDR does not address spills at the wastewater	None

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Requirement		these types of reporting requirements in the NPDES permit. These requirements are duplicative of, or in some cases conflicting with, the requirements set forth in the SWRCB Waste Discharge Requirements (WDR) for Sanitary Sewer Systems, which the JPA is also required to comply with. There are several problems associated with this regulatory overlap. Including these requirements in the body of the permit has the effect of "federalizing" the reporting requirements and leaving the JPA vulnerable to third party lawsuits for any failure to report. In addition, the WDR is currently being reviewed and may be revised before the end of the year. The JPA could find itself in the position of having two conflicting sets of requirements in the two different permits. On September 9, 2008, the Regional Board modified the existing MRP to clarify that reporting requirements for sanitary sewer system overflows are regulated by the SWRCB WDR and specified the reporting requirements for unauthorized discharges from the treatment facilities. We suggest that those requirements applicable to the treatment plant be included in the tentative MRP. The September 9, 2008, letter is included as Attachment C. These requirements should be placed in the MRP and not the permit itself, so that they can be modified by the Executive Officer when the WDR is revised. Ideally, however, all of this language should be deleted and replaced with the language below and our certified SSMP referenced as the document related to spill reporting. The recommended language has been included in			treatment plant, which this NPDES permit covers as well as the collection system, which together make up the "POTW". Also, the final Order will serve as a state WDR as well as a federal NPDES permit. The removal of the spill reporting requirement from the NPDES permit will have the effect of depriving USEPA of its ability to enforce this regulatory component, which is inappropriate. Also, placing this provision in the MRP does not make the requirements any less enforceable by the Regional Water Board or USEPA. As indicated in the Discharger's comment, on September 9, 2008, the Regional Water Board issued a letter that required a modification to the existing MRP regarding the sanitary sewer overflows and spills (SSOs). The decision to include the change in the MRP, rather than in the main body of the Order, was necessitated out of convenience such that not all of the affected Orders would have to be brought to the Board for an amendment. A change to the MRP could be signed by the Executive Officer. However, as NPDES permits are renewed, the SSO language has been consistently incorporated into the main body of the Order, as in the case of Tapia WRF's	necessary.

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		numerous NPDES permits throughout the state and is consistent with the SWRCB's intent in adopting the statewide WDR. In guidance to the regional boards, the SWRCB indicated that when renewing NPDES permits, regional boards should "remove the sanitary sewer system provisions" in the existing permit and "rely on the [statewide] Sanitary Sewer Order to regulate the sanitary sewer system." (Memorandum to Regional Water Board Executive Officers from Celeste Cantu, Executive Director, November 8, 2006 at p. 4.) The SWRCB specified that, over time, "requirements for sanitary sewer systems should be separated from orders concerning wastewater treatment plants." (Id.) We have included our certified SSMP as Attachment D for your use.			permit. As stated in Section VIII.C.6.F of the Tentative Order (renumbered as VI.C.6.F in the revised tentative Order), "The requirements contained in this Order in Sections VI.C.3.b. (Spill Contingency Plan Section), VI.C.4. (Construction, Operation and Maintenance Specifications Section), and VI.C.6. (Spill Reporting Requirements) are intended to be consistent with the requirements of the SSO WDR. The Regional Water Board recognizes that there may be some overlap between the NPDES permit provisions and SSOs WDR requirements. The requirements of the SSOs WDR are considered the minimum thresholds (see Finding 11 of WQ Order No. 2006-0003). The Regional Water Board will accept the documentation prepared by the Permittees under the SSOs WDR for compliance purposes, as satisfying the requirements in Sections VI.C.3.b., VI.C.4., and VI.C.6. provided any more specific or stringent provisions enumerated in this Order, have also been addressed." Therefore, the Discharger should submit a SCP, which a POTW should have in place as an emergency response plan. If the SCP	

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					is revised in the future, per SSO General WDR, a revised copy should be submitted to this Board.	
Watershed-wide monitoring program – financial component	8	Monitoring and Reporting Program; provision I.N page E-5 and provision IX.B.1 page E-29 The Tentative MRP states: "The Regional Water Board may provide some assistance through SWAMP to achieve these goals, but the District and other stakeholders may need to provide financial assistance to hire a facilitator or conduct other activities as necessary." The Las Virgenes-Triunfo Joint Powers Authority (JPA) does not object to participation in the watershed monitoring program. However, when it is the responsibility of multiple jurisdictions, including Los Angeles and Ventura Counties and the local cities in the Malibu Creek Watershed, under their MS4 permits, this open-ended financial assistance provision runs also afoul of the federal regulations for the NPDES program and California Water Code. The federal regulations require a *direct and proportionate link* between the monitoring requirements of an individual discharger's NPDES permit and its compliance obligations. (40 C.F.R. §§ 122.41(j)(1), 122.44(i), 122.48.) Neither the JPA nor the Regional Board can determine if the suggested financial assistance is proportional to the need when neither the amount of assistance nor its purpose are known prior to the adoption of the permit. Nor is there any clear, direct linkage in the vague and ambiguous statement that financial assistance	X		In addition to participation in the comprehensive watershed-wide monitoring program, the Regional Water Board is requiring the Discharger to facilitate the process to ensure that this happens. To date, the Technical Advisory Committee of the Malibu Creek Watershed Advisory Council has not been successful in producing a long-term plan for comprehensive monitoring of the watershed, so the Regional Board is requiring the JPA to work with other interested stakeholders to bring this process to completion. In addition to development of a comprehensive monitoring plan, the JPA is required to facilitate the development of an implementation plan for this program. In the past, the Regional Water Board has placed similar requirements in permits issued to the Los Angeles County Sanitation Districts to facilitate development of a comprehensive watershed-wide monitoring program for the San Gabriel River Watershed, and in permits issued to the City of Los Angeles and the City of Burbank for development of such a program in the Los Angeles River	Deleted reference to financial assistance.

