

**2008-2010 Triennial Review**  
**Response to Comments on the Request for Input on the Triennial Review and update of the Water Quality Control**  
**Plan for the Coastal Watersheds of Los Angeles and Ventura Counties**

<b>No.</b>	<b>Commenter</b>
1	City of Bell
2	City of Bellflower
3	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte
4	City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson
5	City of Long Beach
6	Jurisdictional Groups 5 & 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL
7	City of Oxnard
8	City of San Dimas
9	City of Thousand Oaks
10	City of Ventura
11	City of Vernon
12	City of Agoura Hills, City of Westlake Village
13	City of Alhambra
14	City of Arcadia
15	City of Artesia
16	City of Cerritos
17	City of Covina
18	City of Downey
19	City of La Verne
20	City of Los Angeles
21	City of Monterey Park
22	City of Pico Rivera
23	City of Pomona
24	City of Pomona (SGRW)

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25	City of South Gate
26	Gary Ohst, private citizen
27	SCOPE
28	County of Ventura
29	Ventura Countywide Stormwater Quality Management Program
30	County Sanitation Districts of Los Angeles County
31	EAC et al
32	County of Los Angeles
33	Los Angeles Stormwater Quality
34	San Gabriel River Watershed Management Area Committee
35	Sierra Club Angeles Chapter
36	Signal Hill Petroleum
37	The Boeing Company
38	Ventura County Watershed Protection District
39	Construction Industry Coalition on Water Quality
40	Heal the Bay (HTB), Natural Resources Defense Council (NRDC), Santa Monica BayKeeper(SMBK)
41	Las Virgenes Municipal Water District
42	City of Calabasas
43	City of Paramount, City of San Marino
44	City of Sierra Madre
45	City of Signal Hill
46	Rutan & Tucker
47	Executive Advisory Committee
48	Calleguas Creek Watershed Committee (CCWMC)
49	Friends of the Santa Clara River
50	ABC Nurseries Inc.
51	Teresa Jordan

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1-1	City of Bell	Nov 10, 2008	<p>We believe that it is crucial that the Basin Plan be revised in accordance with all applicable state and federal statutes, provisions, and regulations because the Basin Plan directly affects this region's compliance with water quality standards, particularly as they apply to storm water. The City has identified its primary points for discussion in the following sections.</p> <p>As an initial point however, the City supports and incorporates comments submitted by other involved and related stakeholders including those submitted previously, for example those submitted to Dennis Dickerson and dated July 3, 2003, as well as comments contained in the "Record of Administrative Review on the Basin Plan," prepared by Environmental Defense Sciences. (Susan Paulsen, et. al, February 2003).</p>	<p>See General Response 1. Whenever the Basin Plan is revised, it is done in accordance with state and federal requirements. These procedures are summarized in the Administrative Procedures Manual, Chapter 8 – Water Quality, and in the State's Continuing Planning Process Report submitted to the US EPA. Furthermore, all Basin Plan amendments must be reviewed and approved by the State Office of Administrative Law to ensure compliance with all state and federal procedures and requirements.</p> <p>The comments in the July 3, 2003 letter and those in the "Record of Administrative Review on the Basin Plan," prepared by Environmental Defense Sciences (Susan Paulsen, et al., February 2003) were considered in the previous triennial review.</p>
1-2	City of Bell	Nov 10, 2008	<p>The City initially notes, as suggested by many affected parties, that many aspects and provisions of the current Basin Plan were adopted and/or incorporated without full consideration of all legislatively required procedures; specifically Section 13241 of the California Water Code (Water Code). In the brief time that the parties were provided to review and comment on one of the most pivotal and guiding regulatory documents in this field, the City has identified five (5) overarching</p>	<p>See General Response(s) 1; see Response to Comment(s) 1-1.</p> <p>Regarding the City's five overarching issues, responses are provided to the detailed comments below.</p>

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			<p>issues that the Board must reconsider. These include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>A. <i>Beneficial Uses Designations;</i></li> <li>B. <i>Implementation of Water Quality Objectives;</i></li> <li>C. <i>Economic Considerations;</i></li> <li>D. <i>Tributary Rule; and</i></li> <li>E. <i>Standardization of Permit Requirements.</i></li> </ul>	
1-3	City of Bell	Nov 10, 2008	<p>Because of the short time that the Board has provided for review and comment, the City reserves, where applicable, the right to update, add, revise, modify, alter, amend, and resubmit comments at or during the upcoming proceedings.</p>	<p>No document was released for review and/or comment during the Regional Board's September 2008 solicitation. Rather, the Regional Board issued an open-ended solicitation for stakeholder input regarding what Basin Planning issues should be considered during the 2008-2010 triennial review period. The solicitation notice was sent out on September 25, 2008 and the comment submission deadline was November 10, 2008. Adequate time (46 days) was provided for stakeholders to compile and submit input.</p> <p>That notwithstanding, the commenter will have the opportunity to make further comments during the comment period for the Draft Triennial Review Staff Report and Tentative Board Resolution, as well as during the Board hearing on this issue.</p>

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1-4	City of Bell	Nov 10, 2008	<p>A reassessment of the use and application of beneficial use categories, "Water Contact Recreation, or REC-1," and "Non-contact Water Recreation, or REC-2," in the Los Angeles region is required due to the highly urbanized nature of the watersheds. We request that the Water Quality Control Board, Los Angeles Region (Board) review and reconsider the overly broad application of this designation to segments of all area watersheds. Currently, the Basin Plan's beneficial use categories are not sufficiently refined to differentiate between water body types, conditions and settings of the types typically found in this area; specifically highly urbanized areas with little or no remaining open space or areas and where flood control and drainage are the only segment water conveyance use. With the designation of these waters as REC-1 and REC-2, it would suggest that these water bodies are suitable for full body contact and recreational activity. Here however, the Basin Plan and related water quality objectives fail to consider that many of these water bodies are concrete lined flood control channels used to convey storm water and urban runoff and that most, if not all, access to these conveyances is prohibited by law.</p>	<p>See General Response(s) 1. Federal regulations restrict States from removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if:</p> <ol style="list-style-type: none"> <li>1. They are existing uses, as defined in 40 CFR § 131.3, unless a use requiring more stringent criteria is added; or</li> <li>2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices.</li> </ol> <p>The Regional Board will therefore not conduct a blanket review of existing recreational beneficial uses in the Los Angeles Region. However, the Regional Board will re-assess, where appropriate, the application of the potential contact recreation use (REC-1) in highly engineered channels with limited flow and restricted access - on a case by case basis.</p> <p>Many of these channels are already subject to a temporary suspension of their recreational beneficial uses during and immediately following wet-weather</p>

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				events, which cause dangerous high-flow conditions.
1-5	City of Bell	Nov 10, 2008	<p>Although the City recognizes that the Board used Section 101(a) (2) of the Federal Clean Water Act (CWA) to form the basis for the beneficial use designations for surface waters of the State, we believe that the Board failed to fully assess the actual or "probable use" of these water bodies. Such consideration would require:</p> <ul style="list-style-type: none"> <li>a) <u>plans</u> to put the water to such future use,</li> <li>b) <u>actual potential</u> to put the water to such future use,</li> <li>c) <u>designation of a use</u> by the Regional Board as a regional water quality goal, or</li> <li>d) <u>public desire</u> to put the water to such future use.</li> </ul> <p>The City believes that current designated beneficial use categories are not reflective of actual, potential, or "probable" use.</p>	<p>See General Response(s) 1. Additionally, in identifying potential beneficial uses, the Regional Board considered the goals identified in sections 101(a) and 102(a) of the federal Clean Water Act, and the beneficial uses to be considered as identified in section 13050(f) of the Porter-Cologne Water Quality Control Act. The Basin Plan identifies the considerations that the Regional Board made in designating potential uses, which include:</p> <ul style="list-style-type: none"> <li>a) <u>plans</u> to put the water to such future use,</li> <li>b) <u>potential</u> to put the water to such future use,</li> <li>c) <u>designation of a use</u> by the Regional Board as a regional water quality goal, or</li> <li>d) <u>public desire</u> to put the water to such future use.</li> </ul>
1-6	City of Bell	Nov 10, 2008	<p>The City also believes that the Board should, as a leader in the storm water regulatory field, develop and adopt a category or designation for flood control purposes. Such a category could then account for the actual regional use of storm water conveyance</p>	<p>See General Response(s) 1. Also, Regional Board staff has acknowledged, and continues to acknowledge that flood control is a necessary function of certain</p>

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			<p>systems except for those limited areas where the actual or probable contact for recreation would occur. By revising the application and applicable categories to actual and potential uses, the City and co-Permittees to the NPDES MS4 Permit would then not be responsible for unreasonable expenditures of public resources; a mandate clearly contrary to legislative intent. The City recommends and supports a re-evaluation of the designated uses and development of new uses based upon the established principals and standards set out above.</p>	<p>channelized waterbodies and that this function should be a consideration in Board decisions (as evidenced by the Board's adoption of a suspension of recreational uses and associated bacteria objectives in engineered channels during wet weather and the Board's ongoing 401 certification of routine and emergency operation and maintenance of flood control channels).</p> <p>However, "flood protection" is not a "beneficial use" of regional waters in the same vein as other uses. Flood protection is not considered a "use" of the water as are drinking, swimming, and fishing, and it does not fit into the regulatory structure in this way.</p> <p>That notwithstanding, even if it were appropriate for flood protection to be a "beneficial use", it would not remove the requirements to protect other designated beneficial uses of the region's waterbodies.</p> <p>Also, see response to comment 1-4</p>
1-7	City of Bell	Nov 10, 2008	<p>Section 13241 of the Water Code specifies that each Board establish water quality objectives. The Water Code defines water quality objectives as, "the allowable limits or levels of water quality constituents or characteristics which are established to</p>	<p>See General Response(s) 1. First, water quality objectives are based on the best available science at the time. In most cases, the objectives are based upon US EPA's CWA section</p>

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			<p>reasonably protect the beneficial uses of water or the prevention of nuisance within a specific area." Therefore it is imperative that water quality objectives be reassessed to ensure that they are based upon a sound scientific foundation and upon clearly defined terms of frequency, magnitude, and duration. The City recommends that the Board review, consider, and incorporate water quality objectives that reflect natural and ambient conditions of this watershed and which are consistent with Water Code Section 13241, <i>et. seq.</i> This re-assessment and re-evaluation will help to determine the extent to which regulation of human activities can actually, measurably, and usefully foster water quality protection.</p>	<p>304(a) recommended ambient water quality criteria, which have been developed based on extensive studies and associated data. Second, water quality objectives are defined in terms of magnitude, duration and frequency. These components are identified in the Basin Plan, in the supporting documentation for development of the recommended criteria, or in the State's Listing Policy. Finally, the Regional Board has considered natural and ambient conditions in the Region's surface and groundwater in several cases, including the adoption of implementation provisions for bacteria objectives that allow some exceedances of the single-sample maximum objectives equivalent to those observed in a reference system, as well as the adoption of a variance provisions for groundwater mineral quality objectives where concentrations of minerals are elevated due to proximity to the coast. The Regional Board may, in the future as resources allow, consider other cases where concentrations of constituents are elevated due to natural conditions.</p>
1-8	City of Bell	Nov 10, 2008	Water Code Section 13241 requires the Board to consider the economic impacts, and whether the water quality objective can be reasonably achieved.	See General Response(s) 1 and 4.

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			<p>Section 13241, in part, states:</p> <p>"Each regional board <u>shall</u> establish such water quality objectives in water quality control plans as in its judgment will ensure the <u>reasonable</u> protection of beneficial uses.... Factors to be considered by a regional board in establishing water quality objectives <u>shall include</u>, but not necessarily be limited to, <u>all of the following</u>:</p> <p>(a) Past, present, and probable future beneficial uses of water.</p> <p>(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.</p> <p>(c) Water quality conditions that <u>could reasonably be achieved</u> through the coordinated control of all factors which affect water quality in the area; and</p> <p>(d) <u>Economic considerations...."</u></p> <p>The water quality objectives in the current Basin Plan fail to take feasibility and economics into consideration, as required by this section.</p>	
1-9	City of Bell	Nov 10, 2008	<p>As an example of the lack of a full economic review and consideration to local economies, "<i>as could reasonably be achieved</i>" through water quality objectives, the Boards own staff reports for various Total Maximum Daily Loads (TMDLs) estimates that compliance with the Los Angeles River Metal TMDL will cost local governments \$2.4 billion. No analysis and review on the effect to <u>housing</u>,</p>	See General Response(s) 2

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			<p><u>jobs, land use, or other important concerns</u> are formally addressed. Similarly, the Board's own estimate for the compliance costs of the Los Angeles Trash TMDL was \$1.1 billion. No practical analysis or consideration of the impact of these costs to local governments was requested or included by the Board in that TMDL.</p>	
1-10	City of Bell	Nov 10, 2008	<p>Currently the implementation costs, including the requisite scientific studies, investigations, and analyses, are either passed on to homeowners through local property based taxes or absorbed by local governments as general fund costs - directly competing with fire, police, and other social service programs. In a time where budgets are restricted amongst federal, state, and local governments, the Board must consider the water quality goals/objectives as related to the current and future economic impacts.</p>	See General Response(s) 2

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1-11	City of Bell	Nov 10, 2008	<p>There are no provisions within the Basin Plan to prevent beneficial use designations from being erroneously extended to virtually every water body's tributary system, (e.g. extending the downstream uses to the upstream tributaries). The Basin Plan states that "those waters not specifically listed, usually the smaller tributaries are designated with the same beneficial uses as the streams, lakes, or reservoirs to which they are tributary." The City supports the recommendations made in the Administrative Record, dated 2003, that the Tributary Rule should be revised to reasonably protect designated beneficial uses without extending, at enormous potential expense, regulatory requirements to each and every upstream drainage basin within the Los Angeles Region. For example, the Tributary Rule should be applied only where there is an actual and recorded hydrologic connection - not just in response to storm events or where commingling of water and aquatic life is possible. We ask the Board to reassess the extension of water quality objectives to tributary systems in accordance with generally accepted scientific principles.</p>	<p>Staff acknowledges that clarification of the Board's application of the Tributary Rule is necessary in regulatory decisions and to correct misconceptions about the application of this rule. Clarification will be provided on an as-needed basis until such a time as clarifying policy can be developed.</p>
1-12	City of Bell	Nov 10, 2008	<p>As noted in the current Los Angeles County wide NPDES Permit No. CAS004001, [adopted by Order No. 01-182 (December 13, 2001 and as Amended on September 14, 2006<sup>5</sup>)], generally provides that storm water discharges originates from all land use in the hydro- and geographic basin.<sup>6</sup> Further, the Permit provides that "<i>certain pollutants present in</i></p>	<p>Comment noted. Permit requirements are outside the scope of the triennial review. See General Response(s) 3.</p>

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			<p><i>stormwater and/or urban runoff may be derived from extraneous sources that Permittees have no or limited jurisdiction over.</i>" However, as indicated in this same paragraph, the implementation measures set forth in the Permit, "is intended to reduce the entry of these pollutants into storm water and their discharge into receiving waters."<sup>8</sup></p>	
1-13	City of Bell	Nov 10, 2008	<p>There are significant deficiencies with respect to regulatory oversight of all point sources and the burdens and responsibilities placed directly on the MS4 Permittees, (e.g., the City). The City would emphasize that the discharge of contaminated storm water from industrial, agricultural, businesses, and construction sources (point sources) wholly outside the regulatory framework of the City can and do directly and adversely impair water quality. These point sources however are not regulated in the same heightened manner and through the same regulatory mechanisms, TMDLs, as MS4 permittees are charged to implement. There is simply no standardization or consistency with respect to MS4 permit provisions, TMDLs, and these point sources. Each pose the same risk, if not more, as those imposed on municipal entities; all resulting in array of inconsistent regulatory oversight. To provide transparency and equality amongst all programs, it is imperative that these point sources be brought to the same level of responsibility and regulatory oversight as other permits, such as the MS4s.</p>	<p>See Response to Comment(s) 1-12 and General Response(s) 3. Nevertheless, Permittees outside of the MS4 are regulated for their industry-specific pollutants. where these pollutants are impairing of beneficial uses, TMDLs include these sources as responsible parties and assign waste load and load allocations as appropriate.</p> <p>As an example, the Marina del Rey and Ballona Creek Toxics TMDLs identified minor NPDES and non stormwater permits as sources of toxic pollutants to their corresponding waterbodies, along with general construction, general industrial and Caltrans stormwater Permittees. Waste load allocations were assigned to all identified sources.</p> <p>In another example, the Calleguas Creek Organochlorine and Pesticides TMDL identified agricultural run-off as</p>

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				the largest source of impairing pollutants, while POTWs, stormwater and minor NPDES and WDR discharges, were considered a minor source.
1-14	City of Bell	Nov 10, 2008	This is a known and recognized problem that has yet to be fully addressed. For example, the Board recognizes these deficiencies in its current re-draft of the Industrial Permit. Language in the draft General Industrial Permit states, "[f]ederal law has since been clarified that discharges of storm water associated with industrial activity must achieve strict compliance with water quality standards." It goes on to state that industrial activities require that, <i>"...discharges must comply with water quality standards,"</i> and that, <i>"authorized...discharges shall not contain pollutants that cause or contribute to an exceedance of any applicable water quality objective or water quality standard."</i> (emphasis added).	See response to comment No. 1-13
1-15	City of Bell	Nov 10, 2008	Moreover, the City requests that the Board consider regulating Phase II facilities to ensure responsibility of the quality of discharge from their sites. Currently, the Phase II permit is not actively enforced. Phase II facilities, including small municipalities, institutions, and correctional facilities, are not being regulated as stringently as MS4 permittees and enforcement terms are not being implemented state-wide to develop consistency amongst the programs. For example, the University of California (UC) system owns campuses which in themselves house water treatment plants,	The Regional Board's permitting actions are outside the scope of the triennial review process, which is intended to evaluate water quality standards. No changes to the Basin Plan are necessary for the Board to regulate Phase II facilities. See General Response(s) 3.

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			<p>fleet services, parking lots, park systems, housing, police forces, etc, however, these types of Phase II facilities are bound to the same stringent requirements as a city would be. This is just one of many examples of the inconsistencies that exist within the current permit requirements and programs. In both of these instances, the City has limited legal authority and enforcement ability in regulating and controlling the <i>quality</i> and quantity of discharges from facilities (Phase 1 and Phase II) that are located within City limits and boundaries.</p>	
1-16	City of Bell	Nov 10, 2008	<p>Logistically and fiscally, the City has limited legal authority and resources to police and make changes within industrial sites, conduct monitoring and sampling programs, implement industrial inspections programs, and fulfill other requirements mandated by the Board. The City asks the Board to re-evaluate all existing water quality objectives and programs to reflect these additional sources of pollutant discharges. Additionally, the City ask that the Board that these sources be identified as co-permittees and responsible jurisdictions in any program to achieve such water quality objective.</p>	See response to comment No. 1-13
1-17	City of Bell	Nov 10, 2008	<p>The City recognizes and appreciates the Board's efforts in developing the currently proposed triennial review priority list, and in soliciting public comment on the Basin Plan, and we recognize the limitations on the Board's resources. In light of these factors, the City would like to be included in a stakeholder-led triennial review and development process. We</p>	<p>Comment noted. The Triennial Review process is open to all interested parties and stakeholders; however, it is a Regional Board-led process. Also see General Response(s) 1.</p>

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			are confident that the Board, the NPDES MS4 Permittees and the public can work together in addressing these and additional key goals. The process we envision would be compliant with all applicable laws and regulations, particularly those requirements found in Section 13241 of the Water Code.	
2-1	City of Bellflower	Nov 10, 2008	The City of Bellflower (City) incorporates by reference the correspondence, exhibits and documents submitted by the Executive Advisory Committee (EAC) Chairperson on behalf of the EAC for the Los Angeles County MS4 Permittees (letter dated November 10, 2008), which includes a suggested overall approach to the Basin Plan triennial review process, as well as the correspondence from Mr. Richard Montevideo (letter from Rutan & Tucker dated November 10, 2008).	Comment noted. See responses to specific letters below.
2-2	City of Bellflower	Nov 10, 2008	We also support comments submitted by multiple signatories on November 6, 2008, including the Coalition for Practical Regulation's Steering Committee, which reference letters that were sent to Dennis Dickerson on July 3, 2003, and to Susan Cloke on February 11, 2005, and comments submitted by the San Gabriel River Watershed Management Committee (SGRWMC) Chairperson on November 10, 2008, on behalf of the SGRWMC members, comprised of MS4 Permittees from the San Gabriel River Watershed.	Comment noted. See Response to Comment(s) 1-1, and responses to other specific letters below.
2-3	City of Bellflower	Nov 10, 2008	For reach 1 of the San Gabriel River (from the	The Regional Board has addressed this

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			<p>Estuary to Firestone Blvd.), the Basin Plan designates a beneficial use of REC1, even though Basin Plan Table 2-1, Beneficial Uses of Inland Surface Waters, states "access prohibited by Los Angeles County DPW in concrete-channelized areas." We believe this beneficial use is inappropriately designated. If access is prohibited, a beneficial use of water for recreational activities involving body contact with water, where ingestion of water is reasonably possible, is unreasonable. Given the foregoing, the Regional Board should re-evaluate the REC1 designation for the San Gabriel River reach 1.</p>	<p>issue in part through a Basin Plan amendment to suspend the REC-1 beneficial use and associated bacteria objectives in engineered channels throughout Los Angeles County during wet weather conditions characterized by high flows and high velocity. Also, staff has identified this issue as one that should be addressed on a case-by-case basis during this triennial review period. Staff has recommended that the Regional Board consider evaluating appropriate recreational beneficial uses for engineered channels with conditions that may not be conducive to fully supporting their REC-1 designation. Any such evaluations would be conducted with the recognition that existing beneficial uses cannot be removed, and in conformance with federal regulations at 40 CFR 131.10(g) as well as US EPA's recommendations for conducting use attainability analyses and developing a subcategory of a designated use that is not an existing use.</p>
2-4	City of Bellflower	Nov 10, 2008	<p>Most streams in Los Angeles County are heavily engineered to provide flood protection for its 10 million residents. These "urban streams" are concrete-lined and steep-sided. Los Angeles County Flood Control District, which is responsible for providing flood protection in the region, restricts</p>	<p>See response to comment No. 2-3</p>

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			<p>access to dozens of waterbodies to protect public safety. Most of these channels are dry or effluent dominated during most of the year. We believe that the waterbody contact recreation use designation (REC-1) in most if not all of the waterbodies in the urbanized parts of the watersheds should be removed because they have never been attained and are not likely to be attained in the future.</p> <p>The Basin Plan currently denotes restricted access to a waterbody through the use of footnotes: "m" for "Access prohibited by Los Angeles County Department of Public Works in the concrete channelized areas" and "s" for "Access prohibited by Los Angeles County DPW", and "x" for "Owner prohibits entry" (LARWQCB, 1994).</p>	
2-5	City of Bellflower	Nov 10, 2008	<p>Conduct Use Attainability Analyses to assess the appropriateness of REC-1 beneficial uses designated as "existing" for engineered flood control channels in which body contact recreational use is inappropriate, including specifically those areas where the footnotes indicate that there is limited public access or access is prohibited.</p> <p>If supported by the result of the UAA, remove the REC-1 beneficial uses designated as "existing" for engineered flood protection channels.</p>	See response to comment No. 2-3
2-6	City of Bellflower	Nov 10, 2008	To address the issue of including numeric water quality limits into MS4 permits, the State Water Board convened a panel of stormwater experts in	See General Response(s) 3. The development of permit requirements pertaining to receiving

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			<p>2005-06 to examine the technical feasibility of applying numerical limits, with the following major findings:</p> <ul style="list-style-type: none"> <li>• Effluent limit approaches often focus only on water quality constituents that may not be responsible for water body impairments in urban settings.</li> <li>• Setting enforceable numeric effluent limits for municipal stormwater discharges is technically not feasible.</li> <li>• There are several times when the runoff volume/rate exceeds the design capacity of BMPs. During these times, stormwater agencies should not be held accountable for water quality exceedances that resulted from storms in excess of the size for which a BMP is designed.</li> <li>• There is a need for the development of enforceable BMP design, and a permit process in which the compliance would be measured in terms of achieving the design criteria, maintenance plan, and schedule of the BMP (i.e., technology based effluent limits).</li> </ul> <p>Recent TMDLs, on the contrary, were developed based on numeric objectives being incorporated into MS4 permits in the Los Angeles Region. Water quality standards should be achieved through the implementation of BMPs in an iterative fashion in accordance with the MEP requirements.</p>	<p>water limitations in municipal separate storm sewer system permits are driven by the records supporting the permits, precedential decisions of the State Board, and applicable law, and are outside the purview of the triennial review.</p>