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		may be "needed as necessary." The only specific use of the JPA's financial assistance suggested in the draft language – facilitation and coordination of our collective monitoring efforts – is already being provided by the Technical Advisory Committee (TAC) of the Watershed Advisory Council. The TAC is an active group that meets on a regular schedule, and is typically attended by all of the stakeholders and agencies conducting monitoring in the watershed. Similarly, the Water Code authorizes regional water quality control boards to require individual dischargers to investigate water quality and submit monitoring reports related to whether the discharger complied with its waste discharge permit. (Water Code, § 13267(a).) In so authorizing, the Water Code provides that "the burden, including costs, of [monitoring] reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports." (Water Code, § 13267(b)(1), emphasis added.) Moreover, inclusion of this requirement in the permit makes it enforceable by third party litigation. The Tentative MRP leaves the JPA vulnerable to having to spend its scarce financial resources to pay for activities not directly related or proportionate to the JPA's impact on water quality or compliance obligations in the permit. This language is not necessary for continuation of the watershed monitoring requirement. Suggested change to provisions I.N. as follows will			Watershed. In both cases, these major dischargers successfully worked with other interested stakeholders to develop and implement highly effective comprehensive watershed-wide monitoring programs focused on providing data to fulfill clearly defined objectives. In terms of the reference to financial assistance, it has been removed, and the provision I.N of the MRP has been changed as follows: "The Discharger shall facilitate the development of an updated comprehensive Watershed-wide Monitoring Program and a plan for implementation of this monitoring program for the Malibu Creek Watershed, in conjunction with other interested stakeholders by March 30, 2011. (An implementation plan for the Los Angeles River Watershed Monitoring Program was completed in 2009.) In particular, the recommendations under Section 8.a "Water Quality Monitoring" of the USEPA's Nutrients TMDL for Malibu Creek Watershed shall be considered in developing an updated comprehensive	

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		provide the necessary clarity to assure our continued participation in the programs and clearly define our statutory responsibility. I.N page E-5 Since compliance monitoring focuses on the effects of a point source discharge, it is not designed to assess impacts from other sources of pollution (e.g., non-point source runoff, aerial fallout) or to evaluate the current status of important ecological resources on a regional basis. The Discharger shall participate in the development of an updated comprehensive Watershed-wide Monitoring Program and ~~shall develop~~ a plan for implementation of this monitoring program for the Malibu Creek Watershed, in conjunction with other interested stakeholders ~~by March 30, 2011~~. (An implementation plan for the Los Angeles River Watershed Monitoring Program was completed in 2009.) In particular, the recommendations under Section 8.a "Water Quality Monitoring" of the USEPA's Nutrients TMDL for Malibu Creek Watershed shall be considered in developing an updated comprehensive Watershed-wide Monitoring Program. ~~The Regional Water Board may provide some assistance through SWAMP to achieve these goals, but the District and other stakeholders may need to provide financial assistance to hire a facilitator or conduct other activities as necessary.~~ To achieve the goals of the Watershed-wide Monitoring program,			Watershed-wide Monitoring Program. To achieve the goals of the Watershed-wide Monitoring program, revisions to the Receiving Water Monitoring Requirements will be made under the direction of USEPA and the Regional Water Board. The Discharger shall submit quarterly progress reports detailing ongoing efforts towards the implementation of the Watershed-wide Monitoring Program. The first report should be received in the Regional Water Board office by September 30, 2010. The District shall submit a copy of the proposed comprehensive watershed-wide monitoring plan and proposed implementation plan to the Regional Water Board by March 30, 2011.	

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		revisions to the Receiving Water Monitoring Requirements will be made under the direction of USEPA and the Regional Water Board. The Discharger shall submit *annual* ~~quarterly~~ progress reports detailing ongoing efforts towards the implementation of the Watershed-wide Monitoring Program. The first report should be received in the Regional Water Board office by *January 1, 2011* ~~September 30, 2010~~. ~~The District shall submit a copy of the proposed program to the Regional Water Board by March 30, 2011.~~				
Watershed monitoring-responsibility for program implementa-tion	9	Clarity of the JPA's responsibility in provision IX.B.1 is also needed. This provision states: "The LVMWD has participated with stakeholders in the Malibu Creek and Los Angeles River Watersheds, to develop a watershed-wide monitoring program. The *Discharger shall implement* the watershed-wide monitoring program …" (emphasis added). This language places the burden of implementing these programs solely on the JPA. The JPA does not object to participating in the watershed-wide monitoring program but it is unreasonable and unrealistic to require that the JPA *shall implement* these programs. Similar clarity is needed in provision I.N. where its states the discharger "*shall develop a plan for implementation…"* Suggested change to provisions I.N. as follows will provide the necessary clarity to assure our continued participation in the programs and clearly define our			The provision IX.B.1 of the MRP has been changed as follows: "1. To achieve the goals of the Watershed-wide Monitoring Program, the Discharger shall assist in the implementation of the Watershed-wide Monitoring Program in conjunction with other interested stakeholders. The LVMWD's responsibilities under the Watershed-wide Monitoring Program are described in the Receiving Water Monitoring Requirements section. To achieve the goals of the Watershed-wide Monitoring Program, revisions to the Receiving Water Monitoring Requirements will be made under the direction of USEPA and the Regional	Changed the language in the pertinent provision to reflect that the Discharger will assist in the implementation efforts.

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		statutory responsibility. IX.B.1 page E-29 To achieve the goals of the Watershed-wide Monitoring Program, the Discharger shall participate in the implementation of the Watershed-wide Monitoring Program. The LVMWD's responsibilities under the Watershed-wide Monitoring Program are described in the Receiving Water Monitoring Requirements section. To achieve the goals of the Watershed-wide Monitoring Program, revisions to the Receiving Water Monitoring Requirements will be made under the direction of USEPA and the Regional Water Board. The JPA has participated with stakeholders in the Malibu Creek and Los Angeles River Watersheds, to develop a Watershed-wide Monitoring Program. The Discharger shall *participate in* ~~implement~~ the Watershed-wide Monitoring Program and shall submit *annual* ~~quarterly~~ progress reports detailing ongoing efforts towards the implementation of the Watershed-wide Monitoring Program. The first report should be received in the Regional Water Board office by *January 1, 2011* ~~October 15, 2010~~.			Water Board. The LVMWD has participated with stakeholders in the Malibu Creek and Los Angeles River Watersheds, to develop a watershed-wide monitoring program. The Discharger shall assist in implementation of the watershed-wide monitoring program and shall submit quarterly progress reports detailing ongoing efforts towards the implementation of the Watershed-wide Monitoring Program. The first report should be received in the Regional Water Board office by September 30, 2010."	
Clarification on when to monitor	10	MRP Provision I.A. page E-2 This provision does not clearly state that the JPA is to perform effluent and receiving water monitoring only when Tapia is discharging. These suggested changes mirror the language in the current permit and provides the	X		Monitoring under conditions of peak load will apply to all monitoring samples, including the influent, effluent and receiving water. This is consistent with the provisions in other POTW NPDES permits recently adopted by this Board and no change will be made.	None necessary.

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		necessary clarity. *Both effluent and receiving water monitoring* ~~All samples~~ shall be representative of the waste discharge under conditions of peak load, *when Tapia is discharging. This requirement does not apply during the prohibition period unless Tapia is discharging.* Quarterly effluent analyses shall be performed during the months of January, April, July, and October. Semiannual analyses shall be performed during the months of January and July. Annual analyses shall be performed during the month of July (except for bioassessment monitoring, which will be conducted in the spring/summer; and, algal biomass, which will be conducted concurrently with the bioassessment monitoring). Biennial analyses shall be performed during the month of August. Should there be instances when monitoring could not be done during these specified months, the Discharger must notify the Regional Water Board, state the reason why monitoring could not be conducted, and obtain approval from the Executive Officer for an alternate schedule. Results of quarterly, semiannual, annual, and biennial analyses shall be reported in the third monthly monitoring report following the analysis.			In terms of when to monitor, the referenced provision II.1 of the MRP associated with Order R4-2—5-0074, states: "*Both effluent and receiving water monitoring* shall be representative of the waste discharge under conditions of peak load, *when Tapia is discharging. This requirement does not apply during the prohibition period unless Tapia is discharging*." This statement does not imply that the Discharger is fully exempt from monitoring requirements when not discharging. It does indicate, however, that the requirement that all samples be representative of the waste discharge under conditions of peak load does not apply when Tapia WRF is not discharging. In addition, since effluent samples are intended to be representative of the *discharge*, if no discharge is occurring, the Discharger by default would not be subject to effluent sampling requirements. In regards to the receiving water monitoring, as iterated in our response (see item #8), since the Malibu Creek Watershed Monitoring Program is currently not implemented in full-force, the Discharger shall continue to provide the required receiving monitoring, even when not discharging, to help characterize the ambient conditions of the receiving water.	