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2-7	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF SUGGESTED REVISION: Establish policy for incorporating TMDLs into municipal stormwater permits through iterative BMP implementation and technology based action levels.</p>	<p>Regional Board staff recognizes the value of developing guidance on incorporation of TMDL requirements into permits and has recommended that prototype permit provisions be developed on a pollutant (or pollutant group)-specific basis, as the TMDLs are incorporated into MS4 permits, similar to the Regional Board's recent action to incorporate the Los Angeles River Watershed Trash TMDL into the LA County MS4 Permit.</p>
2-8	City of Bellflower	Nov 10, 2008	<p>To date, the Regional Board has not adopted a TMDL Implementation Compliance Plan submitted by any "Responsible Agencies" Group. However, the State mentions, "Although determination of the exact means of compliance is the role of the responsible agency, the plan must still provide a discussion of the anticipated and/or possible means of compliance." At this time, the discussion of the anticipated and/or possible means of implementation compliance is very vague. Combining this vague discussion and the lack of Regional Board adoption of the Implementation Compliance Plans leads to uncertainty in addressing the control/removal of the subject constituent(s).</p>	<p>TMDLs provide responsible agencies with the Waste Load Allocations, implementation schedules and possible methods of compliance. The implementation scenarios outlined in the TMDLs are a means of demonstrating that the WLA are attainable with available technology. Anything more specific would be too prescriptive and prevent responsible jurisdictions from determining what implementation approach best suits their resources and abilities.</p>
2-9	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>• Establish clear guidelines to create a program of implementation, consistent with</li> </ul>	<p>Guidelines are established in the Administrative Procedures Manual, Chapter 8, Water Quality and discussed in the "Report in Support of US</p>

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			<p>Porter-Cologne Section 13242.</p> <ul style="list-style-type: none"> <li>• Establish clear guidelines for the preparation and approval of TMDL Implementation Compliance Plans so that responsible agencies' implementation efforts are in accordance with an adopted implementation compliance plan.</li> </ul>	<p>Environmental Protection Agency's Review of California's Continuing Planning Process". Additionally, Chapters 4, "Strategic Planning and Implementation" and 6, "Monitoring and Assessment" of the Basin Plan outline the Regional Board's program of implementation and means of determining compliance with water quality objectives. Finally, TMDLs are, essentially, detailed programs for implementing specific water quality standards in specific areas, which include the elements identified in Cal. Water Code section 13242.</p> <p>See also Response to Comment(s) 2-8</p>
2-10	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF DATA, INFORMATION, OR EVIDENCE: Several recent scientific studies question the validity of the use of traditional bacteria indicators (i.e., total coliform, fecal coliform, enterococcus, and <i>E. coli</i> as surrogates for human health risk (e.g., Colford et al., 2007; Schiff et al., 2008). For instance, the study conducted for Mission Bay (Colford et al., 2007) indicates the absence of a correlation between these traditional bacteria indicators and human health risks. A recent study of recreational waters in Orange County also reveals that 40 to 55 percent of the enterococcus bacteria originate from plants: 54% in urban runoff, 47% in Bays/harbors/wetlands, and 42% in ocean waters (Moore et al., 2007). US EPA also</p>	<p>The US EPA currently does not distinguish between human and nonhuman sources of bacteria based on its conclusion that there are health risks associated with both. Furthermore, the Region's bacteria objectives are based on (1) recommendations of EPA regarding the most appropriate bacteria objectives to protect public health and (2) a landmark local epidemiological study in Santa Monica Bay that examined the health risks of swimming in the Bay and demonstrated a positive correlation between health risks and the same bacterial indicators that the</p>

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			<p>recognizes the lack of sound science on bacteria standards and has agreed to conduct necessary scientific studies to establish new indicators and objectives for recreational waters by 2012 (ENS, 2008).</p> <p>Currently, there is debate on how geometric mean should be calculated and used for compliance measures. For example, analysis of recent data from reference waterbodies, where there is little influence from anthropogenic sources, (e.g., LACDPW, 2008; Tiefenthaler et al., 2008) has shown geomean exceedances. This contradicts the current standard that imposes no geometric mean exceedance criteria in our TMDLs. US EPA, in 40 CFR 131, recognizes that geomean should be used as a measure to determine the state or condition of a site or reach over time (i.e., to determine the need for potential mitigating measures), but not as a parameter for compliance measure (EPA, 2004).</p>	<p>Regional Board relies upon to protect the recreational beneficial use.</p> <p>The Regional Board acknowledges, as does EPA, that the state of the science is evolving. There is on-going research on new criteria, including local epidemiological studies and methodological developments in the fields of rapid indicators and microbial source tracking. However, it would be premature to modify standards during this phase of research and development. The Board will continue to follow the progress of the science and will make changes to the bacteria objectives based on EPA's recommendations.</p> <p>With regard to the use of the geometric mean in determining compliance, staff has recommended determination of how bacteria objectives should be applied in determining compliance as one issue that should be addressed during this triennial review period.</p> <p>During the rule-making associated with the Beach Act, EPA provided a range of options to states for implementing bacteria objectives. Additionally, during the adoption of the Santa Monica Bay Beaches Bacteria TMDL, the Board</p>

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				<p>stated that it would consider aspects of implementation of bacteria objectives during the reconsideration of that TMDL. Aspects of the bacteria objectives to be evaluated may include:</p> <ul style="list-style-type: none"> <li>• Further developing the natural source exclusion approach.</li> <li>• Removing fecal coliform objectives for freshwaters. The previous fecal coliform objectives were retained in the 2001 revision of the bacteria objectives to provide for a transition period from fecal coliform-based objectives to E. coli objectives. However, since that time, various agencies have researched the ratio between fecal coliform and E. coli in local waters and, knowledgeable about that relationship, have been using the IDEXX™ chromogenic substrate method for enumerating E. coli for comparing ambient samples to both E. coli and fecal coliform objectives.</li> <li>• Evaluating alternatives for using the single sample and geometric mean objectives in regulatory programs, and evaluating statistical approaches to calculating geometric means for comparison with objectives. In the BEACH Rule, EPA provides flexibility to States regarding how to calculate the geometric mean when</li> </ul>

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				implementing bacteria objectives. The options EPA presents include using: a rolling average; a calendar month average; or the average over a recreational season. In the case of southern California, averaging over the recreational season would, in effect, mean calculating a year-round average, given that recreational use occurs throughout the year. This leaves the options of re-evaluating the use of a rolling average and evaluating a calendar month average.
2-11	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF SUGGESTED REVISION: We request that the Regional Board, in collaboration with stakeholders, perform the following during the current Triennial Review:</p> <ul style="list-style-type: none"> <li>• Form a "Bacteria Study Task Force" consisting of Regulated Agencies, Regional Board, Environmental community, and Research Institutions.</li> <li>• With the help of the Task Force, conduct an extensive review of the current state of science on bacteria issues, and prepare "white paper" guidelines.</li> <li>• Participate in the US EPA bacteria study being planned at national level.</li> <li>• Based on the findings of the Bacteria Study Task Force and US EPA study, revise the bacteria objectives in the Basin Plan as appropriate.</li> </ul>	See response to comment No. 2-10

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2-12	City of Bellflower	Nov 10, 2008	<p data-bbox="821 318 1503 846">CONCISE SUMMARY OF DATA, INFORMATION, OR EVIDENCE: US EPA sets threshold concentrations for a variety of environmentally toxic contaminants based on national ambient water quality criteria (AWQC). These criteria are derived from empirical toxicity data and are stringent enough to protect the most sensitive species potentially exposed to a contaminant in a waterbody. However, since different waterbodies, and organisms that live in them, vary in sensitivity to contaminants, AWQC may prove to be over- or under-protective in some aquatic systems. Thus, AWQC may poorly reflect effect concentrations in specific surface waters where conditions are different from those under which AWQC were developed (i.e., laboratory waters).</p> <p data-bbox="821 886 1503 1339">Because of these differing conditions, Federal regulations (40 CFR 131.11) allow adjusting AWQC to reflect site-specific or local environmental conditions. According to the US EPA, "site specific criterion derivation may be justified because species at the site may be more or less sensitive than those in the national criterion document," or ". . . differences in physical and chemical characteristics of water have been demonstrated to ameliorate or enhance the biological availability and/or toxicity of chemicals." As such, site specific criterion derivation is intended to come closer than national criteria in providing the necessary level of protection to aquatic life at the site by taking into account the</p>	<p data-bbox="1524 318 2047 1339">Development of a Site Specific Objective is usually initiated by a formal request from member(s) of the regulated community seeking regulatory relief. Such requests are considered by the Regional Board based on the justification provided by the project proponent as detailed in the SIP. Recently, the Regional Board has adopted SSOs for ammonia in the San Gabriel, Los Angeles, and Santa Clara River watersheds (effective April 23, 2009), modified water quality objectives based on site-specific Water Effect Ratios (WERs) for copper in Lower Calleguas Creek and Mugu Lagoon (effective August 23, 2007), and modified permit limits based on copper WERs for the San Buenaventura Wastewater Treatment Plant (effective March 6, 2008). Regional Board staff has also been actively involved in the development of a copper WER to modify copper permit limits for three POTWs that discharge to the Los Angeles River and the Burbank Western Channel, a tributary to the Los Angeles River. Staff has released for public comment a proposed revision to the implementation plan for the Los Angeles River Watershed Metals TMDL and,</p>

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			<p>species composition and water quality characteristics at the site.</p> <p>Many of the waterbodies in the Los Angeles region have different characteristics from waterbodies in other regions. For example, the water-effect-ratio (WER) study conducted for Copper for LA River shows that copper objectives established for the river are overly stringent (by a factor of 4 to 6), depending on the river reach (Cities of LA and Burbank, 2008). The water-effect-ratio has been developed to compensate for site-specific biogeochemical factors such as hardness, alkalinity, organic carbon, etc., which can influence the bioavailability and toxicity of metals (USEPA. 1994). Thus, it is important that site-specific objectives be developed for various water bodies for all pollutants of concern using WER, or other appropriate methods.</p>	<p>specifically, the WLAs assigned to the three POTWs on the basis of the WER. Other SSOs under development in the Los Angeles Region include watershed-wide WERs for the Los Angeles River and its tributaries.</p>
2-13	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>• Form "SSO Study Task Force" consisting of Regional Board staff, discharger community, environmental community, and research institutions.</li> <li>• With the help of the Task Force, conduct an extensive review of the current state of science on SSO issues, and prepare "white paper" guideline on the subject.</li> <li>• Establish site-specific objectives (SSO) for various water bodies for all pollutants of</li> </ul>	<p>The Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (2005) and EPA guidance on WERs (<i>Interim Guidance on Determination and Use of Water-Effect Ratios for Metals</i>. EPA-823-B-94-001. February 1994. <i>Water Quality Standards Handbook: Second Edition</i>. EPA-823-B-94-005a. August 1994 <i>Streamlined Water-Effect Ratio Procedure for Copper Discharges</i>. EPA-</p>

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			<p>concern using appropriate method by conducting necessary scientific studies.</p> <ul style="list-style-type: none"> <li>• Incorporate the SSOs into the Basin Plan through a Basin Plan Amendment.</li> </ul>	<p>822-R-01-005. February 2001) contain sufficient guidance on the developments of site-specific objectives – including WERs.</p> <p>Also see response to comment No. 2-12</p>
2-14	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF DATA, INFORMATION, OR EVIDENCE: Numerous waterbodies in the Los Angeles region have been designated as impaired for water quality and, hence, listed under Section 303(d) of the Clean Water Act for a range of constituents (e.g., 2006 303(d) list), which led to the development of several TMDLs. One of the important steps in TMDL development is the identification of the sources and the estimation of associated loads for pollutants of concern. Recent studies (e.g., Stein and Yoon, 2007) show that a significant portion of the pollutant loadings to receiving waters originate from natural background (i.e., nonanthropogenic sources). These natural sources could be attributed to both the overlying landcover and the underlying geologic formation. For example, trace metals occur naturally in the soil environment and could leach to waterbodies during weathering and hydrologic processes.</p> <p>Vegetation cover has also been known to contribute nutrients. Plants and wildlife have been known to contribute a significant portion of bacteria levels in receiving waters (e.g., Moore et al., 2007).</p> <p>Further, wildfires are becoming increasingly</p>	<p>The Regional Board recognizes that a number of chemical constituents are naturally occurring in the environment. These include, but are not limited to, nutrients (nitrogen and phosphorus), minerals and metals. In some cases, these constituents may be naturally elevated above the water quality objective and may exceed the objective more frequently than currently allowed by the objective. In these cases, it may be appropriate to allow exceedances of the objective comparable to that observed in a reference system.</p> <p>Furthermore, it is important in the development of TMDLs to be able to quantify the background levels of the pollutant of concern when setting waste load allocations and load allocations to achieve the numeric targets in the TMDL.</p> <p>While this issue was not expressly identified as one that should be addressed during this triennial review period, the Regional Board will consider</p>

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			<p>common in southern California and are known to contribute significant pollutant loadings to water bodies (e.g., Stein and Brown, 2008). The effects of fire on hydrologic response and sediment loads in Southern California have been noted for a long time, and historical records show that total runoff volume may increase by 25% and peak storm flow rates may increase five-fold following fires (SAWPA, 2004). Increased storm flow and sediment runoff following fires have been associated with load increases in nutrients, metals, and certain organic pollutants. In addition to the direct effects of runoff from burned landscapes, the ash materials left behind at the burn location can be transported through the air (smoke) or man-made conveyance (deposition of ash at landfill), creating new pollutant effects. Subsequent atmospheric deposition can markedly increase the quantity of various constituents available to storm flows downwind of fires. For example, Sabin et al. (2005) reported that during the severe 2003 Southern California forest fire season, atmospheric deposition rates for copper, lead, and zinc, increased by factors of four, eight, and six, respectively, at an unburned site.</p> <p>Pollutant load contributions from these natural sources are often high and even to the extent of exceeding established water quality standards. Despite such high contributions from natural sources, TMDLs in the LA region are often developed by allocating these contributions to stormwater drain discharges. As a result, these TMDLs are subject to overly stringent load</p>	<p>developing, where appropriate and as resources allow, implementation provisions for water quality objectives where natural sources of a pollutant cause it to be elevated above the current objective, or to exceed the objective more frequently than currently allowed.</p> <p>In addition to increased sediment loading to surface waters, studies suggest that wildfires have the potential to impact surface water quality by increased loading of other pollutants such as nutrients, organic compounds and trace metals. However, the magnitude and the duration of these impacts are not well documented. This information is necessary to account for the influence of wildfires on the ability of surface waters to attain water quality standards. The Southern California Coastal Research Project (SCCWRP) recently initiated a study to investigate the fate of water quality constituents that are released during wildfires in southern California. The study will include quantification of the effects of post-fire runoff on downstream loads of metals and organic compounds. The study will also investigate contributions of runoff from burn areas relative to other sources such as ash fallout. Regional</p>

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			<p>allocations to ultimately meet numeric targets. To fully evaluate the effect of anthropogenic activities and guide management decisions, understanding and quantifying the contribution from natural sources and wildfire effects is necessary. It is inappropriate to make municipalities accountable for pollutants that emerge from such natural sources. Necessary studies need to be conducted to quantify loadings from undeveloped catchments and guidelines need to be developed on how to account for natural background conditions in establishing numeric targets in stormwater regulations, including TMDLs and NPDES permits.</p>	<p>Board staff will continually review the state of the science on this issue.</p> <p>The Regional Board may eventually consider developing, where appropriate, implementation provisions for water quality objectives where wildfires and natural disasters cause a pollutant to be elevated above the current objective, or to exceed the objective more frequently than currently allowed.</p>
2-15	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>• Form "Natural Sources Study Task Force" consisting of Regulated Agencies, Regional Board, Environmental community, and Research Institutions.</li> <li>• With the help of the Task Force, conduct an extensive review of the current state of science on natural source issues, and prepare "white paper" guideline on the subject.</li> <li>• Conduct scientific studies that quantify the pollutant loading contribution from natural sources, including wildfires</li> <li>• Develop guidelines for consideration of natural sources in establishing water quality objectives, based on scientific study</li> </ul>	See response to comment 2-14

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			findings.	
2-16	City of Bellflower	Nov 10, 2008	<p>In order to effectively control the adverse impacts of urban stormwater discharge on water quality, determination of the appropriate maximum rainfall depth or runoff volume that need to be captured and treated by structural BMPs is required (NRC, 2008; Shaver et al., 2007). There is a general understanding that design storm events for water quality should focus on capturing smaller storms, which generally contain the highest concentration/load of pollutants. The National Research Council, in its review of the EPA stormwater program (NRC, 2008), identified "water quality design storm" as one of the elements missing in the program, and has recommended that the permitting authority establish guidelines for the selection of water quality design storms for controlling pollution from stormwater discharges. Currently, there are no established design storm guidelines for water quality in the Los Angeles region. This has placed a tremendous challenge on the implementation of a stormwater program in the region. At this time, little is known of the relationship between rainfall and water quality in arid climates, and the question of "what storm size needs to be treated to meet water quality standards in Los Angeles Region" is yet to be answered. Given this, the Regional Board and regulated communities in Southern California have explored this issue and have begun drafting an initial conceptual framework in 2007 (Ackerman et al., 2007).</p>	<p>Staff has been involved with groundwork to develop a policy for addressing peak storm flows and how objectives should apply to infrequent and/or substantial storm flows. Per direction of the Regional Board, in 2005 staff convened a wet-weather task force (WWTF) comprised of representative stakeholders in the Region to identify a menu of project concepts addressing wet-weather concerns as they relate to achieving water quality standards. Development of a design storm standard for water quality was identified by the WWTF as a high priority issue. The design storm concept involves the identification of a storm of specific size, intensity and/or duration to use in the design of stormwater controls to achieve water quality standards.</p> <p>A Project Steering Committee (PSC) was set up to investigate the feasibility of such an approach and SCCWRP and GeoSyntec Consulting were contracted to explore design storm concepts that could be used to implement TMDLs and permit requirements and that would protect and restore water quality in the Los Angeles Region. The focus of the</p>

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			<p>A previous attempt in 2005 by the Regional Board hired SCRRWP, which assembled a Wet Weather Task Force, to formulate wet weather design flow criteria. Because various competing issues were raised in the process, the increased costs exceeded the Regional Board's funding allowance. The efforts, thus, came to a complete halt in 2007. Without storm sizing criteria, the design of stormwater structural BMPs would be difficult and/or result in over- or under-sized facilities.</p>	<p>study was (i) to determine the size of storm to be treated in order to meet water quality targets (concentration or load-based) in the receiving water body, and (ii) to investigate the feasibility of treating storms of the determined size (in terms of technology, cost and other considerations).</p> <p>The study examined two conceptual approaches to developing design storm criteria, and conducted pilot studies to test their applicability. Results of the study indicated that a design storm approach to addressing wet weather water quality would be feasible. However, significant work needs to be done to address technical and policy issues before it can be incorporated into a regulatory framework. Regional Board staff brought the results of this effort before the Board as an information item on December 6, 2007. Further work on this issue will be dictated by the availability of funding from outside sources and Basin Planning staff resources.</p>
2-17	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>• Use the existing (or form a new) "Design Storm Work Group" and conduct the second</li> </ul>	See response to comment 2-16

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			<p style="text-align: center;">phase of the study to develop appropriate design storm criteria.</p> <ul style="list-style-type: none"> <li>• Amend the Basin Plan to incorporate guidelines on water quality design storm.</li> <li>• Establish BMP performance criteria and identify BMPs that achieves the performance criteria.</li> </ul>	
2-18	City of Bellflower	Nov 10, 2008	<p>We request that the Regional Board staff estimate what they believe are the likely costs of complying with the Basin Plan's regulations on our community. This would include providing the City with a conceptual implementation plan, an assessment of potential factors that could affect the cost estimate, including technological uncertainties and monitoring limitations. We would be pleased to review the Regional Board's cost estimate and to provide feedback to the Regional Board on the financial impacts on our community. The City has previously provided an estimate to the Regional Board on the cost of complying with just one TMDL, the San Gabriel River Metals TMDL.</p>	See General Response(s) 1, 2 and 4.
2-19	City of Bellflower	Nov 10, 2008	<p>CONCISE SUMMARY OF DATA, INFORMATION, OR EVIDENCE: California Water Code Section 13000 states, "The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental,</p>	See General Response(s) 1, 2 and 4.

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			<p>economic and social, tangible and intangible." California Water Code Section 13241 states, "Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily be limited to, all of the following: (a) Past, present, and probable future beneficial uses of water. (b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto. (c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area. (d) Economic considerations. (e) The need for developing housing within the region. (f) The need to develop and use recycled water."</p> <p>We believe that the Regional Board must consider the requirements of California Water Code Sections 13000 and 13241, to estimate economic, social and housing impacts of water regulations.</p> <p>The Regional Board has a model economic analysis that it can easily rely upon (Sunding, et al) as a template. The economic review can be designed to find the most cost-effective and environmentally beneficial measures to implement water regulations such as water quality objectives. Many proposed national and state environmental regulations have benefited from this type of discussion. However, the refusal of the Regional Board to review the economics of water regulations, such as the Los Angeles or San Gabriel River Metals TMDL, in either the Triennial Review or during consideration</p>	

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			of the individual TMDLs, is not fair to the municipal permittees and their fiduciary responsibilities to their residents, taxpayers and business community.	
2-20	City of Bellflower	Nov 10, 2008	CONCISE SUMMARY OF SUGGESTED REVISION: Consider the requirements of Porter Cologne (California Water Code) Sections 13000 and 13241, to estimate economic, social and housing impacts of water regulations.	See response to comment No.2-19
3-1	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	The City believes it is important to note that this triennial review differs substantially from previous reviews, which have been, for the most part, perfunctory exercises. What makes this review so special is that the Regional Board is also under a judicial mandate to assure that the triennial review is conducted in a manner that corrects the several defects of the Basin Plan including TMDLs that have been incorporated therein.	See General Response(s) 1
3-2	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	The judicial mandate requires during the course of a "re-opened triennial review or during the next triennial review" that Regional Board comply with the following:  i) review and, where appropriate, revise Water Quality Standards in the Basin Plan, which apply or are to be applied to stormwater and urban runoff (collectively stormwater), in light of factors and requirements set forth under Water Code sections 13241 and 13000, including, but not	See General Response(s) 1

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			<p>limited to the specific factors and requirements set forth under Water Code sections 13241 (a)-(f) and the considerations provided under Water Code section 13000;</p> <p>ii) to revise the Standards that apply or are to be applied to Stormwater, such that no "potential" use designations for such Standards remain in the Basin Plan; and</p> <p>iii) to revise the Standards, as appropriate during the Triennial Review process after a full and fair public hearing or hearings process and before concluding the triennial review.</p>	
3-3	<p>City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte</p>	Nov 10, 2008	<p>The City is reiterating the requirements of the judicial mandate to emphasize the fact that there are some corrective actions that the Regional Board must take before the City and others can provide input on possible additions or revisions to water quality standards which are then to be prioritized by the Regional Board. In many instances, municipal permittees do not have the data to support a revision to a water quality standard as it relates to stormwater. This is something that needs to be addressed on a larger scale that would require the resources of not only affected parties, particularly municipalities, but also of the Regional Board as well. In other words, this triennial review requires an effort directed at making significant changes to the Basin Plan, rather than making minor revisions as has been the case in the past.</p> <p>The City is of the view that this cannot be done until</p>	See General Response(s) 1 and 4.