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					When the Malibu Creek Watershed Monitoring Program is being implemented in full-force, this issue may be reconsidered at that time.	
Effluent Monitoring Stations	11	MRP Table E-1 page E-6, provision VIII.A.7 page E-25 It appears that the coordinates for EFF-005 are at the 005 discharge point rather than at Tapia (EFF-001) where we have traditionally sampled the effluent for all discharge points. Sampling at the 005 discharge point is not practical because the physical discharge point is hard piped to a buried storm drain and is not accessible. We suggest that Table E-1 be revised to reflect that EFF-001 will be used to monitor effluent for all discharge points.		X	Staff has requested information from the LVMWD regarding the four outfalls and communicated with the LVMWD's Water Reclamation Manager to gain a better understanding of how the tertiary-treated effluent is stored and/or conveyed to outfalls. Based on the additional information, staff has arrived at the conclusion that discharges from Outfalls 001 and 003 would be comparable in their characteristics. Therefore, there is no objection to use the monitoring station EFF-001 to monitor for discharges from Discharge Points 001 and 003. However, discharge from Discharge Point 002 (which has not been used under the existing Order No. R4-2005-0074) consists of an overflow from Reservoir #2, an open reservoir of an earthen structure that receives and stores tertiary-treated effluent and may be subject to inputs from other sources, including storm water run-off from the surrounding areas, loose solids from the earthen structure, or waste from avian	The MRP will be changed to incorporate the additional description of the outfalls as well as the additional monitoring stations. However, EFF-005 will remain in the permit as a compliance determination point for Discharge Point 005.

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					sources. In addition, the reservoir may offer additional treatment for the recycled water that is stored in the reservoir until pumped into the recycled water distribution system, or overflows to Discharge Point 002. Therefore, because the characteristics of the discharge from Discharge Point 002 may be different from the discharges associated with Discharge Points 001 and 003, a separate monitoring station, EFF-002, will be required. It is staff's understanding that discharge from the Discharge Point 005 can be a mixture of the tertiary-treated effluent directly pumped from the Tapia WRF and the water from Reservoir #2. For reasons similar to that provided above for Discharge Point 002, a separate monitoring station, EFF-005 will be required for Discharge Point 005. Staff recognizes that the Discharger may need additional time to work out the logistics to finalize this monitoring station. Therefore, the tentative permit will be revised to reflect that the Discharger shall provide, within 90 days of the adoption of the Order, a specific narrative description and latitude/longitude of all monitoring stations.	
Monitoring	12	RWS-MC009D is located upstream of discharge point 001	X		Since RWS-MC009D is located upstream of	Changed RWS-

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Station Nomenclature		and should be designated as RWS-MC009U.			discharge point 001, it will be changed to RWS-MC009U.	MC009D to RWS-MC009U.
Receiving water (Las Virgenes Creek) monitoring	13	RWS-MC007D is located downstream of 002 in Las Virgenes Creek and should be monitored only if discharge point 002 is used.		X	Per our response to comments under item #10, the monitoring at RWS-MC007D will be required at the specified frequency, in order to better characterize the ambient receiving water conditions in the Las Virgenes Creek.	None necessary.
Floating receiving water stations	14	The descriptions of RSW-MC001F, RSW-MC002F and RSW-MC-003F seem to be a hold over from the current permit. These floating stations have been located on Las Virgenes Creek for at least five years now and have provided substantial value in understanding the water quality of this creek. We suggest that the description of these stations match their current locations.	X		The reference to the three floating stations will be revised as follows: "Three "floating" stations, locations of which will change as needed, for nitrate, nitrite, organic nitrogen, ammonia, phosphate, BOD, pH, dissolved oxygen, temperature, total & fecal coliform monitoring, and visual observations. These stations shall be located at given sites for periods of up to twelve months and then moved to different locations in order to more fully define water quality in the receiving waters. *Initially, the "floating" stations shall be located at:* *RSW-MC001F Latitude 34.1436 Longitude 118.7004* *RSW-MC002F Latitude 34.1260 Longitude*	The description of the floating outfalls has been updated with information provided by the Discharger.