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			<p>the Regional Board has complied with the judicial mandate. The City, therefore, recommends that the Regional Board:</p> <ul style="list-style-type: none"> <li>i. strike-out all references to potential use designations in a draft revised Basin Plan;</li> <li>ii. produce document identifying all TMDLs that were incorporated in the Basin Plan and contained references to potential uses, which should be re-opened, corrected, and re-adopted; and</li> <li>iii. develop a framework with input from interested parties to revise water quality standards (hereinafter WQS) to be applied to stormwater including but not limited to economic impacts and housing impacts, not just region-wide, but specific to each municipal permittee.</li> </ul> <p>The City is proposing, in other words, a scoping-out of Basin Plan issues relating to stormwater as a <u>first step</u> in meeting the judicial mandate.</p>	
3-4	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	Suggestions For Constructing A Framework for Revising WQS As They Relate To Stormwater Review the applicability of water quality standards to stormwater starting with water quality objectives (hereinafter "WQOs") and then with beneficial use designations.	Water quality standards are set to protect designated beneficial uses of waters and, therefore, apply to receiving waters. They are not developed for particular types of discharges per se. Water quality standards are then implemented through a variety of mechanisms such as waste discharge requirements (i.e. permits) for different types of discharges. Waste discharge

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				<p>requirements must ensure that water quality standards are achieved in the receiving waters. Also see General Response(s) 1.</p>
3-4A	<p>City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte</p>	Nov 10, 2008	<p>Water Quality Standards and Stormwater WQSs consist of WQOs and beneficial uses. WQOs in the Basin Plan include regional objectives for inland surface waters; regional narrative objectives for wetlands (hydrology and habitat); Regional Board objectives for groundwaters, statewide objectives for ocean waters; and site-specific objectives. Beneficial uses include municipal and domestic water supply (MUN); groundwater recharge (GWR); water contact recreation (REC1); Non-contact Water Recreation (REC2); Wildlife Habitat (WILD); Warm Fresh Water Habitat (WARM); and Rare, Threatened, or Endangered Species (RARE). TMDLs are required when a water quality standard is exceeded, which assumes that an impairment to a beneficial use is created. The problem is not so much with the WQOs, but instead is with the beneficial uses and how the impairments to them are determined.</p>	<p>See General Response(s) 3</p> <p>Nevertheless, impairments to beneficial uses of a waterbody are determined by assessment of water quality conditions within the waterbody in accordance with Section 303(d) of the Clean Water Act. These assessments are conducted on a biennial basis and are based on applicable data submitted by stakeholders and other data available to Regional Board staff. Impairments are identified following the protocol provided in the State’s “Water Quality Control Policy for Developing California’s Clean Water Act Section 303(d) List” (Listing Policy) and are based on a minimum frequency of exceedance of the water quality criteria.</p>
3-5	<p>City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of</p>	Nov 10, 2008	<p>The national water quality criteria established in 1972 under the Clean Water Act - just 3 years before the adoption of the Basin Plan - was intended to be protective of the beneficial uses of the nation's waters. But as a long-time expert on urban runoff has observed:</p>	<p>Many of the national recommended water quality criteria for priority (toxic) pollutants have been updated since the 1970s, and these revised criteria have subsequently been adopted as water quality objectives by the Regional Board, or promulgated by US EPA (e.g.</p>

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	Whittier, City of South El Monte		<i>"... this has led to worst-case-based water quality criteria that presume all forms of a contaminant to which organisms are exposed are toxics available to adversely affect beneficial uses of the water, and that organisms receive chronic (long term or critical life-stage) exposure to the available forms of the contaminant."</i>	ammonia, 126 priority pollutant criteria established in the California Toxics Rule). As EPA updates other water quality criteria, the Regional Board will consider them as resources allow. Also, see General Response(s) 3.
3-6	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	One of the problems with the Basin Plan is that it is oriented towards sewer discharges. USEPA water quality criteria - as well as numeric standards upon which they are based - were not developed for urban runoff. They were, instead, based on protecting aquatic life under conditions associated with continuous discharge of toxic forms of contaminants typically associated with wastewater treatment facilities. Stormwater, as it has been shown, is largely non-toxic to organisms in receiving waters because of their exposure to runoff is short-term and episodic.	The commenter is incorrect. U.S. EPA water quality criteria and the Basin Plan objectives adopted based on these criteria were developed based on extensive data and scientific research on the impacts of pollutants, regardless of their source, on beneficial uses including aquatic life and human health. For aquatic life, both acute and chronic impacts are considered. Acute criteria are based on a 1-hour average concentration, while chronic criteria are most often based on a 4-day average concentration. It is not uncommon for the effects of wet weather events in Southern California to last for several days, with the potential for causing chronic impacts to aquatic life.
3-7	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City	Nov 10, 2008	Some will argue, however, that some pollutants, such as bacteria contained in dry weather non-stormwater discharges from storm drains that discharge into Santa Monica Bay Beaches, causes illness in humans. This belief has led to the adoption of a dry weather TMDL to protect	The commenters are incorrect. Based on epidemiological studies, including a major one conducted in Santa Monica Bay <i>during the summer months</i> , elevated bacteria densities in beach water have been definitively linked to

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	of Gardena, City of Whittier, City of South El Monte		REC1 and REC2 beneficial uses. However, it has yet to be proven conclusively that bacteria in runoff conveyed through storm drains is the source of illness. It is important to note that the highest bacteria counts in Santa Monica Bay Beaches occur during the summer. Summer means more bathers, boat users, swimmers, and surfers. It can also mean more human excreta. Beyond this, more sunbathers at the beach could mean more food for birds and an increase in avian fecal deposits to the surf. Yet, the Regional Board has not looked at this as a possible cause. This is not to say that non-storm water discharges from storm drains to ocean waters are not responsible; it just means that further study is needed.	increased illnesses in humans. Additionally, the epidemiological study at Santa Monica Bay beaches specifically evaluated differences in health risk from swimming near a storm drain versus at a distance from a storm drain, and found a marked increase in human illness from recreating near a flowing storm drain. Additionally, the commenter is incorrect regarding bacteria counts being the highest in the summer. Routine shoreline monitoring and special studies conducted by SCCWRP have shown that bacteria counts are highest during wet weather, which typically occurs during the winter. These same data also confirm that discharges from the MS4 are the major source of bacteria to the surf zone; bacteria counts in the surf zone adjacent to storm drains are significantly higher than those in the surf zone where there are no nearby storm drains. The perceived need for further study of sources does not remove the need to control known sources.

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3-8	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	<p>Recommendation #1</p> <p>The Regional Board should verify that a stormwater discharge emanating from a municipal permittee is causing a beneficial use impairment not by assumption (i.e., that the stormwater discharge is exceeding a state or federal water quality objective/standard), but by scientific analysis. For example, the Los Angeles River metals TMDL points to Reach 1 of the Rio Hondo River as being impaired for WARM (includes fish). However, the TMDL furnishes no justification for this conclusion. There is no indication that acute toxicity tests were done on fish specific to this water quality segment. Until that can be demonstrated, the TMDL should be relegated to a preliminary TMDL, which cannot be finalized until authoritative, objective data has been generated to determine whether the TMDL is warranted.</p>	<p>Section 303(d)(1)(A) makes it clear that a water body is impaired if existing conditions “are not stringent enough to implement any water quality standard applicable to such waters.” Section 303(d)(1)(C) requires the TMDL to be “established at a level necessary to implement the applicable water quality standard.” To use the commenter’s example, Rio Hondo Reach 1 is on the 1998 303(d) list for metals based on exceedances of criteria for aquatic life use support (US EPA National Ambient Water Quality Criteria 1986, with updates.) The data supporting this listing is contained in the 1996 Water Quality Assessment and Documentation. Thus, the conclusion that the WARM beneficial use for Rio Hondo Reach 1 is impaired by metals, and the requirement to develop a TMDL to address this impairment, are justified. The TMDL source assessment and linkage analysis demonstrate that stormwater is a significant source of metals loading to the river and is therefore a cause of the WARM beneficial use impairment. Furthermore, as a point source discharge to the river, municipal stormwater discharges must be assigned a waste load allocation as part of the TMDL.</p>

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3-9	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	<p>Recommendation #2 The Regional Board should hold one or more workshops exclusively dedicated to a <u>scoping</u> of beneficial uses. REC1 and REC2 for example need to be eliminated from those receiving water segments where such uses have been made impossible, for example, their primary use as flood control channels, which are generally off-limits to the public. Other uses that should be reviewed include WARM and SHELL where such uses simply do not and cannot exist. By clearing out non-applicable beneficial uses, affected parties would be better able to focus on actual beneficial use impairments.</p> <p>It is also strongly recommended that a focused discussion be given to establishing flood control as a bona fide beneficial use. Even though flood control does not depend on water quality, it is nevertheless a compelling beneficial use as is hydropower generation, industrial process supply, and industrial service supply, which are also uses that do not depend on water quality.</p>	<p>See response to comment No. 1-4</p> <p>Where <u>specific and adequate</u> data are submitted to justify a re-evaluation of a <u>particular</u> beneficial use for a <u>specific waterbody segment</u>, the Regional Board will consider reviewing the beneficial use as resources allow.</p> <p>Regional Board staff continues to acknowledge that flood control is a reality that is necessary to factor into some of the Board’s decisions (e.g., the Board’s adoption of a suspension of recreational uses and associated bacteria objectives in engineered channels during wet weather; the Board’s ongoing 401 certification of routine and emergency operation and maintenance of flood control channels). However, staff does not agree that “flood protection” is a “beneficial use” of waters of the State as beneficial uses are defined in the federal Clean Water Act or the California Water Code. Flood protection is not considered a “use” of the water as are drinking, swimming, and fishing, and it does not fit into the regulatory structure in this way. That notwithstanding, even if it were appropriate for flood protection to be a “beneficial use”, it would not remove the requirements to protect other</p>

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				designated beneficial uses of waters of the State.
3-10	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	<p>Recommendation #3</p> <p>The Regional Board should amend the Basin Plan to include "reaches" as is the case in TMDLs. The TMDLs reference "reaches" with a numeric prefix. A reach is a water body segment (e.g., Reach 4 of the Los Angeles River runs from Sepulveda Dam to Riverside Drive). However, there is no analogous reference in the Basin Plan. In the beneficial use tables of the Basin Plan water body segments are expressed in terms of hydro units. <u>As a result, it is difficult to know the specific beneficial uses for each reach and if they are warranted.</u> To correct this deficiency, the regional board should add a "reach" column in the beneficial use tables that could be placed right next to the "hydro unit no." Specifying reaches would facilitate specific identification of water bodies that are actually impaired by a pollutant. So doing would enable municipal permittees and other dischargers (including holders of industrial and construction permits) to develop appropriate BMPs to correct the impairment.</p>	The boundaries of many watersheds, groundwater basins and reaches within water bodies have been modified since the 1994 Basin Plan update. As a result, the maps and beneficial use tables in the current version of the Basin Plan need to be updated. This issue has been recommended as a project to be addressed during the current triennial review period.
3-11	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of	Nov 10, 2008	<p>Recommendation #4</p> <p>The Regional Board should specify in the Basin Plan how each pollutant for which a TMDL has been assigned impairs a <u>specific use</u> within a specific reach of a water body. The impairments mentioned in various TMDLs are generalized. None of them provides a clear description of how the pollutant, for which a daily numeric target has been established,</p>	The Regional Board does in fact specify how each pollutant for which a TMDL has been assigned impairs a specific use within a specific reach of a water body. This is done through the 303(d) listing process and the TMDL problem statement. The documentation for the 303(d) listing process explains how an

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	South El Monte		<p>specifically causes impairment to a beneficial use within a specific reach. There should be an explanation, based on local data (rather than extra-regional data) of how cadmium, copper, lead, zinc, selenium exceedances in stormwater runoff impair any of the stated beneficial use designations. A case in point is the Los Angeles River metals TMDL:</p> <p><i>The lead listings are from the 1998 303(d) list and are for Monrovia Canyon Creek, Rio Hondo (Reach 1), Compton Creek, and the Los Angeles River (Reaches 1, 2, and 4). There are no new data for Monrovia Canyon, Rio Hondo or Compton Creek.</i></p> <p>There is no explanation in this TMDL - or in the current 303(d) list -- of how lead impairs the beneficial uses for each of the specific water body segments. Without knowing what is being impaired it is impossible to: (1) validate the need for the TMDL; and (2) to address the TMDL through BMPs (source control and structural) that would need to be implemented within drainage areas that discharge into the affected water body or reach in order to meet the TMDL's numeric target.</p> <p>If lead in Compton Creek impairs MUN, GWR, REC1, WARM, WILD, and WET, there should be an explanation of how it does so specifically, vis-à-vis each use. If the wetland within Compton Creek is affected by lead, an explanation should be provided as to how the wetland, as a protected beneficial use, is impaired by lead. Once this is firmly</p>	<p>exceedance of a water quality objective impairs a beneficial use and how water quality standards are not attained. Beneficial uses are designated for specific reaches in the Basin Plan. Water quality objectives are established for the reasonable protection of beneficial uses. Thus, exceedances of water quality objectives constitute an impairment of beneficial uses for a specific reach. The 1986 US EPA National Ambient Water Quality Criteria, upon which the 1998 listings for metals in various reaches of the Los Angeles River were made, and the California Toxics Rule (CTR) criteria, which form the basis for the Los Angeles River Metals TMDL numeric targets and waste load allocations, were based on many diverse aquatic toxicity studies and exposure information to determine chronic and acute toxicity criteria. These criteria are set at levels that reflect when toxic pollutants are present in toxic amounts. In other words, to use the commentor's example, if lead is present in Monrovia Canyon Creek, Rio Hondo (Reach 1), Compton Creek, and the Los Angeles River (Reaches 1, 2, and 4), at levels higher than the lead criterion, then those waterbodies are toxic to aquatic life and the WARM beneficial use is impaired.</p>

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			<p>established, the City's stormwater pollution manager can recommend a suite of BMPs, source and structural controls to mitigate the problem. For example, the City could recommend the adoption of an ordinance that would prohibit the use of lead weights on tires or target industrial facilities that may use lead in connection with manufacturing or other activities. Runoff from targeted facilities could then be required to install clarifiers connected to the sewer system or on-site structural controls to pre-treat and then infiltrate runoff. This would be a cost-effective alternative to requiring structural and nonstructural BMPs throughout a permittee's jurisdiction.</p>	
3-12	<p>City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte</p>	Nov 10, 2008	<p>Revising Stormwater Water Quality Standards In Conformance With Water Code Sections 13000 and 13241</p> <p>The Regional Board has not in its letter solicited comments on how it should comply with "specific factors set forth under Water Code sections 13241 (a)-(f) and the considerations under Water Code section 13000." Collectively these sections demand factoring in economics, housing, and water recycling in establishing reasonable water quality standards. It would be difficult, if not impossible, to tackle such an enormous subject here. Several workshops will be needed to squeeze-out the issues and provide recommendations to addressing them. <u>The City recommends that the Regional Board not conduct such analyses - economic analysis especially -- in-house and without seriously taking</u></p>	See General Response(s) 1

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			<u>into consideration recommendations from municipal permittees as "local agencies."</u>	
3-13	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	<p>Recommendation #1            To resolve the aforementioned issues a workshop or a series of workshops should be convened by the Regional Board to discuss the following:</p> <p>i) How to best determine each municipal permittee's compliance responsibility given the extent to which stormwater discharges generated within it actually impair a bona fide beneficial use of a specific water quality segment. Essential to this discussion is eliminating potential use designations; reviewing the accuracy and appropriateness of beneficial uses; and identifying reaches/water quality segments where municipal permittees discharge into. Once this analysis is completed each municipal permittee can determine how much TMDL compliance will cost. Once TMDL costs are established, each municipal permittee could then determine the impact of such costs and programs and services.. The method determining cost impact should be standardized for all impacted municipalities. The results would facilitate weighing the need to protect beneficial uses against the need to provide vital services. This would lead to identifying water quality standards that can be reasonably attained.</p> <p>ii) How to best determine the cost impact of complying with stormwater WQSs on specific City provide programs and services. A workshop is</p>	See General Response(s) 1 and 2.

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			<p>needed to establish a standard methodology and criteria to evaluate cost impacts on police, fire, public works, library, recreation, etc. Discussion needs to focus on prioritizing programs and services that are likely to be adversely affected by a reduction in the budget needed to pay for compliance.</p> <p>iii) How to best determine the cost impact of complying with stormwater WQSs on the regional economy. A massive expenditure of municipal funds to pay for structural infiltration and/or treatment controls is bound to have an impact on the local economy. It is a "robbing Peter to pay Paul" issue. The expenditure of billions of dollars on TMDL compliance by subject municipalities and Caltrans is bound to affect other sectors of the regional economy. For example, a reduction in street maintenance would affect businesses that would depend on this municipal function, such as street materials (e.g., asphalt and gravel) production and sales; the manufacture and sale of specialized road construction equipment; civil engineering consultants; and firms that perform road construction work. Loss of business would likely result in an increase in unemployment, which would cause a rippling effect through out the economy. A reduction in this and other public works services could also result in higher unemployment for municipal employees as well as those who are employed in the private sector. A workshop is needed to "scope-out" these impacts. The results from this exercise would be used to determine if the</p>	

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			cost of implementing stormwater WQSs to attain the highest water quality in the region are in fact reasonable.	
3-14	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	<p>Recommendation #2</p> <p>The need for housing in the region is another consideration specified in the Water Code that should be addressed in a series workshops. The workshops should include the Southern California Association of Governments (SCAG) and regional Council of Governments (COGs), along with municipal planning and redevelopment agency personnel. Municipalities through redevelopment actions contribute significantly to increasing the supply of housing. The cost of complying with TMDLs and other numeric limits to protect stormwater WQSs could reduce a municipality's ability to provide an adequate supply of affordable housing to keep up with population growth. Municipalities do this through redevelopment programs, which include the purchase of old and/or blighted property or uses that are no longer viable and replace them with housing and mixed-use developments.</p>	See General Response(s) 1
3-15	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City	Nov 10, 2008	<p>Recommendation #3</p> <p>The Regional Board, in consultation with municipal permittees and other interested parties should retain outside expertise to assist in determining cost impacts on the local and regional economy and housing supply and</p>	See General Response(s) 1

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	of Gardena, City of Whittier, City of South El Monte		associated with stormwater WQSs. The City also strongly advises against the Regional Board attempting to use in-house staff resources to perform these tasks	
3-16	City of Claremont, City of Inglewood, City of Irwindale, City of Commerce, City of Duarte, City of Glendora, City of Gardena, City of Whittier, City of South El Monte	Nov 10, 2008	The City also incorporates by reference the correspondence, exhibits and documents submitted on behalf of the Executive Advisory Committee for the Los Angeles County MS4 Permittees (November 10, 2008 EAC letter from Dr. Gerald Greene), as well as the correspondence from Mr. Richard Montevideo (November 10, 2008 letter from Rutan & Tucker).	Comment noted. See responses to specific letters below.
4-1	City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson	Nov 10, 2008	We believe that it is crucial that the Basin Plan be revised in accordance with all applicable state and federal statutes, provisions, and regulations because the Basin Plan directly affects this region's compliance with water quality standards, particularly as they apply to storm water. The City has identified its primary points for discussion the following sections. As an initial point, however, the City supports and incorporates comments submitted by other involved and related stakeholders including those submitted previously, for example those submitted to Dennis Dickerson and dated July 3, 2003, as well as comments contained in the "Record of Administrative Review on the Basin Plan," prepared by Environmental Defense Sciences (Susan Paulsen, <i>et. al</i> , February 2003).	Comment noted. See Response to Comment(s) 1-1.

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4-2	City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson	Nov 10, 2008	<p>Initial Comments and Suggested Basin Plan Revisions</p> <p>The City initially notes, as suggested by many affected parties, that many aspects and provisions of the current Basin Plan were adopted and/or incorporated without full consideration of all legislatively required procedures; specifically Section 13241 of the California Water Code (Water Code). In the brief time that the parties were provided to review and comment on one of the most pivotal and guiding regulatory documents in this field, the City has identified five (5) overarching issues that the Board must reconsider. These include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>A. Beneficial Uses Designations;</li> <li>B. Implementation of Water Quality Objectives;</li> <li>C. Economic Considerations;</li> <li>D. Tributary Rule; and</li> <li>E. Standardization of Permit Requirements</li> <li>F. Scientific Research and Development</li> </ul>	See Response to Comment(s) 1-2 and General Response(s) 1
4-3	City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City	Nov 10, 2008	Because of the short time that the Board has provided for review and comment, the City reserves, where applicable, the right to update, add, revise, modify, alter, amend, and resubmit comments at or during the upcoming proceedings.	See response to comment No. 1-3

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4-4	City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson	Nov 10, 2008	A. Beneficial Uses Designations A reassessment of the use and application of beneficial use categories, "Water Contact Recreation, or REC-1," and "Non-contact Water Recreation, or REC-2," in the Los Angeles region is required due to the highly urbanized nature of the watersheds. We request that the Water Quality Control Board, Los Angeles Region (Board) review and reconsider the overly broad application of this designation to segments of all area watersheds. Currently, the Basin Plan's beneficial use categories are not sufficiently refined to differentiate between water body types, conditions and settings of the types typically found in this area; specifically highly urbanized areas with little or no remaining open space or areas and where flood control and drainage are the only segment water conveyance use. With the designation of these waters as REC-1 and REC-2, it would suggest that these water bodies are suitable for full body contact and recreational activity. Here however, the Basin Plan and related water quality objectives fail to consider that many of these water bodies are concrete lined flood control channels used to convey storm water and urban runoff and that most, if not all, access to these conveyances is prohibited by law.	See response to comment No. 1-4
4-5	City of Lawndale, City of Norwalk, City of Palos		Although the City recognizes that the Board used Section 101(a) (2) of the Federal Clean Water Act (CWA) to form the basis for the beneficial use	See Response to Comment(s) 1-5 and 1-6 and General Response(s) 1.

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	Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson		<p>designations for surface waters of the State, we believe that the Board failed to fully assess the actual or "probable use" of these water bodies. Such consideration would require:</p> <ul style="list-style-type: none"> <li>a) <u>plans</u> to put the water to such future use,</li> <li>b) <u>actual potential</u> to put the water to such future use,</li> <li>c) <u>designation of a use</u> by the Regional Board as a regional water quality goal, or</li> <li>d) <u>public desire</u> to put the water to such future use.</li> </ul> <p>The City believes that current designated beneficial use categories are not reflective of actual, potential, or "probable" use. The City also believes that the Board should, as a leader in the storm water regulatory field, develop and adopt a category or designation for flood control purposes. Such a category could then account for the actual regional use of storm water conveyance systems except for those limited areas where the actual or probable contact for recreation would occur. By revising the application and applicable categories to actual and potential uses, the City and co-Permittees to the NPDES MS4 Permit would then not be responsible for unreasonable expenditures of public resources; a mandate clearly contrary to legislative intent. The City recommends and supports a re-evaluation of the designated uses and development of new uses based upon the established principals and standards set out above.</p>	

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4-6	City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson	Nov 10, 2008	B. Implementation of Water Quality Objectives Section 13241 of the Water Code specifies that each Board establish water quality objectives. The Water Code defines water quality objectives as, "the allowable limits or levels of water quality constituents or characteristics which are established to reasonably protect the beneficial uses of water or the prevention of nuisance within a specific area." Therefore it is imperative that water quality objectives be reassessed to ensure that they are based upon a sound scientific foundation and upon clearly defined terms of frequency, magnitude, and duration. The City recommends that the Board review, consider, and incorporate water quality objectives that reflect natural and ambient conditions of this watershed and which are consistent with Water Code Section 13241, et. seq. This re-assessment and re-evaluation will help to determine the extent to which regulation of human activities can actually, measurably, and usefully foster water quality protection.	See Response to Comment(s) 1-7 and General Response(s) 1
4-7	City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson	Nov 10, 2008	C. Economic Considerations Water Code Section 13241 requires the Board to consider the economic impacts, and whether the water quality objective can be reasonably achieved. Section 13241, in part, states:  "Each regional board <u>shall</u> establish such water quality objectives in water quality control plans as in its judgment will ensure the <u>reasonable</u> protection of beneficial uses.... Factors to be considered by a	See General Response(s) 1 and 4.