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					118.7070 *RSW-MC003F Latitude 34.0064 Longitude 118.7180* Las Virgenes shall submit a proposal for shifting the station locations, after consultation with the Malibu Creek Watershed Advisory Council or other appropriate stakeholder group, for approval by the Executive Officer every twelve months."	
Parameters listed in Table E-1	15	In addition the parameters listed in table E-1 and table E-7a differ. The revised Table E-1 reflects these suggested changes.			Table E-1 does not include parameters to be sampled, except for the floating receiving water stations. The language pertaining to the parameters to be sampled and analyzed for at the floating stations have been moved to a newly added Table E-7b.	Created Table E-7b that includes the parameters to be monitored at floating stations.
Clarification on RSW-LA003D	16	MRP Table E-1 page E-6, provision VIII.A.7 page E-25 Finally, it is unclear why RSW-LA003D was included in the list of monitoring stations. This location is located at least 60 miles away and Tapia's contribution to the flow is minor and intermittent. We request that this station be removed from table E-1. If the intent is that the flow at RSW-LA003D is to be monitored to determine wet versa dry weather limits then the MRP needs to be revised to clearly state this. We have included some suggested language to this effect.	X		Table E-7a (previously Table E-7 in the tentative) does not apply to RSW-LA003D. In the revised tentative, clarification was added to Table E-1 to indicate that the only required monitoring at the RSW-LA003D is flow rate, which is necessary in order to determine whether the Discharger should comply with wet or dry weather metals effluent limitations.	Inserted clarification.

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Las Virgenes Metropolitan Water District (LVMWD)'s Tapia Water Reclamation Facility (Tapia WRF)

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Bioassess-ment	17	**BIOASSESSMENT** The level of monitoring effort required is considered excessive for a number of reasons. First, Tapia's effluent is of very high quality, consisting of 100% tertiary treated disinfected water. Even for the two effluent constituents present in the effluent at greater than background concentrations in the creek (i.e. nitrogen and phosphorus), there is no significant correlation between these constituents and macroinvertebrate health in Malibu Creek (Luce, 2005). Second, because of the seven-month flow prohibition, Tapia discharges predominately in winter when creek background flows are highest. Third, and perhaps most importantly, the rationale for this effort – that over time Tapia's discharge may affect the physical condition and biological integrity of the creek – has already been answered: Bioasssessment studies conducted by Adams (1978), Ambrose et al. (2004) and Luce (2005) span a 25 year period during which Tapia was discharging, yet all of these studies showed thriving macroinvertebrate populations below Tapia, with the highest macroinvertebrate abundance and diversity for any receiving water in the region. In short, existing data are more than sufficient to demonstrate that Tapia's effluent *does not* have any detectable effect on macroinvertebrate populations in the creek. The September 28, 2006, letter from RWQCB stated "… yearly bioassessment is still required for the Los Angeles River receiving water stations RI-1 through RL-4 in Fall 2006. We will re-evaluate the necessity of performing the		X	Bioassessment represents a key monitoring tool used to provide a direct measurement of the health of a waterbody based on the aquatic organisms that live there. The State of California presently is working to develop biological objectives to protect aquatic life beneficial uses in freshwater streams and other aquatic ecosystems, which will be designed to supplement existing chemical water quality criteria. Bioassessment is expected to be a cornerstone of these biological objectives for streams. Therefore, it is essential to continue to collect bioassessment data to evaluate the health of Malibu Creek and other tributaries in the watershed and to ensure that there is no degradation of the aquatic life beneficial uses due to the discharge from Tapia or from other discharges or activities within the watershed. Therefore, the number of receiving water stations with respect to bioassessment will remain unchanged.	None necessary.

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		spring/early summer 2007 bioassessment monitoring … once a comprehensive Watershed-wide Monitoring Program has been proposed by the stakeholders." The JPA submitted the required program on May 24, 2006, and received no further direction from the RWQCB. Additionally, the receiving water stations for discharge point 005 are storm drain manholes, so there is no value in conducting bioassessment at these locations. We respectfully request that the number of stations for this monitoring be reduced as indicated from 10 stations to 3. ***Suggested Language:*** MRP, Page E-29, IX.B.2 In coordination with the Los Angeles County Public Works and other interested stakeholders in the Malibu Creek ~~and Los Angeles River~~ Watersheds, the Discharger shall conduct instream bioassessment monitoring once a year, during the spring/summer period (the remainder of this paragraph would remain unchanged). A. The bioassessment program shall include an analysis of the community structure of the instream macroinvertebrate assemblages and physical habitat assessment at the monitoring stations RSW-MC001U; RSW-MC002D, and ~~RSW-MC003D; RSW-MC004D; RSW-MC007D; RSW-MC009D; RSW-MC0011D~~; RSW-MC0013D for Malibu Creek ~~and RSW-LA001U and RSW-MC002D for Los Angeles~~				

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		~~River~~.				
Other suggestions for clarification.	18	**OTHER TECHNICAL CORRECTIONS AND COMMENTS** The Discharger submitted additional, minor suggestions for language to enhance the clarity of certain sections of Order, MRP, and Fact Sheet. These suggestions were submitted as track changes to the tentative Order. Many of these changes have previously been shared with the Regional Water Board staff.			Where appropriate, clarifications have been incorporated into the revised tentative Order.	Incorporated clarifications, where appropriate.
Comments Received on May 7, 2010 from Heal the Bay Regarding the Tentative Dated April 7, 2010						
Support for CEC Special Study	19	There are several components of the Tentative Permit we support. For instance, we support the inclusion of the proposed special study providing annual monitoring for contaminants of emerging concern (CECs). This is an important addition to the permit and we believe annual monitoring at a minimum is necessary for adequately capturing year-to-year variability in the discharge of pollutants. This is consistent with the monitoring frequency adopted for the Terminal Island Treatment Facility at the May 6, 2010 Regional Board hearing. Also, more information on CECs will provide greater consumer confidence in recycled water.	X		Comments noted.	No action necessary.
Support for and	20	We also support the addition of numerous WQBELs, the addition of pollutants to the monitoring program, the	X		Comments noted.	None necessary.