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			<p>regional board in establishing water quality objectives <u>shall include</u>, but not necessarily be limited to, <u>all of the following</u>:</p> <p>(a) Past, present, and probable future beneficial uses of water;</p> <p>(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto;</p> <p>(c) Water quality conditions that <u>could reasonably be achieved</u> through the coordinated control of all factors which affect water quality in the area; and</p> <p>(d) <u>Economic considerations:...</u>"</p> <p>The water quality objectives in the current Basin Plan fail to take feasibility and economics into consideration, as required by this section. As an example of the lack of a full economic review and consideration to local economies, "as could reasonably be achieved" through water quality objectives, the Board's own staff reports for various Total Maximum Daily Loads (TMDLs) estimates that compliance with the Los Angeles River Metals TMDL will cost local governments \$2.4 billion. No analysis and review on the effect to <u>housing, jobs, land use</u> or <u>other important concern</u> are formally addressed. Similarly, the Board's own estimate for the compliance costs of the Los Angeles Trash TMDL was \$1.1 billion. No practical analysis or consideration of the impact of these costs to local governments was requested or included by the Board in that TMDL.</p> <p>Currently the implementation costs, including the</p>	

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			<p>requisite scientific studies, investigations, and analyses, are either passed on to homeowners through local property based taxes or absorbed by local governments as general fund costs - directly competing with fire, police, and other social service programs. In a time where budgets are restricted amongst federal, state, and local governments, the Board must consider the water quality goals/objectives as related to the current and future economic impacts.</p>	
4-8	<p>City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson</p>	Nov 10, 2008	<p><b>D. Tributary Rule</b>            There are no provisions within the Basin Plan to prevent beneficial use designations from being erroneously extended to virtually every water body's tributary system, (e.g. extending the downstream uses to the upstream tributaries). The Basin Plan states that "those waters not specifically listed, usually the smaller tributaries, are designated with the same beneficial uses as the streams, lakes, or reservoirs to which they are tributary." The City supports the recommendations made in the Administrative Record, dated 2003, that the Tributary Rule should be revised to reasonably protect designated beneficial uses without extending, at enormous potential expense, regulatory requirements to each and every upstream drainage basin within the Los Angeles Region. For example, the Tributary Rule should be applied only where there is an actual and recorded hydrologic connection - not just in response to storm events or where commingling of water and</p>	<p>Since not all water bodies are individually listed in the Basin Plan, Chapter 2 includes a statement to extend protection to water bodies not specifically identified in Tables 2-1 through 2-4 (generally smaller streams and creeks). It states that "those waters not specifically listed (generally smaller tributaries) are designated with the same beneficial uses as the streams, lakes, or reservoirs to which they are tributary. This is commonly referred to as the 'tributary rule'." A similar rule applies to groundwater basins (i.e. the beneficial uses of downgradient basins are applied to upgradient basins). (See Basin Plan, p. 2-4; Table 2-1, Footnote a; Table 2-2, Footnote ac; Table 2-3, Footnote a; Table 2-4, Footnote a.) If available resources allow, the Regional Board may in the future clarify the</p>

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			<p>aquatic life is possible. We ask the Board to reassess the extension of water quality objectives to tributary systems in accordance with generally accepted scientific principles.</p>	<p>Board's application of this rule in regulatory decisions to correct misconceptions about the application of this rule. Until such a time, it will be dealt with on a case-by-case basis.</p>
4-9	<p>City of Lawndale, City of Norwalk, City of Palos Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson</p>	Nov 10, 2008	<p>E. Standardization of Permit Requirements As noted in the current Los Angeles County wide NPDES Permit No. CAS004001, [adopted by Order No. 01-182 (December 13, 2001 and as Amended on September 14, 2006<sup>5</sup>), generally provides that storm water discharges originates from all land use in the hydro- and geographic basin.<sup>6</sup> Further, the Permit provides that "certain pollutants present in stormwater and/or urban runoff may be derived from extraneous sources that Permittees have no or limited jurisdiction over."<sup>7</sup> However, as indicated in this same paragraph, the implementation measures set forth in the Permit, "is intended to reduce the entry of these pollutants into storm water and their discharge into receivingwaters."<sup>8</sup></p> <p>There are significant deficiencies with respect to regulatory oversight of all point sources and the burdens and responsibilities placed directly on the MS4 Permittees, (e.g., the City). The City would emphasize that the discharge of contaminated storm water from industrial, agricultural, businesses, and construction sources (point sources) wholly outside the regulatory framework of the City can and do directly and adversely impair water quality. These point sources however are not regulated in</p>	<p>See response to comment No. 1-12</p>

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			<p>the same heightened manner and through the same regulatory mechanisms, TMDLs, as MS4 permittees are charged to implement. There is simply no standardization or consistency with respect to MS4 permit provisions, TMDLs, and these point sources. Each pose the same risk, if not more, as those imposed on municipal entities; all resulting in array of inconsistent regulatory oversight. To provide transparency and equality amongst all programs, it is imperative that these point sources be brought to the same level of responsibility and regulatory oversight as other permits, such as the MS4s.</p> <p>This is a known and recognized problem that has yet to be fully addressed. For example, the Board recognizes these deficiencies in its current re-draft of the Industrial Permit. Language in the draft General Industrial Permit states, "[f]ederal law has since been clarified that discharges of storm water associated with industrial activity must achieve strict compliance with water quality standards." It goes on to state that industrial activities require that, "...discharges must comply with water quality standards," and that, "authorized...discharges shall not contain pollutants that cause or contribute to an exceedance of any applicable water quality objective or water quality standard."</p>	
4-10	City of Lawndale, City of Norwalk, City of Palos	Nov 10, 2008	Moreover, the City requests that the Board consider regulating Phase II facilities to ensure responsibility of the quality of discharge from their sites. Currently,	See response to comment No. 1-15

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	Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson		<p>the Phase II permit is not actively enforced. Phase II facilities, including small municipalities, institutions, and correctional facilities, are not being regulated as stringently as MS4 permittees and enforcement terms are not being implemented state-wide to develop consistency amongst the programs. For example, the University of California (UC) system owns campuses which in themselves house water treatment plants, fleet services, parking lots, park systems, housing, police forces, etc, however, these types of Phase II facilities are bound to the same stringent requirements as a city would be. This is just one of many examples of the inconsistencies that exist within the current permit requirements and programs. In both of these instances, the City has limited legal authority and enforcement ability in regulating and controlling the quality and quantity of discharges from facilities (Phase 1 and Phase I ) that are located within City limits and boundaries.</p> <p>Logistically and fiscally, the City has limited legal authority and resources to police and make changes within industrial sites, conduct monitoring and sampling programs, implement industrial inspections programs, and fulfill other requirements mandated by the Board. The City asks the Board to re-evaluate all existing water quality objectives and programs to reflect these additional</p>	
4-11	City of Lawndale, City of Norwalk, City of Palos	Nov 10, 2008	<p>Conclusions, Recommendations, &amp; Suggested Actions</p> <p>The City recognizes and appreciates the Board's</p>	Comment noted. See Response to Comment(s) 1-17.

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	Verdes Estates, City of Hawaiian Gardens, City of Hidden Hills, City of Carson		efforts in developing the currently proposed triennial review priority list, and in soliciting public comment on the Basin Plan, and we recognize the limitations on the Board's resources. In light of these factors, the City would like to be included in a stakeholder-led triennial review and development process. We are confident that the Board, the NPDES MS4 Permittees and the public can work together in addressing these and additional key goals. The process we envision would be compliant with all applicable laws and regulations, particularly those requirements found in Section 13241 of the Water Code.	
5-1	City of Long Beach	Nov 7, 2008	The City of Long Beach has engaged CSC Targhee, Inc. dba Targhee to prepare this request for a coastal aquifer variance provision for mineral quality objectives on its behalf. The extent of consideration for this request is those portions of Long Beach located seaward of the Dominguez Gap Barrier Project west of the Los Angeles River.	Comment noted. The Regional Board will evaluate the request as resources allow.
5-2	City of Long Beach	Nov 7, 2008	In addition, the City of Long Beach requests that staff consider a Basin Plan Amendment that will specifically institutionalize dedesignation of groundwater bodies in the Westside Project Area ("WPA") for beneficial uses.	See response to comment 3-9; however, note that the Regional Board adopted a variance provisions for groundwater mineral quality objectives to address the issue of naturally elevated concentrations of minerals in groundwater due to proximity to the coast. The Regional Board took this action in lieu of de-designating the beneficial uses of the groundwater,

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				given increasing demand and decreasing supply of water supplies in the region.
5-3	City of Long Beach	Nov 7, 2008	<p>Concise Summary of Data, Information of Evidence            The Dominguez Gap Barrier is a vital project owned and operated by the Los Angeles County Department to protect inland aquifers from further degradation. Due to the use of reclaimed water in the Dominguez Gap and West Basin Injection Barriers, the California Department of Health Services prohibits drinking water supply wells in the WPA area of Long Beach proposed for dedesignation. This same coastal aquifer has already been dedesignated as drinking water in the Harbor Area located south of Anaheim Street. The WPA is located directly north of Anaheim Street, south of Pacific Coast Highway and overlies the same groundwater bodies.</p>	Comment noted. See response to comment 5-2.
5-4	City of Long Beach	Nov 7, 2008	<p>Concise Summary of Suggested Revisions            The WPA in Long Beach, California is located seaward of the Dominguez Gap Barrier Project west of the Los Angeles River in the Dominguez Channel Watershed. It overlies a coastal aquifer where elevated concentrations of minerals are caused by natural sources due to the aquifer's proximity to the ocean and drawdown of groundwater from inland aquifers.</p> <p>There has been no beneficial use of the coastal aquifer groundwater bodies underlying the WPA since 1975 the defining period for an "existing use" and is thereby dedesignated as a source of domestic and</p>	See Response to Comment(s) 5-2

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			municipal water supply (MUN), industrial process supply (PROC), groundwater recharge (GWR), freshwater replenishment (FRSH) and agricultural use (AGR).	
6-1	Jurisdictional Groups 5 & 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL. Jurisdictional Group 5 is comprised of five responsible agencies: City of Manhattan Beach (primary jurisdiction), City of El Segundo, City of Hermosa Beach, County of Los Angeles and California Department of Transportation (Caltrans). Jurisdictional Group 6 is comprised of six responsible		<p>Comment 1: Indicator Bacteria Objectives</p> <p>The Basin Plan Amendment which adopted the Santa Monica Bay Beaches Bacteria (SMBBB) TMDL for Dry Weather should be reconsidered to establish allowable exceedances during summer dry weather appropriate to natural conditions and to eliminate the geometric mean targets for purposes of compliance. Substantial public resources, including tremendous amounts of time, money and multi-jurisdictional cooperation efforts, are being expended at meeting water quality objectives under Resolution 02-004 which amended the Basin Plan to incorporate a Dry Weather TMDL that does not reflect the natural conditions of the receiving waters. The summer dry weather SMBBB TMDL objectives do not consider natural conditions and are not amenable to an appropriate implementation plan. In the interest of efficiently and effectively protecting public health and the environment, it is imperative that water quality objectives and standards be properly established in accordance with Water Code section 13000 requiring the regulation of state waters to attain the highest water quality which is reasonable considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.</p>	<p>The Regional Board has identified reconsideration of the Santa Monica Bay Beaches Bacterial TMDLs as a current priority. Part of this reconsideration will include re-evaluating allowable exceedance days based on more recent data, and evaluating how compliance with the geometric mean objectives should be determined. The Regional Board, however, cannot eliminate requirements to comply with geometric mean objectives, since these are Basin Plan objectives, which the TMDL must be designed to achieve.</p> <p>Also see General Response(s) 1 and 2.</p>

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	agencies: City of Hermosa Beach, City of Manhattan Beach, City of Redondo Beach (primary jurisdiction) and City of Torrance, along with the County of Los Angeles and Caltrans.			
6-2	Jurisdictional Groups 5 & 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL		<p>SMBBB TMDL compliance standard for summer dry weather has been set at zero exceedances for all locations, whether the frequency of monitoring is weekly or daily; however, monitoring of the reference beach, which was selected to be representative of natural conditions, demonstrated summer dry weather exceedances under weekly monitoring in three of the last four years.</p> <ul style="list-style-type: none"> <li>• The reference beach exhibited numerous year-round exceedances of the geometric mean in every year during the past four years of monitoring under the SMBBB TMDL Coordinated Shoreline Monitoring Plan (CSMP), yet the compliance standard for the allowable frequency of exceedances of the geometric mean is zero year-round.</li> <li>• There are numerous problems with the use and calculation of geometric mean values for indicator bacteria as a TMDL target. This is</li> </ul>	See response to comment 6-1.

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			<p>particularly true for the Enterococcus indicator in which use of the detection limit under the Enterolert® test method creates a calculated geometric mean value at 1/3 the value of the geometric mean target even for a set of samples in which there was no detection of Enterococcus but the detection limit, itself, is used in the calculation. Geometric mean exceedances occur more often with Enterococcus than other bacteria indicators because the geometric mean target in the water quality objective is set too close to the detection limit under the Enterolert® test method which has been utilized for shoreline monitoring because it produces quickest results thereby better protecting public health. Other problems related to calculation of geometric mean values have resulted from a statistically insufficient number of samples within a 30-day period in accordance with the implementation provisions of the Bacteria Objectives in the Basin Plan.</p> <ul style="list-style-type: none"> <li>• Recent studies have shown that runoff and surface water in "pristine" reference water bodies (where there is little influence from human sources) exhibit high concentrations of these indicator bacteria, often in excess of water quality objectives that the responsible agencies are required to meet.</li> <li>• "If the failure to attain standards is due to the fact that the applicable standards are not appropriate to natural conditions, an appropriate regulatory response is to correct the standards." [SWRCB June 16, 2005]</li> </ul>	

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6-3	Jurisdictional Groups 5 & 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL		<p>The Basin Plan Amendment which adopted the Santa Monica Bay Beaches Bacteria TMDL for Dry Weather should be reconsidered to establish allowable exceedances during summer dry weather that are appropriate to natural conditions and which consider the frequency of monitoring at a particular site with a greater number of allocations allowed at sites which are subject to more frequent monitoring. This is consistent with the State's Water Quality Control Policy for Addressing Impaired Waters under circumstances when natural conditions alone are incompatible with the objectives [SWRCB 2005]. Currently Resolution 02-004 does not provide for re-opening or reconsidering the summer dry weather allowable exceedances.</p> <ul style="list-style-type: none"> <li>• Eliminate the geometric mean as a compliance measure for bacteria TMDLs.</li> </ul>	See response to comment No. 6-1
6-4	Jurisdictional Groups 5 & 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL		<p><b>TMDL Implementation</b>            An adaptive implementation plan formally adopted by the Regional Board is needed for implementation of Resolution No. 02-004 which incorporates a Dry Weather TMDL for Bacteria at Santa Monica Bay Beaches (SMBBB TMDL) as well as for Resolution No. 2002-022 incorporating a Wet Weather SMBBB TMDL. Substantial public resources, including tremendous amounts of time, money and multi-jurisdictional cooperation efforts, are being expended at meeting water quality objectives under Resolution 02-004 and 2002-022 that do not reflect the natural conditions of the receiving waters.</p>	See Response to Comment(s) 2-8 and 6-1.

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			<p>Currently further data and information are needed to establish appropriate bacteria indicators and objectives when sources of indicator bacteria are ubiquitous and associated with natural conditions as well as anthropogenic sources. An adaptive implementation plan formally adopted by the Regional Board will provide an understanding between the Regional Board and the public agencies that public funds are being expended to implement a course of action that is anticipated by the Regional Board to achieve the desired water quality objectives. If the actions taken do not achieve those objectives, the next step should be a revision of the implementation plan with additional actions identified and adopted and/or a reevaluation of the objectives themselves along the lines of Comment 1.</p>	
6-5	<p>Jurisdictional Groups 5 &amp; 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL</p>		<p>In order to expend public funds for implementation of TMDLs, responsible public agencies need assurance that actions taken by the agencies are in accordance with an adopted implementation plan. Implementation plans are required under state law and are a required component of basin plans and TMDLs. According to the Chief Counsel of the State Water Resources Control Board: the Implementation Plan should be adopted concurrently with the other TMDL components, if practicable or within a short time frame thereafter; and furthermore; the TMDL would not be effective until the implementation plan is adopted."[Attwater</p>	<p>The Dry Weather SMB Beaches Bacteria TMDL and supporting documentation include a discussion of implementation, including possible means of compliance, an implementation schedule, and requirements for compliance monitoring, consistent with State Board direction.</p> <p>See also Response to Comment(s) 2-8.</p>

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			<p>1999] "</p> <p>Currently the SMBBB TMDL for Dry Weather has no adopted Implementation Plan and there is no discussion in the basin plan amendment, itself, of anticipated and/or possible means of compliance. Yet in some instances, responsible agencies have received Notices of Violations for exceedances at shoreline monitoring locations where low flow diversions have been installed and are operational in accordance with the implementation approach suggested in the draft staff report for the Dry Weather SMBBB TMDL.</p> <p>The SMBBB TMDL for Wet Weather includes the requirement that the responsible jurisdictions develop and submit an Implementation Plan for the Regional Board's consideration, however the Implementation Plans developed by responsible agencies under the Wet Weather TMDLs were never adopted by the Regional Board, nor has the Regional Board responded to the adequacy of the Implementation Plans.</p>	
6-6	Jurisdictional Groups 5 & 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL		Following negotiation and discussion with Regional Board staff of an iterative adaptive implementation plan centered on technology-based BMPs for Dry Weather SMBBB TMDLs consistent with Porter-Cologne Section 13242, the Executive Officer should present the Implementation Plan for adoption by the Regional Board with the understanding that this plan will be revised as	See Response to Comment(s) 2-8 and 6-5

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			<p>additional information becomes available and a review of the indicator organisms and bacterial objectives occurs.</p> <p>The Regional Board should review, comment and then adopt the Implementation Plans developed by responsible agencies under the Wet Weather SMBBB TMDLs so that the responsible agencies' implementation efforts are in accordance with an adopted implementation plan for compliance.</p> <p>Finding 4 of Resolution 02-004 acknowledges that the State is required to incorporate TMDLs along with appropriate implementation measures. However, there is no provision for the development or adoption of an implementation plan within Resolution 02-004. An implementation schedule is not equivalent to an implementation plan as it does not provide a discussion of the anticipated and/or possible means of compliance. The draft staff report in its discussion of implementation suggests that low flow diversions should achieve the goals; however the draft staff report was not finalized nor was it incorporated by reference into the Resolution.</p>	
6-7	Jurisdictional Groups 5 & 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL		<p>Design Storm and BMP Sizing</p> <p>The Water Boards enabling legislation (Porter Cologne) noted the challenge of balancing the cost of water quality protection against other societal factors. Currently there is no well-established design storm principle for water quality in the Los Angeles region, and this has put tremendous</p>	<p>During the previous Triennial Review, several stakeholders suggested the formation of a Wet Weather Task Force to discuss and identify potential solutions to the challenges involved in complying with water quality standards and total maximum daily loads (TMDLs)</p>

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			<p>challenges on public agencies implementing TMDLs in the region. Regional Board and regulated communities have begun to explore this issue through an initial conceptual frame work. When Basin Plan amendments ignore storm sizing criteria, the design of structural Best Management Practices (BMPs) must either gravitate toward expensive over-sized facilities for compliance purposes which negates the balancing of economic and societal criteria as required under Porter Cologne, or places responsible jurisdiction in jeopardy with respect to TMDL compliance.</p> <p>Even though the Wet Weather SMBBB TMDL has established an allowable frequency of exceedance days for purposes of compliance, this does not provide sufficient basis for design of structural BMPs. The frequency of exceedances was established based on the 90<sup>th</sup> percentile storm year in terms of frequency of wet days; however this is not sufficient to inform design. Structural BMPs must be designed to treat storms of maximum rainfall depth or runoff volume.</p> <p>Board staff should incorporate a water quality and/or storm sizing criteria or requirement into the Basin Plan either through the adoption of individual TMDLs as has been the case with trash TMDLs, or through a standard that would be applicable to most TMDLs within the Los Angeles Basin.</p>	<p>during wet weather. Specifically, the agencies suggested that this task force serve as a forum for identifying and evaluating potential project ideas, including revisions to water quality standards, where appropriate, and mechanisms for complying with water quality standards and TMDLs under wet weather conditions.</p> <p>The Regional Board endorsed this idea, acknowledging the significant challenge in complying with water quality standards and TMDLs during wet weather. At the March 3, 2005 Board hearing to prioritize projects for the Triennial Review, the Regional Board added an item to the list of triennial priorities to convene a wet-weather task force. Specifically, the Regional Board committed to convening a wet-weather task force, initially led by the Regional Board and comprised of representative stakeholders in the Region, to identify a menu of project concepts addressing wet weather concerns as they relate to water quality standards.</p> <p>Staff convened two initial meetings of the Wet Weather Task Force on July 27, 2005 and October 19, 2005. The meetings were attended by representatives of cities, the County of Los Angeles, County Sanitation Districts of Los Angeles County, the construction</p>

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				<p>and building industry, Heal the Bay, and various consultants. The group discussed broad goals for the task force as well as more specific questions and then identified and prioritized project ideas.</p> <p>As a result of these meetings, the WWTF convened a Project Steering Committee (PSC) for a specific project to evaluate design storm criteria for achieving TMDL requirements and water quality standards during wet weather. The members of the PSC include representatives from the County of Los Angeles, City of Los Angeles, County Sanitation Districts, Cities of Downey and Signal Hill, Building Industry Association of Southern California, Heal the Bay, and several consultants, among others. The Regional Board contracted with the Southern California Coastal Water Research Project (SCCWRP) to develop potential design storm criteria and evaluate these concepts and study findings with the Project Steering Committee. The Regional Board, SCCWRP and the PSC met eight times over a period of two years on this project. The initial phase of the project was completed in 2007, resulting in a conceptual framework and pilot modeling application that were</p>

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				<p>endorsed by the members of the PSC.</p> <p>However additional work needs to be taken before the concepts developed in this project can be translated into a Regional Board policy. First, it is necessary to evaluate how consistent the results are across different pollutants, land uses and watersheds. Second, additional data collection and modeling of variability in runoff quality and BMP effluent quality would result in more precise estimates of the probability of achieving a certain reduction in pollutant load or frequency of exceedance of a water quality standard. Finally, there are a number of policy issues related to implementation of design storm criteria such as how the criteria would apply to new development, redevelopment and existing development within a watershed. It will be essential to consider these issues and an implementation strategy before adopting any design storm criteria. Unfortunately, the Regional Board has, to date, been able to secure funding to complete this work.</p>
6-7	Jurisdictional Groups 5 & 6		Indicator Bacteria Objectives Establishing proper scientifically based objectives in	The Regional Board acknowledges, as does EPA, that the state of the science

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	Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL		<p>which stakeholders and regulators have confidence is an important step to success of attaining and maintaining REC-1 beneficial uses. The availability of new information gives cause to review the appropriateness of bacterial indicators used in setting bacteria objectives. It is of utmost importance to the public that the Regional Board places a review of these bacteria indicators and their water quality objectives as a high priority during the current Triennial Review process. Improperly selected indicator bacteria objectives create a situation where impairment to REC-1 beneficial uses has been alleged, but may not actually exist. This results in economic loss not only due to public expenditures for mitigation measures to comply with the SMBBB TMDLs, but also due to loss of recreational use which results from a perceived impairment associated with posting and "beach report card grades" issued by non-governmental organizations for recreational waters at locations where no health risk may actually exist. Conversely, an actual impairment may not be identified due to poor correlation of the indicator bacteria with pathogenic organisms.</p> <p>In recent years a number of water quality monitoring programs and studies have been conducted, including extensive analyses of bacterial indicators in surface waters. These studies have attempted to better understand indicator bacteria in the environment, and locate sources of bacteria so that effective control strategies may be implemented. A number of studies have called into question the</p>	<p>is evolving. There is on-going research on new criteria, including local epidemiological studies and methodological developments in the fields of rapid indicators and microbial source tracking. However, it would be premature to modify standards during this phase of research and development. The Board will continue to follow the progress of the science and will make changes to the bacteria objectives based on EPA's recommendations.</p> <p>With regard to the use of the geometric mean in determining compliance, staff has recommended determination of how bacteria objectives should be applied in determining compliance as one issue that should be addressed during this triennial review period.</p>

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			<p>reliability of the currently indicator bacteria as surrogates for human health risk due to poor correlation with the presence and persistence of pathogenic organisms in marine recreational waters. USEPA recognizes the lack of sound science on this subject and has agreed to conduct necessary scientific studies to establish new indicators for recreational water quality criteria by 2012.</p> <p>The bacteria objectives in the Basin Plan should be revised based on an extensive review of the current science on bacteria issues, studies conducted in southern California and the pending US EPA study.</p>	
6-8	Jurisdictional Groups 5 & 6 Responsible Agencies under the Santa Monica Bay Beaches Bacteria TMDL		<p>The Basin Plan should include a provision to allow adopted TMDLs to be modified and updated with the most recent findings established while developing newer TMDLs for similar impairments in other watersheds. SMBBB TMDLs were the first Bacteria TMDLs developed in this region; and in the process of implementing these TMDLs, the stakeholders have brought to light and analyzed many challenges associated with bacteria TMDLs. The RWQCBs are currently working with other watersheds to develop Bacteria TMDLs that are based on more recent scientific data and input from stakeholders, some of which are associated with issues that have been raised by the Jurisdictional Group 5&amp;6 agencies as well as other jurisdictional groups subject to the SMBBB TMDLs. Where</p>	<p>In developing TMDLs, staff relies on the most recent and scientifically defensible data and information available. In addition, TMDLs contain provisions to allow for the reconsideration of requirements, including waste load allocations and compliance schedules, based on new data and/or other information developed or ascertained after the adoption of a TMDL. Finally, stakeholders have the option of requesting the Board reconsider these TMDLs based on new applicable findings.</p>

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			appropriate, these more recent findings should be considered at the upcoming reconsideration of the SMBBB TMDLs.	
7.1	City of Oxnard	Nov 7, 2008	Clarification of the application of Sources of Drinking Water Policy. Many of the channels monitored are tidally influenced, and are not appropriate existing or potential sources of drinking water;	The Sources of Drinking Water Policy is a statewide policy; therefore, any clarification or modification of this policy should be handled at that level.
7-2	City of Oxnard	Nov 7, 2008	Justification for contact recreation (REC1) beneficial use for Ormond Wetlands	The national fishable/swimmable goal is central to the federal Clean Water Act. The Regional Board is responsible in large part for implementing the provisions of the Clean Water Act by establishing water quality standards in the Basin Plan and carrying out a program of implementation, outlined in the Basin Plan, to achieve the standards. As such, all surface waters in the region are designated with the contact recreation (i.e. swimmable) beneficial use unless a use attainability analysis has been performed per federal regulation to remove the use. Existing uses cannot be removed per 40 CFR 131.10(g). (Existing uses are those that existed as of November 28, 1975.) The Ormond Beach Wetlands are listed in Table 2-4 of the Basin Plan as having an Existing REC-1 use; therefore the use cannot be removed.