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additional of WQBELs		increased monitoring frequencies for some constituents such as certain trihalomethanes, and the retention of effluent limitations for metals addressed in the Los Angeles River Metals TMDL. In addition, we support the language included in the permit that allows for a reopener in order to include a numeric toxicity limitation once the State Board develops its toxicity policy, which is long overdue.				
Malibu Creek Nutrient TMDLs and Correspondi ng Limits	21	The Revised Permit improperly excludes the summertime total nitrogen limitation of 1 mg/l and total phosphorus limitation of 0.1 mg/l. As we have commented in the past, this TMDL has been in effect since March 2003 and sets summer time (April 15th –November 15th) targets of 1 mg/l nitrate+nitrite (as N) and 0.10 mg/L Total Phosphorous. The Tentative Permit excludes these limits and instead allows Tapia to discharge up to 8 mg/l and 1 mg/l, respectively, year-round, including discharges during the Prohibition Period. What is the legal basis for Regional Board allowing the discharger to discharge at levels that exceed TMDLs. This is not protective of the Creek or Malibu Lagoon during summertime conditions. Similarly, this is not protective of endangered species the flow augmentation exception aims to sustain. It defies logic to require augmentation with water that has such high levels of nutrients during dry season/very low flow conditions in order to support Steelhead. This level of nutrients is more likely to cause more algal blooms as well as lower levels of dissolved oxygen in the water that is in the Creek and its pools. The discharge prohibition exemption should not allow the discharge of impairing		X	NPDES permits implement TMDLs by developing effluent limitations based on the waste load allocations (WLA) contained in the TMDLs. The 2003 Malibu Creek Watershed Nutrient TMDL developed by USEPA contained a winter nitrate+nitrite (as N) WLA for Tapia of 8 mg/L, which is incorporated in the tentative Order as winter nitrate+nitrite (as N) effluent limitation. The TMDL did not assign a phosphorus WLA for Tapia WRF. In terms of summer nitrate+nitrite (as N) WLA, the TMDL prescribed a WLA of zero for Tapia WRF. The premise underlying this WLA of zero was that USEPA recognized in the TMDL that Tapia has a discharge prohibition from April 15 to November 15, and any discharges resulting under discharge prohibition exemptions would be "very sporadic" and that "these discharges will have an insignificant effect on average	None necessary.

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		pollutants into the Creek to provide flow.			summer loads and that it is therefore unnecessary to account for them in the cumulative loading allowed under the TMDL. The State should ensure that these discharges do not result in exceedances of any applicable water quality standards." Given the episodic nature of its summer discharge to Malibu Creek, staff feels that providing a summer nitrate-N + nitrite-N limitation of 8 mg/L, which is consistent with the summertime nitrate effluent limitation in the existing Order No. R4-2005-0074, would provide adequate protection during the summertime. In addition, this Regional Water Board will ensure that the Discharger optimize their NDN process such that the treatment efficiency in nitrate reduction will be comparable to that being achieved by other similar-sized POTWs. And future summer nitrate limit may be set lower than 8 mg/L, based on the plant's NDN performance. For total phosphorus, the effluent limitation of 3 mg/L in the existing Order No. R4-2005-0074 was set at 99% of plant performance. Staff recalculated the 99% level based on the data from 2006 to 2009, which turned out to be slightly higher, at 3.5 mg/L. Therefore, consistent with anti-backsliding, the existing effluent limitation of 3 mg/L is continued forward in the revised	

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					tentative.	
Adequacy of Malibu Creek Nutrient TMDL.	22	The 8 mg/L total nitrogen and 3 mg/L total phosphorus limits are not adequate to address aquatic life uses year-round. As discussed above the Tentative Permit does not include summertime numeric effluent limits from the Malibu Creek TMDL, and even those limits are not low enough to prevent nutrient impacts and to be protective of aquatic life. Heal the Bay studied threshold values for nutrients and algal cover in Malibu Creek using an empirical reference site approach and found that "[p]eriphyton cover exceeded nuisance levels (*i.e.* 30% cover) whenever average nitrate concentration was greater than 0.1 mg/l or average phosphate concentration was greater than about 0.15 mg/l." S. Luce and M. Abramson, *Periphyton and Nutrients in Malibu Creek* (2004). Thus, even the low targets for nitrogen in the Malibu Creek Watershed TMDL are inadequate to protect aquatic life. Other recommended nitrogen criteria for protection of aquatic life are also significantly lower. For instance, USEPA recommended CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) of 0.38 mg/l total nitrogen and 0.022 mg/l total phosphorus for protection of aquatic life and recreation uses. USEPA, *Ambient Water Quality Criteria Recommendations: Rivers and Streams in Nutrient Ecoregion III* (2000) (EPA 822-B-00-016).		X	The primary goal of the Malibu Creek nutrient TMDL is to specify the nutrient waste load allocations necessary to abate and control the excessive algae proliferation and related effects observed in the Malibu Creek. Heal the Bay's comments raise issues with the adequacy of the TMDL in addressing excess algal growth in Malibu Creek. Since comments are solicited only on the tentative Order, comments pertaining to the adequacy of the Malibu Creek Nutrient TMDL will not be addressed here.	None necessary.
Adequacy of Malibu	23	Clearly, staff is not justified in relying on the existence of the Malibu Creek Nutrient TMDL to address excess algal			See our response to comments for item #22.	None necessary.

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Creek Nutrient TMDL./ Need for Implementation Plan		growth. This TMDL created by EPA does not contain numeric limits protective of aquatic life. Of note this is not the only problem with this TMDL. There is currently no implementation schedule or plan in place for the Malibu Creek Watershed Nutrient TMDL due to the fact that the Regional Board has not reopened and modified the TMDL since it was developed by USEPA. The TMDL was approved seven years ago yet receiving water quality in the watershed has not improved significantly during that time. The Regional Board's failure to complete an enforceable implementation plan with milestones is one of the principal reasons for the lack of progress in the watershed. In addition, the ambiguity and open-endedness of the TMDL creates unnecessary confusion and contention in the creation of permits such as this. In order to restore the Malibu Creek watershed's impaired beneficial uses, we urge the Regional Board to move forward quickly with an implementation plan, an implementation schedule, and studies to develop adequate numeric limits for nutrients in the watershed.				
Question Tapia's ability to meet nutrient limits	24	We are concerned about Tapia's inability to meet current nutrient standards. In order to meet the current standard of 8 mg/L total nitrogen, LVMWD has taken the approach of optimizing the 16 MGD plant to increase nitrification/denitrification (NDN) processes in the activated sludge tanks through the use of baffles, pumps, and aerators. This has allowed Tapia to meet total nitrogen requirements some of the time, but certainly not consistently with any margin of safety. New NDN facilities were not built as part of the project. As such, we are		X	Tapia has been optimizing its newly constructed BNR facility since September 2009. Tapia's monitoring data from September 2009 to March 2009 indicate that nitrate+nitrite (as N) averaged around 7.4 mg/L, which is below the effluent limitation of 8 mg/L. Tapia WRF has a design capacity of 16.1 MGD and currently treats an average of 8.35 MGD. It is the staff's understanding that the Tapia WRF's design capacity was	None necessary

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		concerned about Tapia's ability to meet total nitrogen WQBELs, especially when population and business growth returns to the service area as the economy improves. Increased growth will bring increased influent volumes that will exceed the 9 to 10 MGD that Tapia currently receives. With increased volumes, the optimization of NDN at Tapia will be more difficult to achieve. The Regional Board should require the LVMWD to develop a plan within one year of permit approval to meet the total nitrogen WQBEL under circumstances where wastewater influent increases from current volumes to plant capacity.			built to accommodate projected growth and corresponding increase in wastewater, with 2030 as the target timeframe. And that the NDN facilities were built with sufficient margin of safety to be able to perform properly with the additional flows anticipated in the future. Currently, Tapia WRF's total influent volume is on a downward trend, an outcome of community-wide water conservation efforts. Therefore, the 2030 target date might be a conservative estimate. Staff feels that it is crucial at this time that Tapia WRF concentrates its efforts to optimize its NDN facilities to further reduce the nitrate levels to below its current average of 7.4 mg/L. For reasons stated above, staff does not think that it is necessary to require the Discharger at this time to prepare and submit a plan to meet the total nitrogen WQBEL under circumstances where wastewater influent increases from current volumes to plant capacity.	
Frequency of Nutrient Monitoring	25	**The Tentative Monitoring and Reporting Program (MRP) should require weekly nutrient monitoring.** The Tentative MRP proposes monthly monitoring of nutrients such as total nitrogen, total kjeldahl nitrogen, and total phosphorus. As mentioned in the permit, both waterbodies the Tapia plant discharges into, the Los Angeles River and the Malibu Creek, have nutrient	X		Consistent with the monitoring program of other water treatment facilities in the region including the Burbank Water Reclamation Plant, the Donald C. Tillman Water Reclamation Plant, and the Los Angeles-Glendale Water Reclamation Plant, the nutrient effluent monitoring will remain at	Increased receiving water nutrient monitoring from monthly to weekly.