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7-3	City of Oxnard	Nov 7, 2008	Delineating the extent of the Ormond Wetlands. The data show the extent of tidal influence, and the impact of breaching of the berm at the wetland/ocean interface;	Regional Board staff is recommending an administrative update of the Basin Plan as one of the issues to be addressed during the current triennial review period. This update may include clarification of the boundaries of estuaries, harbors and enclosed bays, including the transition point(s) to marine/ocean waters and to inland fresh waters.
7-4	City of Oxnard		Clarification of the application of the Tributary Rule, especially as it relates to agricultural drainages and stormwater: conveyance systems Most of the monitored drains are mixed agriculture and stormwater conveyance systems.	See response to comment no. 1-11
7-5	City of Oxnard		Appropriate beneficial uses for wet weather/dry weather flows in storm channels that exclude public access	See response to comment no. 1-4
7-6	City of Oxnard		Address AB411 exceedances related to natural phenomena	See response to comment 2-10 and 6-1.
7-7	City of Oxnard	Nov 7, 2008	In combination with the data submitted by WPD, this data supports S-10 (Explicit protocols should be developed to ensure that Porter Cologne § 13000 and §13241 factors are adequately considered when developing water quality standards), R-33 (Provide a clarification in the Basin Plan on what constitutes waters of U.S. vs. waters of the State), R-22 (Generally, incorporate references to the California Toxics Rule (CTR) and the State Implementation Plan (SIP) into the Basin Plan. More specifically, clarify of the applicability and implementation through	See General Response(s) 1 and 3

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			permits of CTR criteria to stormwater discharges), R-34 (Develop a separate chapter in the Basin Plan to compile existing information on stormwater and stormwater regulation in the Region), and R-2 (Develop a separate chapter in the Basin Plan to compile existing information on stormwater and stormwater regulation in the Region).	
8-1	City of San Dimas	Nov 10, 2008	<p>The City believes it is important to note that this triennial review differs substantially from previous reviews which have been, for the most part, perfunctory exercises. What makes this review so special is that the Regional Board is also under a judicial mandate to assure that the triennial review is conducted in a manner that corrects the several defects of the Basin Plan including TMDLs that have been incorporated therein.</p> <p>i. review and, where appropriate, revise Water Quality Standards in the Basin Plan, which apply or are to be applied to stormwater and urban runoff (collectively stormwater);</p> <p>ii. to revise the Standards that apply or are to be applied to Stormwater, such that no "potential" use designations for such Standards remain in the Basin Plan; and</p> <p>iii. to revise the Standards, as appropriate during the Triennial Review process after a full and fair public hearing or hearings process and before concluding the triennial review.</p>	See General Response(s) 1
8-2	City of San Dimas	Nov 10, 2008	It is our belief that this triennial review requires an	See General Response(s) 1

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			<p>effort directed at making significant changes to the Basin Plan, rather than making minor revisions.</p> <p>This could begin with developing a framework with input from interested parties to revise water quality standards (hereinafter WQS) to be applied to stormwater including but not limited to economic impacts and housing impacts, not just region-wide, but specific to each municipal permittee.</p>	
8-3	City of San Dimas	Nov 10, 2008	<p>Suggestions For Constructing A Framework for Revising WQS As They Relate To Stormwater Review the applicability of water quality standards to stormwater<sup>1</sup> starting with water quality objectives (hereinafter "WQOs") and then with beneficial use designations.</p>	See response to comment No. 3-4
8-4	City of San Dimas	Nov 10, 2008	<p>Water Quality Standards and Stormwater WQOs consist of WQOs and beneficial uses. WQOs in the Basin Plan include regional objectives for inland surface waters; regional narrative objectives for wetlands (hydrology and habitat); Regional Board objectives for groundwaters; statewide objectives for ocean waters; and site-specific objectives. Beneficial uses include municipal and domestic water supply (MUN); groundwater recharge (GWR); water contact recreation (REC1); Non-contact Water Recreation (REC2); Wildlife Habitat (WILD); Warm Fresh Water Habitat (WARM); and Rare, Threatened, or Endangered Species (RARE). TMDLs are required when a water quality standard is exceeded, which assumes that</p>	See response to comment No. 3-4a

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			<p>an impairment to a beneficial use is created. The City believes the problem is not so much with the WQOs, but instead is with the beneficial uses and how the impairments to them are determined.</p> <p>One of the problems with the Basin Plan is that it is oriented towards sewer discharges. USEPA water quality criteria - as well as numeric standards upon which they are based -- were not developed for urban runoff. They were, instead, based on protecting aquatic life under conditions associated with continuous discharge of toxic forms of contaminants typically associated with wastewater treatment facilities. Stormwater, as it has been shown, is largely nontoxic to organisms in receiving waters because of their exposure to runoff is short-term and episodic.</p>	
8-5	City of San Dimas	Nov 10, 2008	<p>Recommendation #1  The Regional Board should verify that a stormwater discharge emanating from a municipal permittee is causing a beneficial use impairment not by assumption (i.e., that the stormwater discharge is exceeding a state or federal water quality objective/standard), but by scientific analysis.</p>	See response to comment No. 3-8
8-6	City of San Dimas	Nov 10, 2008	<p>Recommendation #2  The Regional Board should hold one or more workshops exclusively dedicated to a <u>scoping</u> of beneficial uses. REC1 and REC2 for example need to be eliminated from those receiving water segments where such uses have been made</p>	See response to comment No. 3-9

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			impossible by, for example, their primary use as flood control channels which are generally off-limits to the public. Other uses that should be reviewed include WARM and SHELL where such uses simply do not and cannot exist.	
8-7	City of San Dimas	Nov 10, 2008	<p>Recommendation #3</p> <p>The Regional Board should amend the Basin' Plan to include "reaches" as is the case in TMDLs. The TMDLs reference "reaches" with a numeric prefix. A reach is a water body segment (e.g., Reach 4 of the Los Angeles River runs from Sepulveda Dam to Riverside Drive). However, there is no analogous reference in the Basin Plan. In the beneficial use tables of the Basin Plan water body segments are expressed in terms of hydro units. <u>As a result, it is difficult to know the specific beneficial uses for each reach and, if they are warranted.</u> To correct this deficiency, the regional board should add a "reach" column in the beneficial use tables that could be placed right next to the "hydro unit no." Specifying reaches would facilitate specific identification of water bodies that are actually impaired by a pollutant. So doing would enable municipal permittees and other dischargers (including holders of industrial and construction permits).</p>	See response to comment No. 3-10
8-8	City of San Dimas	Nov 10, 2008	<p>Recommendation #4</p> <p>The Regional Board should specify in the Basin Plan how each pollutant for which a TMDL has been assigned impairs a <u>specific use</u> within a specific reach of a water body. The impairments mentioned</p>	See response to comment No. 3-11

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			<p>in various TMDLs are generalized. None of them provides a clear description of how the pollutant for which a daily numeric target has been established specifically causes impairment to a beneficial use within a specific reach. There should be a credible explanation, based on local data (rather than extra-regional data) of how cadmium, copper, lead, zinc, selenium exceedances in stormwater runoff impair any of the stated beneficial use designations.</p>	
8-9	City of San Dimas	Nov 10, 2008	<p>Revising Stormwater Water Quality Standards In Conformance With Water Code Sections 13000 and 13241</p> <p>The Regional Board has not in its letter solicited comments on how it should comply with "specific factors set forth under Water Code sections 13241 (a)-(f) and the considerations under Water Code section 13000." Collectively these sections demand factoring-in economics, housing, and water recycling in establishing reasonable water quality standards.</p> <p>We believe that the Regional Board needs to factor into the Basin Plan's revision to address stormwater cannot be effectively completed without knowing what the costs. But in order for the City to know these costs it needs to know its compliance cost obligation relative to TMDLs and other numeric limits. At this point, the City does not know its current full cost compliance responsibility relative to TMDLs. Therefore, it must have the data to evaluate whether water quality standards on which numeric</p>	See response to comment No. 3-12

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			limits including TMDLs are based are reasonable.	
8-10	City of San Dimas	Nov 10, 2008	<p>To resolve the aforementioned issues, we recommend a workshop or a series of workshops should be convened by the Regional Board to discuss the following:</p> <p>How to best determine each municipal permittee's compliance responsibility given the extent to which stormwater discharges generated within it actually impair a bona fide beneficial use of a specific water quality segment. Essential to this discussion is eliminating potential use designations; reviewing the accuracy and appropriateness of beneficial uses; and identifying reaches/water quality segments where municipal permittees discharge into. Once this analysis is completed each municipal permittee can determine how much TMDL compliance will cost. Once TMDL costs are established, each municipal permittee could then determine the impact of such costs and programs and services. The method determining cost impact should be standardized for all impacted municipalities. The results would facilitate weighing the need to protect beneficial uses against the need provide vital services. This would lead to identifying water quality standards that can be reasonably attained.</p> <p>How to best determine the cost impact of complying with stormwater WQSs on specific City provide programs and services. A workshop is needed to establish a standard methodology and criteria to</p>	See Response to Comment(s) 3-13, General Response(s) 1 and 4.

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			evaluate cost impacts on police, fire, public works, library, recreation, etc. Discussion needs to focus on prioritizing programs and services that are likely to be adversely affected by a reduction in the budget needed to pay for compliance.	
9-1	City of Thousand Oaks	Nov 5, 2008	The Basin Plan beneficial uses, water quality objectives, and Waste Discharge Requirements must be established in accordance with applicable law. The RWQCB must comply completely with the Clean Water Act and Porter-Cologne, not just selected portions. In particular, cost-benefit, economic and environmental impacts of objectives and effluent requirements, and reasonableness in balance with societal needs, particularly as they apply to stormwater discharges, must be included. The Board should commit to a clear and definitive timetable to achieve that goal.	See General Response(s) 1
9-2	City of Thousand Oaks	Nov 5, 2008	Effluent Dominated and Dependant Waters (EDWs) must be addressed. Most inland wastewater treatment plants in the region discharge to EDWs. These EDWs create habitats and conditions that would otherwise not exist and, by their nature, are distinct from naturally occurring waters. Current Plan objectives reflect conditions that are not relevant or appropriate for EDWs.	Waterbodies that are dominated by discharges of effluent are still Waters of the State/U.S. with designated beneficial uses; these uses must be protected. Effluent discharge has the potential to negatively impact these beneficial uses, including human health, aquatic communities and overall environmental quality. Furthermore, as with discharges to any waterbody, consideration of downstream impacts is federally required and particularly important in the case of EDWs. Since

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				<p>flows from EDWs are diluted less than other discharges, their impacts on water quality and beneficial uses can be greater. In coastal regions, all flows terminate at the ocean or coastal bays, estuaries or lagoons. These areas support a variety of aquatic life and wildlife, including threatened and endangered species as well as sensitive early life stages of these species, and serve as important draws for tourism. In southern California, many streams have been concrete-lined in an attempt to control flooding. Since this is also a semi-arid region, most streams are naturally ephemeral. By eliminating contact between effluent and natural streambeds, important assimilation and attenuation processes are also eliminated. It is essential to recognize and protect against possible impacts such an arrangement can have on downstream resources.</p> <p>While stakeholders have expressed a number of compliance concerns for discharges to EDWs, there is a suite of existing regulatory tools available to address these. In some cases, the concern may be addressed through a statewide policy, while in others the concern may need to be dealt with on a regional or site-specific basis taking into</p>

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				<p>consideration the unique characteristics of the EDW, discharge and beneficial uses.</p> <p>Some of the tools already available or under development include site-specific objectives (SSOs), translators, use attainability analyses (UAAs), tiered aquatic life uses (TALUs), and case-by-case exceptions (under the SIP). Other potential tools that may warrant exploration include limited term variances for certain pollutants. These tools may allow the State Board and Regional Boards to protect the beneficial uses of EDWs, while also addressing the compliance concerns of dischargers to these waters.</p>
9-3	City of Thousand Oaks	Nov 5, 2008	Re-evaluate MUN and Potential MUN beneficial use designations. The current default application of MUN or potential MUN to all waters in the region with no consideration for real use potential will cost the public hundreds of millions of dollars and create unintended environmental and energy consequences with no benefit.	<p>The potential MUN beneficial uses marked with an asterisk in the Basin Plan are only conditionally designated based on EPA's assertion that "the waters identified with (*) in Table 2-1 do not have MUN as a designated use until such a time as the states undertake additional study and modifies its Basin Plan" (EPA memo to the California State Water Resources Control Board ref: "WTR-5", dated February 15, 2002) Therefore these designations will not be applied until such a time as a UAA has</p>

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				been conducted. See also response to comment no. 1-4 regarding limitations on the removal of existing beneficial uses.
9-4	City of Thousand Oaks	Nov 5, 2008	The Plan needs to recognize that Public Safety and Flood Protection are a Beneficial Use. The threat of flooding presents a monumental public safety risk that should be recognized as a Beneficial Use and incorporated into the Basin Plan. At a minimum, the Plan needs to suspend conflicting Beneficial Uses during wet weather events (e.g. REC-1 or REC-2).	See response to comment No. 1-6
9-5	City of Thousand Oaks	Nov 5, 2008	Surface Water Quality Objectives (WQO) need to be consistent with the concentrations present in naturally occurring groundwater. Board staff has interpreted Basin Plan WQOs to be enforceable Standards. When upwelling groundwater (aquifer spillage) doesn't meet WQOs for naturally occurring mineral concentrations there is an inherent flaw either in the determination of those Objectives or in the decision for those objectives to be used as enforceable standards. The City has submitted comments on this issue previously. Regional Board staff has not acted on these comments by stating the City has not provided analytical data or the supporting QA/QC to validate the analytical data. Analytical data and QA/QC for groundwater sampling around the City is attached.	The Regional Board recognizes that a number of chemical constituents are naturally occurring in the environment. These include, but are not limited to, nutrients (nitrogen and phosphorus), minerals and metals. In some cases, these constituents may be naturally elevated above the water quality objective and may exceed the objective more frequently than currently allowed by the objective. In these cases, it may be appropriate to allow exceedances of the objective comparable to that observed in a reference system as the Regional Board has done with the Basin Plan single sample bacteria objectives. While this issue was not expressly identified as one that should be addressed during this triennial review period, the Regional Board may

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				eventually consider developing, where appropriate, implementation provisions for water quality objectives where natural sources of a pollutant cause it to be elevated above the current objective, or to exceed the objective more frequently than currently allowed.
9-6	City of Thousand Oaks	Nov 5, 2008	The magnitude of the costs necessary to comply with WQOs for bacteria have never been properly analyzed as required under Water Code Section 13242. Natural sources, regrowth, concentrations affected by the resuspension of sediment associated with higher volume flow cycles and the imprecise correlation of indicator bacteria with human pathologic bacteria and viruses are all too poorly understood at this point to impose strict, enforceable standards.	Cal. Water Code section 13242 does not require analysis of the costs of compliance. The commenter may be referring to section 13241, which requires a consideration of “economic considerations” among other factors in establishing water quality objectives. Regarding the comment on bacteria objectives, see response to comment no. 2-10. Also, see General Response(s) 1 and 2.
9-7	City of Thousand Oaks	Nov 5, 2008	Clarification of REC-1, REC-2 definitions and designations. The definitions for these beneficial uses are not clear or distinct from each other. Both definitions include clauses that include "...where ingestion of water is reasonably possible". Many reaches within the Calleguas and Malibu Creek are redline channels or part of the agency's storm drain system, yet are prohibitively fenced, concrete channels that are still identified as REC-1 or REC-2. Under no circumstances do these reaches qualify under this clause.	The Basin Plan clearly distinguishes between REC-1 and REC-2 beneficial uses and these definitions are consistent with EPA's interpretations of what constitutes primary and secondary contact recreation. REC-1 (contact recreation) uses involve <i>body contact with water</i> , while REC-2 (non-contact recreation) uses involve <i>proximity to water, not normally involving body contact with water</i> . The Regional Board will not consider revisions to these definitions at the present time.

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10-1	City of Ventura	Nov 10. 2008	<p data-bbox="829 342 1493 878">As a stakeholder in the Ventura River, Santa Clara River, and Coastal Beaches Watersheds, the City has actively worked with Regional Board staff in the development of pertinent regulatory programs and participated in Regional Board meetings, board hearings, and workshops. The City has continually worked with the RWQCB on important environmental actions including the adoption of Total Maximum Daily Loads (TMDLs), various discharge permit actions and most recently the ongoing work associated with the Ventura Countywide MS4 storm water permit. The City appreciates these opportunities to interact, voice comments and concerns, and continues the process with the submittal of triennial review comments.</p> <p data-bbox="829 915 1493 1179">As requested in the notice, the comments focus on water quality standards applicable to waters within the Los Angeles Region. When data and other supporting information are available, the City has included data, information, documents, and/or other supporting evidence on possible additions or revisions to the Basin Plan as attachments to this letter.</p> <p data-bbox="829 1216 1493 1377">The following comments specifically address modifications to the Water Quality Standards. The City of Ventura has identified a number of high priority issues, but only a few issues for which City-specific data and information is available. The City</p>	<p data-bbox="1524 310 2051 342">Also, see response to comment No. 1-4</p> <p data-bbox="1524 342 2018 440">Comment noted. See responses to Ventura County Stormwater Program letter below.</p>

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			<p>supports the general data and information submitted in the Ventura County Stormwater Program letter for Ventura County for the other priority issues.</p>	
10-2	City of Ventura	Nov 10. 2008	<p><u>Consider de-designating the REC-1 use for waterbodies, or sections of waterbodies, that cannot support REC-1 uses due to their physical characteristics</u>            In the City of Ventura, some waters are designated REC-1 that do not support this beneficial use due to the physical nature of the water body. The three main reasons a water body may not physically support a REC1 use are 1) the water body is a vertical-walled channel, 2) access to the channel is prohibited, or 3) the water body is too shallow to support immersion or the likely potential for ingestion. These types of water bodies cannot support REC-1 beneficial uses, and should not be designated as REC-1.</p>	See response to comment No. 1-4
10-3	City of Ventura	Nov 10. 2008	<p><u>Develop criteria for designating high flow conditions that would trigger suspension of the REC-1 and REC-2 bacterial indicator water quality objectives</u>            During high flow conditions, REC-1 and REC-2 bacterial indicator Water Quality Objectives (WQOs) should be suspended in identified channels within City areas where the wet weather events and resulting high flows create physically unsafe conditions. During wet weather events, the resulting flows within the channels can create life-threatening conditions during and immediately following storm</p>	Staff already evaluated the extension of the high flow suspension of the REC-1 use and associated bacteria objectives to a broader array of channels and time periods when developing the "Amendment to Suspend Recreational Beneficial Uses in Engineered Channels during Unsafe Wet Weather Conditions," Final Resolution and Amendments (as adopted on July 10, 2003). Staff determined that a

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			<p>events. The inherent danger of recreating in the creeks, streams, and/or channels during these conditions is widely recognized and already addressed in related Ventura County Watershed Protection District (VCWPD) operations.</p> <p>Although Resolution 2003-010 (July 10, 2003) created a limited temporary suspension of the water contact recreational uses for various water body segments in Los Angeles County, this suspension only applies to concrete-lined engineered channels in Los Angeles County (those specifically identified in Table 2-1a of the Basin Plan). This was based on the results of a use attainability analysis, which determined that REC-1 and REC-2 uses are not fully attainable in these channels during storm events of 0.5 inch or greater - and the 24 hours following the rain event.</p> <p>Similar conditions exist in waterbodies within City jurisdiction (see supporting data submitted with Table 2). The Regional Water Board should consider a similar amendment for the identified channels in the City of Ventura to ensure consistency in regional policies. High flow conditions should be defined for this purpose, so that it is clear when the WQOs apply. The criteria could be based on a defined percentile flow from average dry flow conditions, or could be set as a certain time period following rainfall.</p>	<p>suspension was only appropriate under certain conditions. Using available information, staff identified those water body segments that for their entire length meet the definition of an engineered flood control channel. Engineered channels are defined as inland, flowing surface water bodies with a box, V-shaped or trapezoidal configuration that have been lined on the sides and/or bottom with concrete.</p> <p>These engineered flood control channels are constructed to reduce the incidence of flooding in urbanized areas by conveying stormwater runoff to the ocean or other discharge point as efficiently as possible. These modifications create life threatening "swiftwater" conditions during and immediately following significant storm events. As a result, the REC-1 and REC-2 uses are not fully attainable during and immediately following these storm events. These flashy conditions result in intermittent dangerous flow volumes and velocities after rain events that prevent the attainment of the use during and for 24 hours following a rain event of ½ inch or greater. The Los Angeles County Multi-Agency Swiftwater Rescue Committee's protocols are supportive of the Board's</p>

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				<p>suspension in that the protocols require swiftwater rescue teams to be on alert and require flood control agencies to lock access gates to these channels during these storm conditions.</p> <p>As necessary data become available, staff intends to develop a similar amendment for engineered channels in Ventura County.</p>
10-4	City of Ventura	Nov 10. 2008	<p><u>Consider assigning single sample maximum allowable densities (SSMs) appropriate for the level of use of individual water bodies based on the qualitative descriptions and confidence levels described in EPA's Criteria Document (Table 3)</u></p> <p>Single sample maximums (SSMs) appropriate for the level of use of individual water bodies should be assigned based on the qualitative descriptions and confidence levels described in EPA's Criteria Document. If no qualitative level of use is described in the document that is appropriate for the level of use found at an individual water body then an SSM should be calculated using the equation found in EPA's Criteria Document based on an a higher confidence level.</p> <p>Additionally, the calculation of geomeans could be broadened to include fewer than five samples, or to expand the averaging period. It may be appropriate to calculate seasonal geomeans for some water</p>	<p>Staff has recommended the re-evaluation of the application of bacteria objectives in determining compliance as an issue that should be addressed during this triennial review period.</p> <p>Aspects of the bacteria objectives to be evaluated may include:</p> <ul style="list-style-type: none"> <li>• Further developing the natural source exclusion approach.</li> <li>• Removing fecal coliform objectives for freshwaters. The previous fecal coliform objectives were retained in the 2001 revision of the bacteria objectives to provide for a transition period from fecal coliform-based objectives to E. coli objectives. However, since that time, various agencies have researched the ratio between fecal coliform and E. coli in</li> </ul>

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			bodies. Listings should not double-count samples as both a geomean and a SSM.	<p>local waters and, knowledgeable about that relationship, have been using the IDEXX™ chromogenic substrate method for enumerating E. coli for comparing ambient samples to both E. coli and fecal coliform objectives.</p> <ul style="list-style-type: none"> <li>• Evaluating alternatives for using the single sample and geometric mean objectives in regulatory programs, and evaluating statistical approaches to calculating geometric means for comparison with objectives. In the BEACH Rule, EPA provides flexibility to States regarding how to calculate the geometric mean when implementing bacteria objectives. The options EPA presents include using: a rolling average; a calendar month average; or the average over a recreational season. In the case of southern California, averaging over the recreational season would, in effect, mean calculating a year-round average, given that recreational use occurs throughout the year. This leaves the options of re-evaluating the use of a rolling average and evaluating a calendar month average.</li> </ul>
10-5	City of Ventura	Nov 10. 2008	<u>Reevaluate the implementation procedures for the reference system/antidegradation approach (Table 4)</u>	Staff has recommended the re-evaluation of the application of bacteria objectives in determining compliance as

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			<p>Although the City supports the concept of the implementation procedures for the bacteria objectives in TMDLs that include the consideration of the reference system/antidegradation approach, we would like the Regional Water Board to consider some changes to the approach. The suggested revisions include:</p> <ol style="list-style-type: none"> <li>1. Identification of appropriate "Reference Beaches" to better match impaired beaches hydrologic and environmental settings</li> <li>2. Utilization of appropriate evaluation methods for consideration of seasonally specific allowable exceedance days for bacteria TMDLs</li> <li>3. Consideration of local rainfall conditions, rather than rainfall at LAX, in calculating allowable exceedance days.</li> </ol>	<p>an issue that should be addressed during this triennial review period. Furthermore, the Regional Board has identified reconsideration of the Santa Monica Bay Beaches Bacteria TMDL as a current priority. Part of this reconsideration will include an evaluation of reference beaches and allowable exceedance days based on more recent data, among others.</p> <p>Further development of the natural sources exclusion approach may also be one of the aspects to be evaluated.</p>
10-6	City of Ventura	Nov 10. 2008	<p><u>Broaden application of "natural sources exclusion" used in bacterial TMDLs to other naturally occurring constituents based on SCCWRP natural loadings study (Table 5)</u></p> <p>The Regional Water Board adopted a natural sources exclusion and reference system/antidegradation implementation procedure for bacteria in the Los Angeles Region. The adoption of the implementation procedures were based on the acknowledgement that there are natural sources of bacteria that can cause or contribute to exceedances of the water quality objectives. However, a number of other constituents have natural sources that can cause or contribute to exceedances of water quality objectives. Therefore,</p>	See response to comment No. 2-14

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			we request that the application of "natural sources exclusion" used in bacterial TMDLs be broadened to other naturally occurring constituents based on SCCWRP natural loadings study and TMDL source analyses.	
10-7	City of Ventura	Nov 10. 2008	<p>Additionally, the City supports all of the comments and data submitted by the Ventura County Stormwater Program. We would like to highlight the following comments and data submitted by the Ventura County Stormwater Program as high priority items for the City:</p> <p><u>Remove both the fecal and total coliform objectives for marine waters and remove fecal coliform objective for freshwaters from the Basin Plan</u>            Both the fecal and total coliform objectives should be removed for marine waters and the fecal coliform objective should be removed for fresh waters from the Basin Plan based on the 1986 EPA criteria document.</p>	Staff has recommended the re-evaluation of the application of bacteria objectives in determining compliance as an issue that should be addressed during this triennial review period. Consideration of the removal of fecal coliform objectives for freshwaters will be part of this evaluation. Removal of fecal and total coliform objectives for marine waters would be inconsistent with state law, which identifies the minimum bacteriological standards for recreational ocean waters, including total and fecal coliform standards.
10-8	City of Ventura	Nov 10. 2008	<p><u>Evaluate Basin Plan Definitions of Recreational Uses and Revise the Basin Plan definitions of REC-1 and REC-2 to be consistent with EPA guidance</u>            Many Southern California waterbodies cannot support full body contact recreational uses because they are too shallow for immersion; therefore it is not appropriate to designate these waterbodies REC-1 for the protection of human health. A third</p>	See response to comment No. 1-4, 2-3 and 9-7.

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			<p>level of recreational use category between the current REC-1 and REC-2 uses should be developed for waterbodies where full body water contact does not take place, but water contact is more than incidental.</p> <p>The above recommendation is preferred approach, however at a minimum the definition of REC-1 should be revised to reflect the intent of EPA. The term "reasonably possible" should be replaced with "likely", and should be modified to include only some forms of fishing and wading in the definition of REC-1, as not all types of fishing are likely to result in ingestion or immersion.</p>	
10-9	City of Ventura	Nov 10. 2008	<p>The definition of REC-2 waters should be defined as those used for recreational activities involving proximity to water, but not normally involving body contact with water where ingestion of water is not likely.</p> <p>The following preliminary draft language is potentially being considered by other Regional Boards. It would be appropriate to use the same definitions for consistency in the greater Southern California region. At this time, the preliminary draft language that is being contemplated in Region 8 is:  <i>Primary Contact Recreation (REC-1 *): are waters used for recreational activities involving deliberate water contact, especially by children, where ingestion is likely. Examples of REC-1 may include,</i></p>	See response to comment 9-7

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			<i>but are not limited to: swimming, water-skiing, surfing, whitewater rafting, float tubing, bathing in natural hot springs, skin diving, scuba diving and some forms of wading and fishing. Incidental or accidental water contact resulting in brief exposures that is limited primarily to body extremities (e.g. hands and feet, is not deemed to be REC-1.</i>	
10-10	City of Ventura	Nov 10. 2008	<u>Develop a number of exceedence days for inland water bodies based on inland and local conditions</u> Exceedence frequencies for marine water bodies should not be applied to inland water bodies. Instead, the number of allowable exceedence days for inland water bodies should be developed based on inland and local conditions.	The Southern California Coastal Water Research Project (SCCWRP) completed a study of reference inland streams in 2008, the results of which may be used in future bacteria TMDLs for inland surface waters.
10-11	City of Ventura	Nov 10. 2008	<u>Consider including implementation provisions for indicator bacteria to allow for prioritization of human sources in determining compliance with objectives</u> The controllability issues with indicator bacteria should be acknowledged. Implementation actions should be allowed to prioritize human sources, and these actions should be allowed to count toward compliance with the objectives. The difficulty in grasping natural sources of bacteria can lead to exceedances of the indicator bacteria standards, at times when numerous actions have taken place to control human inputs into the system.	See response to comment No. 2-10
10-12	City of Ventura	Nov 10. 2008	Beyond the specific items listed above that pertain	Regional Board has recommended that

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			<p>to specific WQS elements, the City would like to submit the following comments addressing issues that we feel important to consider for a more concise and complete Basin Plan. We also support the additional general comments provided by the Ventura County Stormwater Program comment letter.</p> <p><u>Update the maps and tables in the Basin Plan</u>  It is suggested that the maps and tables in the Basin Plan be functionally updated as follows. Updating the maps and corresponding tables as needed would reduce the unnecessary confusion that occurs.</p> <ul style="list-style-type: none"> <li>-Display the watershed management areas;</li> <li>-Align the existing Hydrologic Units (HU) with the most recent Cal Water 2.2 system;</li> <li>-Update the reaches as appropriate - especially so the reaches match the reaches identified on the 303(d) list</li> <li>-Review for consistency between the reach maps and beneficial use tables - provide the reach number and hydrologic unit in the beneficial use tables;</li> <li>-Update the waterbody-specific surface water and groundwater objectives tables to be consistent with the updated reaches;</li> <li>-Update the groundwater maps based on the Department of Water Resources (DWR) Bulletin 118 (2003 update); and</li> <li>-Make electronic GIS layers of information available for consistent application of waterbodies, reaches, uses, objectives, and designated areas of significance.</li> </ul>	<p>the Board consider this project as one that should be addressed during this triennial review period.</p>

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10-13	City of Ventura	Nov 10. 2008	<p><u>Delineate and define estuaries in the Los Angeles Region</u></p> <p>The designation and delineation of estuaries will better assist the Regional Board and the City during future planning and permitting actions. Current language in the SIP defines the extent of estuaries as the location where significant mixing of freshwater and saltwater ceases to exist. This definition does not define what "significant" means and is not directly translatable to beneficial uses and waterbody definitions in the Basin Plan. This effort should include a revised map in the Basin Plan designating specific boundaries of designated estuaries in the Los Angeles region.</p>	<p>Regional Board staff is recommending an administrative update of the Basin Plan as one of the issues to be addressed during the current triennial review period. This update may include clarification of the boundaries of estuaries, harbors and enclosed bays, including the transition point(s) to marine/ocean waters and to inland fresh waters.</p>
10-14	City of Ventura	Nov 10. 2008	<p><u>Consider all potential up-stream sources of pollution when designating lower reaches of a watershed as impaired</u></p> <p>The City of Ventura is located in the downstream portion of the Ventura River watershed and only physically discharges to the estuary and the lowest reaches of the river proper. For numerous constituents, e.g., trash, only the Estuary was listed as "impaired" while no upper reaches of the river were designated as degraded and/or "impaired". The City feels it is impossible to adequately address any impairment in the lower reach of a watershed without properly identifying all possible modes, sources, and contributors of pollution. By not adequately addressing these possible sources and excluding these contributors in the allocation of</p>	<p>A determination of impairment is based on the assessment of water quality in a particular waterbody segment. Therefore a waterbody reach or segment cannot be listed as impaired solely by virtue of being upstream of one that is impaired. However, in developing TMDLs for impaired waters upstream reaches can be considered as potential sources of the impairing pollutant where data or information indicates that such is the case.</p> <p>Using the commenter's example, Staff believes that the upstream sources were adequately addressed in the</p>

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			waste load and/or load allocations in a TMDL, the mechanism to create a watershed-wide cooperative agreement to address impairment(s) is impossible. We request that consideration be given to revising the Basin Plan Amendments for the Ventura River Trash TMDL to evaluate upstream sources and impairments.	Ventura River Estuary Trash TMDL, and disagree with the comment. The Ventura River Estuary is the only reach in the Ventura River Watershed listed for trash. During the development of the Trash TMDL for Ventura River Estuary, multiple site inspections were conducted to locate possible sources and to confirm the continuous impairment. The MS4s, agricultural drainages, and tributaries to 303(d) listed water bodies were identified as upstream sources. The Trash TMDL extended its coverage to approximately seven (7) miles upstream from estuary including the listed Ventura River Estuary.
11-1	City of Vernon	Nov 10, 2008	The City estimates the water quality objectives for the Los Angeles River will require the expenditure of significant funds that will negatively impact the services provided by the City. The funds required should be quantified by the Los Angeles Regional Water Quality Control Board (Board) and the economic impact on the services provided by all agencies be evaluated. An assessment of the potential factors that could affect the costs, including technological uncertainties and monitoring limitations should be considered. A complete California Environmental Quality Act analysis should be completed before implementation of any of the objectives and requirements. The sources of the funds to pay for the implementation should be identified and mechanisms to accumulate and	See General Response(s) 1 and 2.

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			<p>expend the funds should be determined. For example, the great majority of the contaminants of the Metals TMDL enacted by the Board have been found to come from sources beyond the control of the local agencies. As of this date, the Board has not taken action to regulate the producers of the contaminants to eliminate these sources and assess costs to the producers. The Board should coordinate with other state agencies in the enforcement of the requirements of this TMDL.</p>	
11-2	City of Vernon	Nov 10, 2008	<p>The Federal mandate for the water quality objectives cannot be exceeded unless the costs of the objectives and requirements are reimbursed by the State of California as defined in the State Constitution. The City with other agencies has secured the finding from the Courts that some of the water quality objectives and requirements exceed the Federal mandate and the costs should be reimbursed to the City and other agencies by the State of California. The Board has made no effort to assist the agencies to recover these costs so that the requirements can be accomplished promptly. For example, the requirement for the installation of trash receptacles has been found to be reimbursable by the Courts.</p>	See General Response(s) 3
11-3	City of Vernon	Nov 10, 2008	<p>The Los Angeles River in the City is composed of either a concrete box channel with vertical, over 30 foot high walls or a concrete trapezoidal channel. The former channel is entirely fenced and posted with no access allowed and the latter channel is</p>	See responses to comments 1-4 and 2-3

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			<p>fenced and posted for access at certain locations for the bike lane only that is at the very top of the channel. The REC-1 or REC-2 beneficial use designations are completely inappropriate for these channels at this time. As defined, REC-1 beneficial uses involve body contact with water – such as swimming and wading. While REC-2 beneficial uses involve non-contact uses – such as hiking and picnicking. The channel at low flow is dangerous due to the high velocity of the flow and at high flow is completely inaccessible due to the huge amounts of water and the velocity of the water. The Los Angeles River in the City had one purpose and that was flood control with no provision for human recreational access. The City agrees with the previous finding for concrete lined channels of the State Board in pointing out to the Board that they “must weigh environmental, social and economic factors in deciding whether specific uses are attainable” and that the Board “needs to reconcile the creek’s existing low-flow regime and function as a flood control facility, with the goal of full-body contact recreational activity.”</p>	
11-4	City of Vernon	Nov 10, 2008	<p>The requirements of Low Impact Development for infiltration and onsite retention are problematic for the City since the properties in the City are industrial in nature with little or no open space or open ground. The properties in the City have either buildings occupying the site or the required paved areas for access by trucking and parking for employees. The City secures over 80% of its water</p>	<p>The issue raised by the commenter is a permit issue, not a Basin Planning/Water Quality Standards related issue. Therefore, it is outside the scope of the Triennial Review, and should be raised during the development of permit requirements. See General Response 3.</p>

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			use from wells and the potential for the contamination of the groundwater from infiltration is significant.	
11-5	City of Vernon	Nov 10, 2008	The water quality objective for contaminants such as bacteria should be revised to account for non-human ambient loads. The level of attainable health and ecological benefits that is optimal for the beneficial uses of the Los Angeles River subject to the economic considerations should be determined before the requirements of any TMDL are implemented.	See response to comment No. 2-10; also see General Response(s) 2 and 4.  Federal regulations require that NPDES permits be consistent with the assumptions and requirements of available waste load allocations. 40 CFR section 122.44(d)(1)(vii)(B). The Regional Board is not authorized to forego the implementation of TMDLs. It should be noted, however, that the bacterial TMDLs included considerable economic analysis.
11-6	City of Vernon	Nov 10, 2008	The impact of peak flows and infrequent or substantial storm flows on the beneficial use designation must be evaluated and a clear determination of the level of benefits that are to be achieved be defined for each condition.	See response to comment No. 10-3
11-7	City of Vernon	Nov 10, 2008	Appropriate methods for the water quality objectives for "natural conditions" such as pH and temperature should be developed.	In the Basin Plan, the temperature, turbidity and pH objectives are tied in part to deviations from "natural conditions." However, since many of our watercourses have been altered, determining natural conditions can pose challenges. The Basin Plan states that ambient pH levels shall not be changed by more than 0.5 unit or 0.2 unit from

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				<p>natural conditions as a result of waste discharge for inland waters and enclosed bays or estuaries, respectively. For waters designated WARM or COLD, water temperature shall not be altered by more than 5 degrees F above the natural temperature. Given these objectives, it is important to understand and define what constitutes “natural conditions.” Regional Board staff will address this issue on a case-by-case basis as the issue arises until such a time as a Basin Plan amendment clarifying what constitutes “natural conditions” can be developed.</p>
11-8	City of Vernon	Nov 10, 2008	<p>The levels of contaminants should not be based on a standard such as the California Toxics Rule which was never intended to apply to storm water. A determination of the water quality objectives for storm water should be established based on the level of beneficial use that is attainable and optimal for the specific use. Site specific objectives must be established since the conditions of the locale and specific site conditions significantly impact the beneficial use and its attainability.</p>	<p>CTR criteria are intended to protect designated beneficial uses including aquatic life and human health, and apply to instream/ambient water quality. When instream flows are primarily comprised of stormwater discharges, it is clear that impairing pollutants in these discharges will have to be controlled to achieve the instream water quality objectives established in the CTR.</p>
11-9	City of Vernon	Nov 10, 2008	<p>The process of establishing the beneficial uses and the requirements to achieve the use should be a clear process with well documented evidence for the actions taken by the Board. Scientific studies to</p>	<p>The process for establishing or removing beneficial uses is laid out in federal regulation and summarized in US EPA’s Water Quality Standards</p>

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			<p>determine the type of contaminant, the source, the effect and impact of the contaminant should be completed prior to establishing the requirements for the beneficial use. The level of benefit of each solution should be established subject to the costs to achieve the level of benefit. Alternative solutions with attainable goals should be considered and phased implementation planned. The water quality objectives must be defined in terms of frequency, duration and magnitude. The process must identify and develop the sources of funding to pay for the costs of achieving the level of benefit.</p>	<p>Handbook. The process for establishing water quality objectives is also laid out in federal and state regulations, including Cal. Water Code section 13241. Fundamentally, however, water quality objectives must be established at levels necessary to reasonably protect the designated beneficial uses. See also Response to Comment No. 1-7 and General Response(s) 3. The triennial review process is not the process of establishing beneficial uses and the requirements to achieve the uses.</p>
12-1	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	<p>For the 2009 Triennial Review or Basin Plan Revision, Board staff should incorporate a water quality and/or storm sizing criteria or requirement and the (re)development circumstances under which the criteria are to apply. The Water Boards enabling legislation (Porter Cologne) and several current studies (e.g., and) noted the challenge of balancing the cost of water quality protection against other societal factors. When Basin Plan amendments ignore storm sizing criteria, the design of structural Best Management Practices (BMPs) must gravitate toward expensive over-sized facilities for compliance purposes which negates the balancing of economic and societal criteria as required under Porter Cologne. In our region, sizing should be determined from the Los Angeles and Ventura County Hydrology Manuals and their respective agency conveyance and detention</p>	<p>See response to comment No. 2-16</p>

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			design criteria. This analysis is further necessitated by recent Board and. Non-Governmental Organization (NGO) efforts to mandate hydromodification criteria into local policy and permits. The following water body specific commentary just one example of this overarching issue that continues to deplete our collective resources unnecessarily.	
12-2	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	Concise Summary of Data, Information or Evidence: The upper portions of this subwatershed are open space <i>under the jurisdiction of the National Park Service and the City of Simi Valley</i> . Storm flows from this area immediately drain to private land ( <i>in the Cities of Agoura Hills and Westlake Village</i> ), comingling the open space flows with urban flows prior to discharge into the creek. Implementing regionally sized BMPs to address this WQO is cost-prohibitive and would divert limited resources to treat bacteria counts largely being contributed by wildlife sources during high storm flows.	The reference system/antidegradation approach that was developed concurrent with the SMB Beaches Bacteria TMDL allows a certain frequency of exceedance of the single sample maximum water quality objectives equivalent to the frequency observed in a natural system. See also responses to comments 2-16 and 6-1.
12-3	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	Concise Summary of Suggested Revisions: Develop a comprehensive approach to storm water management, to include: Provisions for a design storm (to be specified using both rainfall amount and rainfall intensity) for design of control measures and for enforcement considerations	See response to comment 2-16
12-4	City of Agoura Hills, City of	Nov 10, 2008	Consider exclusion of WQO during storm events resulting from either a natural disaster (fire) or	See response to comments 2-14 and 2-16.

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	Westlake Village		natural background loadings that cause the pollutant exceedances.	
12-5	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	Clarification on the approach, to using numeric limits, including (if limits are to be used) development of a methodology for establishing numeric limits for storm water flows	Stormwater flows are generally prohibited from causing or contributing to violations of Water Quality Standards. Where stormwater dischargers are identified as causing or contributing to impairment in a waterbody, these dischargers are assigned numeric waste load allocations in TMDLs according to federal requirements, which may then be expressed as numeric effluent limits when incorporated into stormwater permits. Staff has recommended that the consideration of developing pollutant-specific prototypes to demonstrate how these limits, based on TMDL WLAs, may be developed is a project to be addressed during this triennial review period.
12-6	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	Consolidate the discussion of stormwater and urban runoff, which are currently divided between the discussions of point source and non-point source pollutants.	The Basin Plan discusses stormwater in Chapter 4 – Strategic Planning and Implementation, along with other point and non-point source discharges. This section could benefit from an update of the information currently available. Such an update could be performed as part of the recommended administrative update of the Basin Plan. The challenges involved with stormwater compliance with water quality standards are to be

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				addressed through the Design Storm Project, and any resulting stormwater policy will be contained in Chapter 5 – <i>Plans and Policies</i> of the Basin Plan.
12-7	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	In order to expend public funds for implementation of TMDLs, responsible agencies need assurance that actions taken by the agencies are in accordance with an adopted implementation plan. To date, this has largely not been the case. We request that the Board staff revise the "Function of the Basin Plan" section to explain how TMDLs are incorporated into the Basin Plan. Specify that each TMDL will be accompanied by a Water Quality Attainment Strategy (WQAS). Use of a combined WQAS and TMDL calls for involvement of all entities responsible for discharges and emphasizes better coordination between the regulatory and regulated agencies. Specify actions that should be taken by State offices, departments, and boards to achieve the numeric targets in the TMDL. Recommend actions that should be taken by federal agencies and others. Include in the "Strategic Planning" section the use of WQASs to include as many of the entities as possible to facilitate the achievement of TMDL targets. WQASs for TMDLs incorporated into the LA Basin Plan should be based on the San Francisco RWQCB Water Quality Attainment Strategy and TMDL for Diazinon and Pesticide-Related Toxicity in Urban Creeks. The San Francisco model was designed to utilize adaptive - management to respond to new information as it becomes available, and the Regional Board will	TMDLs are incorporated into the Basin Plan as Basin Plan amendments. Each TMDL contains an implementation section that outlines the manner in which waste load and load allocations could be complied with and a schedule for achieving the waste load and load allocations. Responsible agencies are required in many cases to develop implementation plans that describe the specific actions they intend to take to achieve compliance with a TMDL. The Regional Board cannot prescribe the specific implementation actions that must be taken in order to achieve compliance with water quality standards.

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			review the strategy regularly.	
12-8	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	Inappropriately designated beneficial uses siphon off our local agency resources, thereby forestalling any real progress toward obtaining regional water quality objectives. Given the recent court attention spent discussing the "potential" category from the beneficial use designations in the Basin Plan, it follows that providing a thorough update to all beneficial use designations will necessarily become a very high priority for the upcoming basin planning cycle. We request that this priority include the development of clear, rational criteria for creating and applying beneficial use designations. These criteria should direct the completion of use attainability analyses (UAAs) as necessary to support seasonal and/or tiered use designations. The criteria should be developed and implemented through a collaborative process whereby the local stakeholders and responsible agencies for each water body are essentially involved. Given the limited resources at both the State and Local levels, it is imperative that we successfully pool our resources to accomplish this important objective.	See Response to Comment(s) 11-7 and General Response(s) 1
12-9	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	The following water body specific commentary for correction of an inappropriately designated beneficial use in the Malibu Creek Watershed is just one example of an overarching issue that continues to deplete our collective resources unnecessarily. Concise Summary of Data, Information or Evidence: This creek reach ( <i>Lindero Creek for the City of Simi</i>	The MUN beneficial use in Lindero Creek is only conditionally designated based on the asterisk marker and EPA's assertion that "the waters identified with (*) in Table 2-1 do not have MUN as a designated use until such a time as the states undertake additional study and

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			<p><i>Valley)/ Lake (Lake Westlake Lake for the City of Westlake Village) reach is highly undesirable as a municipal drinking water source and would require extensive treatment to enable this kind of use.</i></p>	<p>modifies its Basin Plan” (EPA memo to the California State Water Resources Control Board ref: “WTR-5”, dated February 15, 2002). As such, this beneficial use designation is not used in making impairment determinations, developing TMDLs, or assigning permit requirements.</p> <p>The beneficial use is also listed as potential therefore a UAA could be conducted on this waterbody to re-asses the MUN designation.</p>
12-10	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	<p>Concise Summary of Suggested Revisions:                      - Establish definition and criteria to designate a probable future use                      - Evaluate all "P" potential use designations in Basin Plan, and either eliminate the designation or make a probable future designation</p>	See General Response(s) 1
12-11	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	<p>In the interest of efficiently and effectively protecting public health and the environment, it is imperative that water quality objectives and standards be properly established. Substantial resources are being directed at meeting water quality objectives. Stakeholders have repeatedly expressed lack of confidence in the means with which these objectives were set. Furthermore, millions of dollars are being spent to implement projects and programs to eliminate and reduce flows from non-point sources and municipal storm drain systems to water</p>	See Response to Comment(s) 1-7 and 2-14 and General Response(s) 1.

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			bodies in an attempt to meet these objectives. The results seem to be showing little positive effect on water quality observed in receiving waters while more evidence is showing the cause may be natural sources of contaminants. Historic records including comments and reports submitted as part of the 2004-2005 Triennial review show that a primary concern of stakeholders, including regulated agencies and interested groups is that the State may not be fully considering the effects of non-anthropogenic sources of contaminants such as natural conditions and ambient processes.	
12-12	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	Recent years have shown an increase in the number of water quality monitoring programs and studies, including extensive analyses of bacterial indicators in surface waters. These monitoring programs and studies have been taken on collaboratively by a wide range of stakeholders and independently in an attempt to better protect public health, understand indicator bacteria in the environment, and locate sources of bacteria so that effective control strategies may be implemented. As a result, several analyses have indicated that there are issues with the use of indicator bacteria as surrogates for human health risk, as the two do not always correlate. Recent studies have also shown that runoff and surface water in "pristine" reference water bodies (where there is little influence from human sources) exhibit high concentrations of indicator bacteria, often in excess of water quality standards. Clearly this is an indication that even	See Response to comment No. 2-10 and 6-7A.