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		impairments and nutrient TMDLs. As mentioned above, nutrients are discharged from Tapia WRP at levels high enough to contribute impairing impacts to Malibu Creek Watershed. Also, historic monitoring data taken from November 2005 to June 2009 provided in the Fact Sheet show an average daily discharge of 10 mg/L with a maximum discharge of 16 mg/L total nitrogen in a day. Historic total phosphorus discharge is right at the acceptable average daily effluent limit of 4 mg/l (which is high enough to cause impacts). Due to past struggles in meeting nutrient limits and given the nutrient impairments in the region, nutrient effluent monitoring should be increased to occur weekly. This would be consistent with the monitoring program of other water treatment facilities in the region including the Burbank Water Reclamation Plant, the Donald C. Tillman Water Reclamation Plant, and the Los Angeles-Glendale Water Reclamation Plant.			monthly and the receiving water nutrient monitoring will be revised to weekly.	
Storage capacity	26	The Regional Board should encourage the discharger to increase its storage capacity for treated water. The State of California is facing many problems due to water shortages. While we commend the discharger for their strong work to increase water conservation and water recycling, we believe they should also increase water storage to further conserve this precious resource for reuse and to reduce loadings to receiving waters. Without storage capacity, LVMWD needs to sell all of their recycled water the same day they produce it. The District has talked about seasonal storage alternatives for fifteen years, but they need to move forward on solutions. The Regional Board should require the completion of a			Approximately 60 percent of Tapia's treated wastewater is used on an annual basis for landscaping irrigation. Recycled water is also used at Tapia WRF, Pepperdine University, Rancho Las Virgenes Composting Facility and Rancho Las Virgenes Farm. Rather than addressing this issue of capacity increase in the revised tentative, staff recommend that Heal the Bay bring forth the issue at the upcoming Board hearing. Since there will most likely be a Time Schedule	None necessary

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		comprehensive seasonal storage plan by 2011 to enhance water recycling. This would be consistent with the Recycled Water Policy adopted by the State Board.			Order issued to Tapia for TTHM so that may be the time to incorporate any recommendations or directions from the Board.	
Comments Received on May 7, 2010 from Resource Conservation District of Santa Monica Mountains Regarding the Tentative Dated April 7, 2010						
Malibu Creek Nutrient TMDLs and Correspondi ng Limits	27	The proposed WDR requirements for nutrient is not compatible with the Malibu Creek Watershed TMDL. We strongly encourage the Regional Water Board staff to require that Tapia WRF meet the effluent limitation of 1 mg/L for summertime nitrates and have the Discharger strive for achieving 1 mg/L year round.		X	Please see our response under item #21.	None necessary.
Adequacy of Malibu Creek Nutrient TMDL.	28	A recent study on threshold values for nutrients and algal cover in Malibu Creek using an empirical reference site approach found that "[p]eriphyton cover exceeded nuisance levels (*i.e.* 30% cover) whenever average nitrate concentration was greater than 0.1 mg/l or average phosphate concentration was greater than about 0.15 mg/l." S. Luce and M. Abramson, *Periphyton and Nutrients in Malibu Creek* (2004). Thus, even the low targets for nitrogen in the Malibu Creek Watershed TMDL are inadequate to protect aquatic life.			Please see our response under item #22.	None necessary.
Frequency of Nutrient Monitoring	29	The Tentative Monitoring and Reporting Program (MRP) should require weekly nutrient monitoring since both waterbodies the Tapia plant discharges into, the Los Angeles River and the Malibu Creek, have nutrient impairments and nutrient TMDLs.	X		Please see our response under item #25.	Increased receiving water nutrient monitoring from monthly to weekly.
Storage capacity	30	We recommend that the Tapia WRF increase its current storage capacity (16.1 MGD) to one that would prevent surplus effluent from the existing reservoir to be			Please see our response under item #26. In addition, the 16.1 MGD refers to Tapia WRF's design capacity for treatment, not to	None necessary

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		discharged into Las Virgenes Creek.			their storage capacity. In addition, Tapia has not discharged to Las Virgenes Creek under the existing Order. Excess recycled water, barring severe storm events, are typically discharged to the Arroyo Calabasas, a tributary to the Los Angeles River.	
Joint Outfall System (formerly known as County Sanitation District of Los Angeles County)						
CEC Special Study	31	The Los Angeles County Sanitation District of Los Angeles would like to request that the following change be made to the tentative Tapia WRF NPDES permit, on p. 42. Change "Based on its review, the Discharger shall propose the most sensitive analytical methodology available." to "Based on its review, the Discharger shall propose the most appropriate analytical method available, considering sensitivity, accuracy, availability, and cost." If it is too redundant to say "availability" twice, then we propose the following: "Based on its review, the Discharger shall propose the most appropriate analytical method, considering sensitivity, accuracy, availability, and cost." This change is requested because the most "sensitive" method available may be highly inaccurate, extremely costly, or not locally available.	X		Agreed. The following change has been incorporated into the revised tentative: ""Based on its review, the Discharger shall propose the most appropriate analytical method, considering sensitivity, accuracy, availability, and cost."	Added clarification.