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			<p>under summer dry weather conditions natural background occurrences are likely to produce occasional exceedances of the receiving water limitations for indicator bacteria and these may vary substantially from year-to-year. This can greatly affect how agencies are able to meet water quality objectives and standards. These are concerns that have been raised repeatedly, and while recent headway has been made in scientific research for these issues, a significant review of the objectives taking this information into account has not yet occurred.</p> <p>The availability of new information also suggests that review of the standards set to comply with the bacteria water quality objectives is necessary. The regulation process should be fluid and iterative, whereby regulations and standards need to be adjusted based on new scientific breakthroughs and changing information. That is the only way that responsible agencies can plan for and meet the water quality objectives that are so beneficial. Since bacterial indicators may have more evident and immediate effects on human health, and projects to try and correct any impairments can be very costly, take a lot of time to implement, and may not show immediate or any improvements to water quality, it is of utmost importance to stakeholders that the Regional Board initiate a review of these indicators, their water quality objectives, and standards for compliance as a high priority during the current Triennial Review process. Without a thorough, accurate, and scientifically based review, public</p>	

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			health and public resources could be jeopardized while efforts are needlessly misdirected.	
12-13	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	<p>Concise Summary of Data, Information or Evidence:</p> <ul style="list-style-type: none"> <li>• Recognize limitations of current indicator bacteria approach:               <ul style="list-style-type: none"> <li>- Indicator bacteria are surrogates for the pathogens that may pose a human health risk, and are not perfect indicators of risk.</li> <li>- Recognize that indicator bacteria may be present due to wildlife or regrowth in the environment; bacteria from different sources pose different levels of risk</li> <li>- Indicator bacteria from human sources (including sewage) pose the greatest health risk to humans</li> <li>- This is an area of active research, and new science and recommendations from EPA are expected</li> </ul> </li> </ul>	See response to comment 2-10 and 6-7A.
12-14	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	<p>Concise Summary of Suggested Revisions:</p> <ul style="list-style-type: none"> <li>• Amend the Implementation Chapter of the Basin Plan to specify required implementation actions, focusing primarily on the reduction of bacteria of known human origin               <ul style="list-style-type: none"> <li>- Use source tracking analyses, where possible and appropriate (e.g., CREST approach, consider alternatives, such as presence of caffeine, synthetic estrogens, etc.)</li> <li>- Work to eliminate human sources of</li> </ul> </li> </ul>	See response to comment 12-7

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			bacteria (e.g., eliminate sewer cross-connections, identify and eliminate leaking sewer lines, provide sanitation facilities where needed)	
12-15	City of Agoura Hills, City of Westlake Village	Nov 10, 2008	<p>The Water Quality Control Plan for Enclosed Bays and Estuaries - Part 1 Sediment Quality Objectives (SQO) was adopted by the State Board on February 19, 2008. Under this plan, Regional Water Boards would list sediment as exceeding the SQOs if multiple lines of evidence including sediment chemistry, sediment toxicity, and benthic community condition indicate impairment. Under the plan, chemical and biological measures should be integrated to determine if the sediment dependant biota are protected or degraded, as a result of exposure to toxic pollutants in sediment and to protect human health. This method protects against unnecessary expenditure of funds by confirming the actual degradation rather than assuming it exists based solely on a single parameter.</p> <p>To date, sediment quality guidelines compiled by National Oceanic and Atmospheric Administration (NOAA's) have been used by the Regional Board in evaluating waterbodies within the Los Angeles Region for development of the 303(d) list. Furthermore, the sediment NOAA's guidelines, specifically the values for Effects Range Low (ERL), Effects Range-Medium (ERM), Threshold Effects Level (TEL), and probable Effects Level (PEL) were used as numeric targets in the estuary sediment</p>	<p>The State Water Resources Control Board initiated a process to develop sediment quality objectives (SQOs) for enclosed bays and estuaries in May of 2003. To date, State Board has developed (i) narrative sediment quality objectives to protect benthic communities, which utilize an approach based upon multiple lines of evidence (triad approach), (ii) narrative sediment quality objectives to protect human health from exposure to contaminants in fish tissue, and (iii) an implementation program for the narrative sediment quality objectives based upon input from a scientific steering committee, Sediment Quality Advisory Committee, and staff of the State Board and the Regional Water Quality Control Boards (Regional Boards), and staff from other state and federal agencies. The work that has been completed, to date, is Phase 1 of the sediment quality objectives program; Phase 1 requirements were adopted by the State Board as part of the Enclosed Bays and Estuaries Plan, which was established</p>

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			<p>TMDLs adopted by the Board. These TMDLs include Ballona Creek Estuary Toxics TMDL and Marina Del Rey Harbor Toxics TMDL. Additionally, a TMDL for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters is under development by the Regional Board (draft copy-Sep. 2008) which includes NOAA's values as numeric targets, even though the newly adopted sediment quality guideline is available. It should be noted the ERL, ERM, TEL, and PEL values are based on <u>empirical data</u> compiled from numerous field and laboratory studies, are simply sediment guidelines, and were never intended to be used as numeric targets for TMDLs.</p> <p>Therefore, we request that the Regional Board use the narrative SQOs and the implementation program specified in SQO part 1 instead of NOAA's guidelines at the re-opener of the existing TMDLs and the development of future TMDLs. The newly adopted SQO is based on sound scientific studies, multiple lines of evidence and is protective of environment and human health. The SQO is a comprehensive policy and unlike NOAA's guidelines doesn't depend only on one line of evidence.</p>	<p>through Resolution No. 2008-0070.</p> <p>Additionally, State Board has initiated a second phase of the sediment quality objectives program (Phase 2), which includes extensive sediment sampling in the Delta; further development of the estuarine chemistry, sediment toxicity, and benthic community indicators; and completion of a more prescriptive framework to address human health and exposure to contaminants in fish tissue. The tools, indicators, and framework developed under Phase 2 will be adopted into the Statewide Enclosed Bays and Estuaries Plan in 2010. Phase 3 is proposed as the development, within available resources, of a framework to protect fish and/or wildlife from the effects of pollutants in sediment. During Phases 2 and 3, staff would continue to evaluate the tools developed during the initial phase and the implementation language. As the Boards' experience grows, the plan would be updated and amended as necessary to more effectively interpret and implement the narrative objectives.</p> <p>The Regional Board has and will continue to follow the multiple lines of evidence (MLOE) approach developed by the State Board for waterbodies</p>

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				covered by the Statewide Enclosed Bays and Estuaries Plan. Recent TMDLs adopted by the Regional Board are consistent with the MLOE approach set forth in Part 1-Sediment Quality of the Plan. The State's SQOs, as set forth in Part 1 of the Plan, do not supersede the ERL values, since Part 1 of the SQOs does not establish numeric sediment quality objectives. Since numeric targets are a required element of a TMDL, it is likely that the Regional Board will continue to use Sediment Quality Guidelines where applicable in interpreting and implementing the narrative objectives until such a time as State Board develops an alternative approach.
13-1	City of Alhambra	Nov 6, 2008	Ensure that existing and future Basin Plan water quality standards and associated implementation programs have been assessed and adopted in accordance with Porter-Cologne Section 13000, 13241, and 13242 requirements.	See Response to Comment(s) 2-9 and General Response(s) 1.
13-2	City of Alhambra	Nov 6, 2008	Evaluate the appropriateness of beneficial use designations for flood control channels and effluent-dominated waters. Consider the need for a new water body categories or beneficial use designations for these types of water ways that restrict public access and lack natural stream features.	See response to comment No. 1-4

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13-3	City of Alhambra	Nov 6, 2008	<p>Assess the appropriateness of Basin Plan recreational (REC-1 and REC-2) beneficial use designations, especially for artificial drainage channels in highly urbanized areas.</p> <p>Evaluate the establishment of seasonal and tiered-use designations.</p>	<p>See response to comment No. 1-4</p> <p>Also, The concept of tiered aquatic life uses has been under discussion by U.S. EPA for some time and several states have implemented these tiered uses in their state water quality assessments and water quality standards. However, there are few examples of the application of TALU in Western semi-arid streams and, in particular, no examples of how a state might identify and implement TALU in semi-arid coastal streams, where it is vital to protect downstream sensitive and ecologically rich coastal water bodies.</p> <p>Regional Board staff was directed to work with stakeholders to develop more tailored water quality standards (through beneficial use designations and associated biocriteria) that would be protective of the biological communities within the region's urban coastal streams. Tetra Tech, Inc. and the Southern California Coastal Research Project (SCCWRP) was contracted to build upon EPA's national TALU framework and forthcoming <i>Methods Document</i> by evaluating the application of TALU to semi-arid urban coastal streams. This effort identified some of the largest technical and potential policy</p>

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				barriers for implementation and produced a list of 13 projects that should be undertaken to help resolve these barriers and develop scientifically defensible tiered aquatic life uses, and integrate these tiered uses into the existing water quality standards program. Further work on this issue will be dictated by the availability of funding and Basin Planning staff resources.
13-4	City of Alhambra	Nov 6, 2008	Revise bacteria water quality objectives to account for nonanthropogenic sources and background loads. Review bacterial indicators as an effective surrogate for human health risk. Evaluate use of these surrogate indicators as they apply to where exceedance levels are set, including a no exceedance standard for dry weather, geo mean, and natural source exclusion criteria.	See response to comments 6-7A and 2-10.
13-5	City of Alhambra	Nov 6, 2008	Develop new beneficial use designations to reflect wet and dry period variability, including storm flow conditions.	See response to comment 1-4 and 10-3.
13-6	City of Alhambra	Nov 6, 2008	Consider defining water quality objectives in terms of frequency, duration, and magnitude, and account for natural conditions, including seasonality and flow.	See Response to Comment(s) 1-7 and 2-14.
13-7	City of Alhambra	Nov 6, 2008	Develop Basin Plan provisions defining peak storm flows and related criteria for design storm structural BMPs, which includes an analysis of the economic	See response to comment No. 2-16

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			and societal factors. Including clear guidelines for when water quality objectives and beneficial use designations are to apply to infrequent or substantial storm flows and implementation requirements.	
13-8	City of Alhambra	Nov 6, 2008	Revise the Basin Plan tributary rule to account for infrequent storm flows, hydrologic connectivity, co-mingling of non-storm flows, and exchange of aquatic life required to apply downstream beneficial uses to upstream locations.	See response to comment No.4-8.
13-9	City of Alhambra	Nov 6, 2008	Develop clear guidelines for why and how California Toxics Rule standards and data extrapolations should be applied to stormwater flows.	The water quality standards contained in the Basin Plan and other prevailing standards such as those in the California Toxics Rule (CTR) are applicable to all surface waters. Where surface waters are dominated by stormwater discharges, it is clear that these discharges must be controlled to achieve in-stream water quality standards. Where waterbodies are not achieving water quality standards, TMDLs must be developed, including allocations for stormwater, in order to attain water quality standards.
13-10	City of Alhambra	Nov 6, 2008	Recommend reformatting the Basin Plan to have a stand-alone chapter for stormwater. This would make it much easier to access, contain clear policy, and define the applicability of standards and	See Response to Comment 12-6.

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			beneficial uses.	
14-1	City of Arcadia	Nov 10, 2008	One of the issues with the Basin Plan amendments is that it ignores sizing criteria. It does not look at individual cities to examine the cost of water quality protection and the cost of other imperative factors associated within each city. The Basin Plan assumes that all cities have the same economic and societal factors which make it impossible to implement Best Management Practices and balance various other economic and societal factors with limited resources. Strict applications of water quality objectives without the evaluation for site specific objectives have resulted in significant expenditures.	See Response to Comment(s) 2-12. Also see General Response(s) 1 and 2.
14-2	City of Arcadia	Nov 10, 2008	Beneficial use designation found in the Basin Plan is another matter that must also be reevaluated. The development of clear, rational criteria for creating and applying beneficial use designations must be included in the triennial review of the Basin Plan. These criteria should direct the completion of use attainability analyses (UAAs) to evaluate which areas truly have beneficial uses and not simply potential beneficial uses that will never be functional for the community. Not evaluating current beneficial uses takes from our local agency resources. For example, we are required to protect potential beneficial uses which are expensive and pose considerable challenges, yet it is unlikely that any of these potential beneficial areas will ever have any significant benefits. The attached photos of the Santa Anita and Arcadia wash illustrate the how the	See General Response(s) 1; see also see responses to comments 1-4, 2-3 and 10-3. Note that both Santa Anita Wash (lower) and Arcadia Wash (upper and lower) are subject to the high-flow suspension of the recreation beneficial uses (REC-1 and REC-2) and the associated bacteria objectives.

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			washes are concrete lined and steep sided being very dangerous for the public therefore should not be listed as having Potential beneficial use for REC-1.	
14-3	City of Arcadia	Nov 10, 2008	The Basin Plan also lacks a discussion of anticipated or possible means to meet compliance. An implementation program must include a description of actions that are necessary to meet objectives. It is also vital that the Board review water quality objectives and standards and make certain that they have scientific validity. Setting water quality objectives and standards without scientific evidence and forcing cities to implement practices that are not proven facts to have benefits, is very costly. It is therefore very important that the Regional Board place a review of these indicators, water quality objectives and standards for compliance during the current Triennial Review process.	See General Response(s) 1 and 2. Also, see Response to Comment(s) 1-7, 2-9, and 6-7A.
15-1	City of Artesia	Nov 10, 2008	We would respectfully request that all potential beneficial uses be examined for their practical consequences. For example, Beneficial Uses such as Rec-1 (swimming...) and Rec-2 (boating...) for restricted access concrete lined storm channels do not seem to be supported by the evidence. The San Gabriel River and Coyote Creek are not actually located in the City of Artesia. However, Los Angeles County storm drain systems drain flows from the City into Coyote Creek and then into the San Gabriel River. Both the creek and the river are	See response to comment No. 1-4

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			<p>concrete lined channels that serve a flood control purpose. Public access to these channels is prohibited and restricted. Said channels are typically dry or have only nuisance water flows except during and just after a storm. When the channels have water in them it is not safe, in fact quite dangerous, for anyone to be in the channels. Therefore, beneficial uses such boating and swimming are unrealistic in said flood control water bodies and are not a probable beneficial use.</p>	
15-2	City of Artesia	Nov 10, 2008	<p>The City of Artesia continues to be committed to water quality improvements. However, like all municipalities, there is a necessary balancing act between all of the services that have to be rendered and provided to its citizens. Therefore, cities need to know what the cost might be to implement the water quality standards. As such, we respectfully request that the Regional Board staff, in accordance with CFR 13241, estimate what they believe are the likely costs of complying with the Basin Plan regulations on our community. This would include providing the City of Artesia with a conceptual implementation plan, an assessment of potential factors that could affect the cost estimate, including the technological uncertainties and monitoring limitations. We would be please to review and the Regional Boards Cost Estimate and provide feedback to the Regional Board on the financial impacts to our community.</p> <p>We are attaching a comment letter issued by our</p>	See General Response(s) 1, 2 and 4.

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			<p>city and two others, dated June 19, 2006. Said letter commented on the San Gabriel River Draft Metals TMDL. Included in the letter was a cost estimate worksheet for Artesia that followed, what at that time, was the Board's draft implementation plan for said TMDL. The estimate took the draft implementation plan and attempted to quantify the cost to construct improvements. As you know there are few BMP's available to effectively deal with metal pollutants and the few there are, are expensive as they would typically require land acquisition besides the cost of constructing the improvements, such as sand filter basins.</p> <p>The total cost estimated in the worksheet was over 60 million dollars. Even after correcting this estimate to reflect the lower housing values of today (\$440,000 average home price today vs. \$515,00 at the time of the original estimate) the worksheet cost would still be over close to 56 million dollars. The draft implementation plan assumed that half of the cost would be spent in the first five years. That equates to 5.6 million dollars per year. This cost worksheet ignored other likely costs as such as the need to construct storm drains to divert and transmit flows into the sand filter basins and so on.</p> <p>Such a cost for small city of our size would be unachievable as the total city budget is only 8 million dollars per year. In addition there would be an inevitable loss of affordable housing as the city would be prone to locate the sand filter basins where it could buy land more economically.</p>	

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			Commercial property in our city is' considerably more expensive that residential property. If that is the cost to comply with a single TMDL, one can only begin to imagine what the total cost to our City would be to address all of the TMDL's applicable for the San Gabriel River and Coyote Creek. Therefore, a Regional Board staff cost estimate would be valuable in determining the cost vs. benefit.	
15-3	City of Artesia	Nov 10, 2008	We herby incorporate by reference the correspondence, exhibits, documents and subsequent testimony, submitted on behalf of the following: Executive Advisory Committee for the Los Angeles County MS4 Permittees, letter by Dr. Gerald Greene, dated November 10, 2008; correspondence from Mr. Richard Montevideo, Rutan and Tucker, dated November 10, 2008; Comment Letter from Mr. Mark Pestrella, Los Angeles County Department of Public Works, dated November 10, 2008 as well as comments submitted on behalf of the San Gabriel River Watershed Management Area dated November 10, 2008	Comment noted. See specific responses to other letters.
16-1	City of Cerritos	Nov 10, 2008	The City of Cerritos is located in the San Gabriel River Watershed, and discharges storm water to both the San Gabriel River and Coyote Creek. Consequently, the City is subject to the San Gabriel River Metals TMDL. In 2006, City staff completed a cost estimate (Attachment 1) based upon the TMDL assumption that 30% of the watershed would be treated by infiltration trenches and 30% of the watershed would be treated by sand filters. The total cost of the	See General Response(s) 2.

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			<p>controls, including construction costs and necessary land acquisitions was estimated at over \$600 million. In light of this estimate, the City requests that the Regional Board staff estimate what they believe are the likely costs of complying with the Basin Plan's regulations on our community. This would include providing the City with a conceptual implementation plan, an assessment of potential factors that could affect the cost estimate, including technological uncertainties and monitoring limitations. We would be pleased to review The Regional Board's cost estimate and the provide feedback to the Regional Board on the financial impacts on our community.</p>	
16-2	City of Cerritos	Nov 10, 2008	<p>The City is also concerned with the designation of Coyote Creek as having a potential Rec-1 beneficial use, and the San Gabriel River as having an existing Rec-1 designation, involving direct body contact with the swift flowing waters of these concrete channels. The City urges the Board to examine and consider all potential and existing use designations for their practical consequences. Furthermore, the Board should consider a "flood control" beneficial use. Through the City's early history, the San Gabriel River and Coyote Creek were prone to flooding, prompting their conversion to concrete lined channels to prevent flooding and protect the surrounding community.</p>	See response to comments 1-4, 1-6, 2-3 and 10-3.
17-1	City of Covina	Nov 10, 2008	<p>As you are aware, the Basin Plan is an important document that has been used as the foundation of the NPDES Permit and TMDL programs. However, there have been numerous problems with the Basin</p>	See Response to Comment(s) 1-4 and 1-7. Also, see General Response(s) 1 and General Response(s) 2.

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			<p>Plan's use, including: a failure to consider how small communities, such as Covina, are affected by the costs of program implementation; the use of inadequate science to determine unachievable numeric limits; and the designation of beneficial uses that, in actuality, are impossible to ever occur. Additionally, the City of Covina supports and shares the comments and concerns that are expressed in the correspondence, exhibits and documents submitted on behalf of the Executive Advisory Committee for the Los Angeles County MS4 Permittees (November 10, 2008 EAC letter from Dr. Gerald Greene), as well as the correspondence from Mr. Richard Montevideo (November 10, 2008 letter from Rutan &amp; Tucker) and the San Gabriel River Watershed Management Area Committee (November 10, 2008 letter).</p>	
17-2	City of Covina	Nov 10, 2008	<p>We request that the Regional Board staff provide the City of Covina an estimate of the expected costs of compliance with the Basin Plan's regulations. This would include providing the City with a conceptual implementation plan and an assessment of potential factors that could affect the cost estimate, including technological uncertainties and monitoring limitations. We would be pleased to review the Regional Board's cost estimate and provide feedback on the financial impacts on our community.</p>	See General Response(s) 1 and 2.
17-3	City of Covina	Nov 10, 2008	<p>While the City of Covina agrees with the overall goal of the Basin Plan, we believe that it is imperative to</p>	Comment noted. The triennial review process is open to participation from all

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			involve cities and other stakeholders in the development process in order to ensure the creation of a superior and more beneficial product and its successful implementation.	interested parties and stakeholders.
18-1	City of Downey	Nov 10, 2008	In 2001, the National Academy of Sciences recommended reexamination of water quality standards prior to initiating the TMDL program, but, due partially to limited resources, this did not occur in the Los Angeles region. The City is concerned that the current Triennial Review will also be underfunded and submits the following comments so that the Board properly begins their evaluation as required under State Water Code. We encourage the Board to include local government in the revision process, knowing that since State resources are limited, stakeholders may of necessity have to assist in funding the revisions.	<p>To the extent that this comment contemplates a request for a blanket revision of the basin plan, see General Response(s) 1.</p> <p>The primary purpose of the Triennial Review is to review water quality standards and take public comment on issues the Regional Board should address during the coming three years through the Basin Plan amendment process, given available resources. The triennial review does not necessarily involve the revision of all standards every three years. Federal law only requires modifications “<i>as appropriate</i>”. Modifications to the Basin Plan are usually made to incorporate new scientific and technical information, in response to EPA’s recommendations and guidelines, or to address stakeholder concerns, where appropriate to do so.</p> <p>The availability of new scientific information or methodological developments may not directly translate</p>

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				<p>into a change to standards during a triennial review cycle. The state of the science also has to be taken into consideration.</p> <p>As an example, the reconsideration of the bacteria standards is still in a research and development stage therefore it would be premature to modify those standards while scientific understanding is actively evolving and new methodologies are being developed. In fact, EPA continues to recommend the water quality criteria based on fecal indicator bacteria, consistent with the Region's bacteria objectives.</p> <p>As to the request for inclusion in the review process, the Triennial Review has always been inclusive of all stakeholders and interested parties. For this particular review, input was solicited from stakeholders on their basin planning issues of concern, These issues were compiled by staff and presented before the Regional Board at a Board workshop held on April 2, 2009. At this workshop, stakeholders were given another opportunity to discuss their individual priorities before the Board and to submit additional comments. Upon final selection of the</p>

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				issues to be addressed during the current review period, stakeholders will again be involved through workshops and CEQA scoping and other meetings for the individual projects.
18-2	City of Downey	Nov 10, 2008	That being said, City of Downey resources have been adversely impacted by Los Angeles River (LAR) Trash TMDL, LAR Metals TMDL, San Gabriel River (SGR) Metals TMDL, and we anticipate additional scheduled TMDLs (e.g. harbor, sediment, indicator bacteria, legacy pesticides, etc.) with great trepidation. Along with other cities, we are concerned that water quality standards are reasonably achievable and their burden equitably distributed among pollutant sources, including society in general and National Pollutant Discharge Elimination System (NPDES) permittees. While supporting organization of the LAR Metals TMDL monitoring and special scientific studies and participating with Cleaner Rivers-through Effective Stakeholder TMDLs (CREST) Committees, our community's financial resources for water quality are limited. Local governments exist to provide a balanced assemblage of services, including public safety, public works (streets, water and sanitation), community services (parks), etc.	See General Response(s) 2 and 4. In addition responsible jurisdictions may seek grants to offset some of the costs associated with improving water quality. For example, in 2009, the State Water Resources Control Board awarded \$10 million in stimulus funding to the sixteen cities in the Los Angeles River Watershed, including the City of Downey, to cover the costs of installing full-capture trash control devices throughout their jurisdictions. This could put them in compliance with the Trash TMDL allocations more than 4 years before full compliance is required. The Regional Board has always been willing to assist qualifying jurisdictions in procuring funding towards meeting our goal of improved water quality in our region.
18-3	City of Downey	Nov 10, 2008	The current Basin Plan does not require allocation of loads among significant point source dischargers and Board permittees. In other words, for facilities where monitoring data indicative a load in excess TMDL criteria, Board and Basin Plan policy should	TMDLs assign waste load and load allocations to all identifiable sources of an impairing pollutant. MS4 permittees are assigned loads only where discharges of urban runoff and

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			<p>be to alleviate that load from assignment to the MS4 Permittees. The equitable and environmentally desirable outcome would assign waste load allocations to private sector sources, instead of holding local government accountable, regardless of source.</p>	<p>stormwater from the MS4 is a source of the pollutant in question. Any loads assigned to the MS4 system are generally based upon monitoring data from the system used in mass balance equations and models.</p> <p>It is not inequitable to require the governmental jurisdictions responsible for the separate storm sewer system (MS4) to bear the responsibility of ensuring that the citizens and businesses under their municipal jurisdiction do not discharge pollutants to the system.</p>
18-4	City of Downey	Nov 10, 2008	<p>Water Code Section 13241 requires the Board to consider several factors when setting water quality objectives. These include: 1) past, present and probable future beneficial uses, 2) environmental characteristics of the watershed, including the quality of the water, 3) water quality conditions that could reasonably be achieved through coordinated control of all factors which affect water quality, 4) economic considerations, 5) the need to develop housing and 6) the need to develop and use recycled water.</p>	See General Response(s) 1
18-5	City of Downey	Nov 10, 2008	<p>Ground Water Recharge ("GWR") - The Basin Plan currently lists GWR as a beneficial use for reaches of the lower Rio Hondo, Los Angeles and San Gabriel River. Many of these areas are concrete lined and convey mostly treated excess POTW</p>	<p>The Regional Board may consider revisions to beneficial uses as resources allow if such a change would be permitted by federal regulation and where there is adequate data and</p>

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			effluent, in excess of what is allowed for recharge, to marine receiving waters. It would therefore be prohibited, at least in some of these areas, for recharge to be occurring and the potential for future recharge through the concrete lining is minimal.	information submitted to justify the change to a specific beneficial use in a specific waterbody reach.
18-6	City of Downey	Nov 10, 2008	Industrial Service Supply - Throughout the region, many Industrial Service Supply users no longer use receiving waters such as the Rio Hondo, LAR and SGR as source waters due to increasingly strict environmental regulations and increasingly plentiful reclaimed water sources. There has been no Water Code 13241/13000 analysis, nor 13242 implementation plans prepared, that would determine the reasonableness and demand for discharges that meet the industrial service supply standard. Unless there exists industrial users, this use should be deleted from the Basin Plan or, at least, limited to those areas upstream of such water consumers.	See response to comment 18-5. Also, see General Response(s) 1.
18-6A	City of Downey	Nov 10, 2008	Water Contact Recreation (REC-1) & Non-Contact Recreation (REC-2) The Basin Plan lists REC-1 and REC-2 existing beneficial uses for the Rio Hondo, LAR and SGR in drainage channel areas that are restricted from public access and in fact are dangerous due to high velocity flows of effluent in smooth wall low flow conveyances. Despite having raised this issue in prior letters to the Board, it remains unaddressed and problematic and unresolved.	See Response to Comment(s) 1-4, 2-10 and 10-3.

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			<p>We continue to believe that indicator bacteria do not correlate well with human health risk, as they have many natural sources, and they are generally not harmful to humans. There are both new Sanitary Sewer Overflow (SSO) and Maintenance programs to address wastewater system failures and the potential for indicator bacterial replication in storm drains, which are not disinfected via exposure to sunlight. Until the USEPA develops new analytical methods that distinguish human from non-human pathogens, this beneficial use should acknowledge the potential for endogenous bacterial regrowth and put a greater emphasis on SSO monitoring efforts.</p>	
18-7	City of Downey	Nov 10, 2008	<p>Storm Water Chapter of the Basin Plan Prior Triennial Review comments (January 27, 2005 letter to Chair Diamond) requested that the Board develop a runoff water specific chapter for consideration of specific policies and goals within the Basin Plan. Whether the revised Basin Plan includes a stormwater chapter, it appears that major policy discussions are developing on an ad hoc "permit by permit" basis, without adequate consideration of state Porter Cologne factors. The draft Ventura MS4 Permit seems posed to propose a 5% effective impervious surface rule for development and Municipal Action Levels for urban runoff. These are major policy considerations, which should only be raised in conjunction with a Basin Plan revision inclusive Porter Cologne impact factors. We present below a partial listing of the major policies that should be discussed in the Storm</p>	<p>See Response to Comment 12-6. However, specific permit requirements are outside of the scope of the triennial review; comments on these should be directed to the appropriate permitting program within the Regional Board.</p>

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			Water Chapter.	
18-8	City of Downey	Nov 10, 2008	<p>Receiving Waters Limitations Language Issues and TMDL Implementation Alternatives</p> <p>The Board has cited federal regulatory authority under 40 C.F.R Statutes 122.44 (d)(1)(vii)(B), to justify TMDL numeric limits in MS4 Permits. There is no authority under State or federal law compelling TMDL waste load allocation as municipal permit limits.</p>	<p>This is not a specific suggestion relating to the Basin Plan, and is therefore outside the scope of the triennial review. Comments on permit requirements should be directed to the appropriate permitting program within the Regional Board. The development of requirements pertaining to receiving water limitations in municipal storm water permits are driven by the records supporting the permits, precedential decisions of the State Board, and applicable law.</p>
18-9	City of Downey	Nov 10, 2008	<p>As set forth in EPA's "Guidance Memorandum for Developing TMDLs California" (November 22, 2002), EPA asserted that "because storm water discharges are due to storm events that are highly variable in frequency and duration are not easily characterized, only in rare cases will it be feasible or appropriate to establish numeric limits for municipal and small construction storm water discharges."</p> <p>The very real problems created by incorporating TMDLs numeric limits into an NPDES permit are seen in the Notice of Violations and still to be resolved the third-party litigation resulting from the Santa Monica Bay Beaches Bacteria TMDL. This process has resulted in expensive and unnecessary litigation overtures against the state, County and Cities.</p>	<p>See response to comment 18-8</p>

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18-10	City of Downey	Nov 10, 2008	Under federal law, the permitting agency has the "discretion" to decide what practices, techniques, methods and other provisions are appropriate and necessary to implement the TMDLs. This discretion exists, since experts recognize that many of the TMDL waste load allocations for municipal storm water discharges are difficult to achieve, due to the variability of storm flows. Strict compliance with a TMDLs numeric limit may not be technically or economically feasible for any municipality in the region.	See response to comment 18-8
18-11	City of Downey	Nov 10, 2008	Load allocations can be implemented through other state and local programs (which may be regulatory, non-regulatory, or incentive based), as well as through voluntary agreements. One successful model is the Memorandums of Understanding ("MOU"), between the Board and Cities. These are legally binding upon the parties and contain performance schedules, capital improvement plans and penalties to ensure compliance with iterative BMPs. These Regional Board - Local Government MOUs could be based on similar MOUs between EPA and federal agencies, or EPA agreements for the Niagara River and Chesapeake Bay. An application of the MOA is EPA's agreement with the Regional Board and the City of Los Angeles for development of the science on the Los Angeles River Bacteria TMDL (the CREST MOA). The Boards should fully explain the implications of the current TMDL policy on local government and	See General Response(s) 3. TMDL development options are also outlined in State Board Resolution No. 2005-0050.

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			explore alternative implementation tools for the Basin Plan, like MOUs.	
18-12	City of Downey	Nov 10, 2008	<p>The Los Angeles River Trash TMDL is a numeric translation of a narrative Basin Plan standard ("there shall be no floatables"). The TMDL granted "full capture" status to certain trash removal devices and contained a design storm, however, we continue to be concerned that the "narrative" standard and implementation schedule (10% annually) are impractical and not reasonable achievable. The City of Downey joined in submitting comments on the Los Angeles River Trash TMDL, which called for implementation of the Trash TMDL based on the Keep Downey Beautiful prioritization plan and was correlated to the findings of the United States Environmental Protection Agency (EPA) supported "Market-Based Strategies for Reducing Trash Loading to the Los Angeles Watershed, March 2006" study. This study found that 15% of storm drains conveyed 50% of the trash in flood control channel. The current Trash TMDL mandates that all catch basins be protected, whether they are significant collectors of trash or not. This is a wasteful expenditure of government funds for installation and maintenance. The Basin Plan should contain a TMDL implementation discussion, which would provide consistency with the lessons learned in the Los Angeles River Trash TMDL.</p>	<p>See General Response(s) 3 and General Response(s) 4. In 2009, the State Water Resources Control Board awarded \$10 million in stimulus funding to the sixteen cities in the Los Angeles River Watershed, including the City of Downey, to cover the costs of installing full-capture trash control devices throughout their jurisdictions. The Regional Board has since heard testimony from some of the cities subject to the LA River Watershed Trash TMDL that the WLAs are achievable and that 100% compliance will be achieved well in advance of the final deadline. This could put these jurisdictions in compliance with the Trash TMDL allocations more than 4 years before full compliance is required. That notwithstanding, the Regional Board included in the adoption of the Trash TMDL a provision to reconsider the TMDL once a sustained 50% reduction was achieved in the watershed. The issue raised by the commenter may be considered by the Board during the scheduled reconsideration.</p>
18-13	City of Downey	Nov 10, 2008	The City of Downey has submitted extensive	The TMDL was approved by the

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			<p>comments on the problems facing municipalities in attempting to strictly comply with the California Toxics Rule and the Los Angeles River Metals TMDL. As a member of both the LAR Metals TMDL Steering and Technical Committees, we have actively encouraged local governments to support the special scientific studies called for in the TMDL, but organizing over 40 watershed agencies is a major resource commitment that requires additional time to complete. The time schedule in the TMDL is overly ambitious, based on the costs of the studies and the logistics of organizing 42 local governments in the watershed (the estimated costs of the site specific objectives study/water effects ration is \$2 million and studies of atmospheric deposition and natural sources of metals are estimated at \$1.7 million). What has made these special studies "affordable" is the large number of participating local government agencies, where the costs can be spread over a large base.</p>	<p>Regional Board in June 2005, and went into effect in January 2006. This allows over four years to complete the special studies.</p>

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18-14	City of Downey	Nov 10, 2008	We believe that the Consent Decree time schedule is seriously flawed and producing unnecessary conflict, in that it did not include a realistic assessment of the time, logistics and costs of completing sound science and TMDL implementation plans. It did not include the input of local governments, who bear many of the implementation costs. The Board has adopted recent TMDLs that call for "voluntary" scientific studies to be funded by local government. We believe that these studies are far from voluntary, since they are necessary to establish proper water quality standards. The Basin Plan needs to discuss how the Board should consider realistic timelines for organizing, funding and completing the special studies resulting from the various Metals TMDLs.	This comment is not related to the Triennial Review. The US EPA, Region IX and the plaintiffs developed the Consent Decree and the schedule contained therein. While the Regional Board had input regarding the schedule, the Regional Board does not have the authority to change the TMDL schedule or pacing requirements contained in the Consent Decree. These special studies referred to are not necessary to establish proper water quality standards. They are usually a means of streamlining TMDL requirements by providing additional pertinent information. Where special studies may be effective in streamlining TMDL requirements, extended schedules have been provided to accommodate them and pre-set re-openers have been included in these schedules to incorporate the results of such studies and adjust TMDL requirements where necessary.
18-15	City of Downey	Nov 10, 2008	The Basin Plan should change to reconcile the difficulties of using a flood control system, designed to protect life and property, with the goal of improving water quality. The State Board recognizes that rivers have been extensively modified to convey storm water runoff and beneficial uses can change due to these modifications (Resolution No. 88-63, Sources of Drinking Water	See response to comment No. 1-6

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			<p>Policy). The State Board has also recognized that the function of concrete channels is to move runoff away from residential areas as quickly as possible, making water conservation difficult. The modifications to reflect flood control was cited by the State Board in remanding the Use Attainability Analysis for the Ballona Creek back to the Regional Board on the REC-1 beneficial use, as follows:</p> <p>"The record indicates that the creek was converted to a concrete-lined flood control channel many years ago. Since then, the surrounding area has become highly urbanized. Restoring the full REC-1 uses associated with swimming in the Ballona Creek watershed would require addressing both the creek's existing low-flow regime as well as reconciling the creek's function as flood control channel with public access for full body contact recreation. As the Regional Board staff observed, restoring the creek's use for full REC-1 uses associated with swimming would require substantial changes in existing land use patterns. These types of changes require extensive time, planning, funding, and construction. (SWRCB Order WQO 2005-0004, Pages 11-12)</p>	
18-16	City of Downey	Nov 10, 2008	Flood control is beneficial to society and should be discussed in the Basin Plan. Assuming it is even appropriate and feasible to do so, the Board needs to carefully consider that plans and funding resources do not exist to return many of the concrete lined flood control channels to natural	See response to comment 1-6

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			water bodies and such planning and funding may take decades to achieve, if even possible.	
18-17	City of Downey	Nov 10, 2008	The Stormwater Chapter should devote substantial discussion to the newly emerging policy of low impact development. Low impact development encourages the infiltration of urban runoff into local soils, but this policy has limitations. One major limitation is the requirement for additional land to impound water on development sites, especially for built-out urban areas. Other limitations include cities with high ground water tables, where runoff cannot be infiltrated and cities with high natural levels of selenium in the soils, where ground water contamination may result from LID practices.	See response to comment No. 18-7
18-18	City of Downey	Nov 10, 2008	The Basin Plans needs to take an integrated approach to AB-32 and SB-375 climate change legislation passed in the last two years. SB-375 is to address climate change by regulating transportation, housing, CEQA and land use decisions, in an attempt to centralize development. These policies may be in direct conflict with the Low Impact Development policies of the Regional Board, especially where infiltration could result in additional land requirements. Most climate experts anticipate periods of prolonged drought and water shortages in Southern California. Population growth will place additional demands on water supplies. The Board should include policies in the Basin Plan that encourage the capture and reuse of urban runoff and storm water, while being consistent with the	<p>Comment noted. See General Response(s) 3. The Regional Board in the adoption of a number of TMDLs has encouraged the use of an integrated water resources approach to implementation that includes opportunities for capture and reuse of urban runoff.</p> <p>Additionally, implementation of climate change legislation, while a valuable suggestion, is outside the scope of the water quality standards review contemplated by the triennial review process.</p>

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			requirements placed on local government by of SB-375.	
18-19	City of Downey	Nov 10, 2008	<p>The Basin Plan provides no direction on how Cities are to comply with a strict application of numeric limits derived from the California Toxics Rule (CTR), which was adopted by the EPA in 1999. Whether Cities will be required to strictly comply with numeric limits or whether an "iterative" best management practices approach will be the Board's implementation policy has significant economic impact on local government. Statewide, over 50 cities and local government agencies commented in the California Toxics Rule (CTR) public record during the rule making phase. Their fear being that local regulators (EPA Region IX, and the Regional and State Water Boards) would wrongly apply CTR criteria to municipal urban runoff and storm water discharges as part of the CTR adoption process. These local agencies requested EPA to complete the required economic analysis, if numeric limits were to be strictly applied to municipal discharges. EPA responded that the economic analysis was unnecessary, since the application of CTR to storm water would not result in the substantial local government investment, beyond the existing storm water programs found in 1996 NPDES Permit. The Board is now inserting CTR limits into MS4 permits on a regional basis, without an economic analysis (i.e. adoption of numeric limits in the LAR and SGR Metals TMDLs, and the proposed draft Ventura MS4 Permit Municipal Action Levels). The Basin</p>	<p>See General Response(s) 3. The CTR was established by US-EPA, not the Regional Board. The program of implementation of the CTR for non-storm water dischargers is contained in the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (2005), SWRCB Resolution No. 2005-0019. Contrary to the suggestion in the comment, the iterative approach requires compliance with water quality standards. The iterative approach is always preceded in storm water permits with a prohibition barring discharges that cause or contribute to violations of receiving water limitations, i.e., in-stream water quality standards. The extent to which the iterative approach should be replaced when unsuccessful, with the strict application of numeric effluent limitations however, is a policy decision best made on a case by case basis, which includes a fact-specific inquiry that considers the technical ability to control specific CTR constituents, their sources, their effect on human health and the environment, and the diligence of the regulated</p>

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			Plan needs to include an analysis of the achievability and economics in this decision.	community in endeavoring to attain standards.
18-20	City of Downey	Nov 10, 2008	The current Basin Plan does not take into account the requirements of Water Code Sections 13241 and 13000 in connection with storm water, including urban runoff. The Basin Plan also does not provide an implementation plan, which can provide a general guideline for local governments on achievability and the likely costs of meeting the water quality standards in the Basin Plan. For example, conducting an analysis on whether a standard is reasonable achievable would likely result in finding the most efficient, cost effective and environmentally sound method of implementing a regulation. The Basin Plan's discussion of funding sources is outdated and based on non-supported programs. The Basin Plan needs to explore the achievability and funding issues confronted by local government, including whether the programs are reasonable achievable, the program costs, likely funding sources, and response to "short falls".	See General Response(s) 1
18-21	City of Downey	Nov 10, 2008	Developing a stable local funding source to finance necessary water quality improvements has been a major stumbling block. Los Angeles County and local Cities are undertaking a multi-year effort to develop this much needed stormwater and urban runoff funding measure, based on a parcel assessment, which will require a property owner vote. The exact nature and the timing of the assessment and vote are still under consideration.	Comment noted. See also General Response(s) 1 and 4.

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			<p>The success of this effort will depend in a good measure on the Boards working with local government, to develop scientifically and legally sound and achievable cost-effective water quality programs, which can be supported by the public. Too large, or open ended, an assessment may result in the defeat of the measure. The Basin Plan should acknowledge that raising taxes has become increasingly difficult, so that complying with water quality regulations may lead force local government to reduce expenditures for other public services. Increased expenditures, without new sources of revenues, would lead to real reductions in existing municipal services - such as road and park maintenance, public safety, libraries and other local government services.</p>	
18-22	City of Downey	Nov 10, 2008	<p>The Boards should collect existing opinion surveys as part of the Triennial Review, and Basin Plan Update, in order to determine the public attitudes toward supporting additional taxes or assessments for water quality. These opinion surveys should be factored into a practical implementation plan (see discussion below). The Boards should solicit survey information from the various entities, since the willingness of the public to fund water quality programs is a key aspect of the "balancing" requirements of Water Code Sections 13000 and 13241. As an example, the Charlton Research Company completed a voter survey in Los Angeles County in October of 2002 to test awareness and voter willingness to pay for storm water clean-up</p>	<p>The Board did not limit the nature of information and data to be submitted for consideration of issues to be addressed in the current triennial review cycle. Stakeholders had the liberty of submitting any data they felt was relevant to this particular purpose. However, it should be emphasized that the Regional Board must protect water quality consistent with federal requirements.</p>

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			<p>programs. The survey polled 600 likely voters in eight communities - Santa Monica, Palos Verdes Estates, Long Beach, Downey, Diamond Bar, Glendale, Santa Clarita and Glendora. The survey pointed to the general unwillingness of local voters to fund new storm water fees. Twenty-five percent of the respondents were not willing to pay at all, while 24% didn't know. Twenty-five percent were willing to pay \$5 month or less. This survey was taken during a period of economic prosperity and likely does not reflect the attitudes of residents heading into a potentially severe economic recession.</p>	
18-23	City of Downey	Nov 10, 2008	<p>The University of Southern California completed "An Economic Impact Evaluation of Proposed Storm Water Treatment for Los Angeles County" in November of 2002. The study confirmed that the level of treatment required to meet new and emerging storm water regulations will impose very large burdens on the regional economy and local governments in particular. The report looked at three treatment scenarios -480 sub-basin plants, 65 regional plants and 130 plants - one plant per city. The study demonstrated that the storm water treatment costs and economic impacts greatly increase with the capacity of the facilities to treat rare, large storm events. The region receives approximately 33 wet days annually, in varying storm sizes. The study evaluated the costs and impacts associated with treatment of storm flows produced by 0-0.5 inches of rain in a one-day event</p>	<p>The Regional Board carefully considers the amount of time needed to implement TMDLs and ultimately achieve water quality standards and has provided generous implementation schedules in many cases in recognition of the challenges faced by municipalities as they implement TMDLs. Where feasible, implementation schedules for the various TMDLs are coordinated to assist dischargers in maximizing compatible solutions that address multiple TMDLs.</p>

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			<p>(70% of the rain events per year), 0-1.25 inches of rain in a one-day event (or 90% of the rain events) and 0-2.25 inches of rain in a one day event (97% of the rain events). Costs and impacts were found to increase dramatically as storm water treatment capacity approaches the full annual rain event coverage. Using the 65-plant scenario, the region would have to invest \$43.7 billion for new collection and treatment capacity to accommodate the smaller storms (0-0.5 inches). The costs increase to \$135.5 billion to accommodate 90% of the storms and to \$283.0 billion to accommodate the 97% of storms.</p>	
18-24	City of Downey	Nov 10, 2008	<p>A deficient and "piecemeal" approach of addressing the impacts of applying numeric limits based on CTR is found in the LA River Metals TMDL. The Board's staff estimated the TMDL cost of compliance would be \$1.4 billion for the cities, the County and Caltrans, with an additional \$153 million in maintenance costs annually thereafter, to achieve compliance with only 40% of the TMDL (20% of the watershed served by sand-filters and 20% of the watershed served by infiltration trenches). An undefined "Integrated Resources Program" was assumed to meet the remaining 60% of the waste load allocation in the TMDL. The TMDL cost estimate is thus incomplete at best.</p>	<p>The LA River Metals TMDL appropriately considered the cost of implementation, and was adopted by the Regional Board, approved by the State Board, and approved by OAL as having met all regulatory requirements for consideration of cost. Also, see General Response(s) 4</p>
18-25	City of Downey	Nov 10, 2008	<p>The Water Code requires the Board consider whether the standards could be reasonably achieved, given economics, housing and other factors when establishing the water quality</p>	<p>Comment noted. See General Response(s) 1</p>

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			standards in the Basin Plan. The California Legislature did not make clear what considerations of economics means, or how consideration of economics is intended to influence decisions, albeit the Court's have confirmed that the discharger's costs of compliance must be considered. Drs. David Sunding and David Zilberman, two U.C. Berkeley economists, propose a protocol for this analysis.	
18-26	City of Downey	Nov 10, 2008	<p>A major focus of the report was to increase the "transparency" of the Basin Planning process. The study suggests that the increased use of economics will help to avoid the legal and political conflicts that have adversely affected recent water quality protection efforts. Economic reviews often result in shaping cost-effective regulations. The case in point is the LA River Trash TMDL, which was first adopted with only one "full capture" certified device, the CDS-vortex unit. These units proved very expensive for local government to install and maintain, which then resulted in engineering studies to find less expensive, but equally as effective alternatives. The Board has now approved several less expensive devices, including nets, inserts and excluders. The economic analysis should have preceded the adoption of the TMDL, since it would have generated discussion of alternatives at the initial stage.</p> <p>The report recommends that the Board staff conduct robust economic data collection. This would include compiling a complete a list of the parties</p>	Comment noted.

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			<p>affected by the Basin Plan, including private industry and government agencies, along with a description of the qualitative impacts. The staff would then solicit data from the regulated community regarding the potential compliance and related costs for Basin Plan standards. Dr. Sunding recommends that the Board staff estimate what they believe are the likely costs of the Basin Plan's regulations on each entity. This would include an assessment of the potential factors which could affect the estimate, including technological uncertainties, monitoring limitations, etc. The report suggests that the Board mail a "check list" to the regulated community, for an initial assessment. A sample check list is included in the report. Once the data is received, the Board staff would then focus on the areas of major economic concern to the stakeholders.</p>	
18-27	City of Downey	Nov 10, 2008	<p>The California Coalition for Clean Water transmitted a white paper to the State Water Board on February 12, 2004. "Reassessing California's Water Quality Programs, February 2004" called for a series of common sense reforms, including review of the water quality standards prior to costly implementation. The white paper found that in recent years, the federal and state water quality programs have shifted their focus from a best management practices approach to a water quality standards approach (many standards were placed in the Basin Plans in the 1970's without review), irrespective of their risks, costs or practicality. The</p>	<p>Comment noted. See General Response(s) 1</p>

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			<p>white paper found that many of the Basin Plan standards were developed at a time when the costs were unseen and without regard for the Water Code requirements. The report concluded that:</p> <p>"All water quality standards to be utilized in the development of permit requirements and total maximum daily loads (TMDLs), including beneficial uses and designations and federal and State water quality objectives, must be reassessed, verified and adjusted as necessary, and subject to the reviews mandated in the Water Code Sections 13241 and 13242 prior to implementation. These reviews should occur either in conjunction with triennial reviews or the basin plans or as part of the TMDL process."</p> <p>The report recommends that standards that are not technically supportable or were not developed in accordance with the Water Code requirements should be subject to reassessment and, if appropriate, modifications prior to implementation. The Boards should use the White Paper as guidance when revising the Basin Plan.</p>	
18-28	City of Downey	Nov 10, 2008	<p>The current Basin Plan does not consider the socio-economic impacts of its regulations. The Gateway Cities Council of Governments studied the socio-economic impacts of the Metals TMDLs on the Los Angeles River in 2004 and the San Gabriel River in 2006. The reports illustrate high poverty rates, overcrowding and low educational levels in the</p>	Comment noted.

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			watersheds. Over 936,320 persons were living in poverty in the Los Angeles River watershed, while over 508,733 were living in poverty in the San Gabriel River watershed. Although this data is three to four years old, experts believe that economic conditions have worsened.	
18-29	City of Downey	Nov 10, 2008	<p>The Boards should factor the most recent socio-economic information into the Basin Plan review, consistent with Water Code sections 13241 and 13000 (section 13000 requires the Boards to take into consideration "all demands being made and to be made on those waters and the total values involved, beneficial and detrimental.") This would include local unemployment rates. The most recent unemployment rates are alarming (Source: State of California Employment and Development Department). These reports point to intractable poverty, a poorly educated workforce and high unemployment in the Los Angeles River watershed. These indirectly point to the difficulty that local governments will face with raising taxes for services, such as water quality programs.</p> <p>The League of Cities convened a Water Quality Regulatory Task Force in 2002- 2003, which culminated in the "Final Report of the Water Quality Regulatory Task Force – Problems and Suggested Actions- July 18, 2003". The Task Force found that the regional boards do not assess consistently the economic impacts of permits, reporting and water quality standards (Page 3). The Task Force</p>	Comment noted. See General Response(s) 1.

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			<p>recommended that</p> <p><i>"Because of excessive costs of implementing permits, explore the feasibility of authorizing a phased approach (as opposed to a "do-it-all" at once approach) that would ensure that the most cost effective steps are done first".</i></p>	
18-30	City of Downey	Nov 10, 2008	<p>We remain concerned that the Basin Plan does not contain a realistic implementation plan. The Boards should study a phased implementation approach, as recommended by the League of Cities. This phased approach would examine the challenges confronting local government when they are required to implement the NPDES Permit programs, the LA River Trash TMDL, the LA River Metals TMDL and other TMDLs at the same time.</p>	<p>The Regional Board is restricted by the Consent Degree with regard to the timing of its adoption of TMDLs. However, the implementation time allowed for compliance with the TMDLs is designed to accommodate the planning and resource challenges confronting local governments</p>
18-31	City of Downey	Nov 10, 2008	<p>The provision of affordable housing is a Statewide goal. Water Code Section 13241 specifically requires the Boards take into consideration the impacts of regulations on housing, which currently does not exist in the Basin Plan. The Gateway Cities COG studied the impact on housing based on the implementation plans contained in the Metals TMDLs on the Los Angeles River in 2004 and the San Gabriel River in 2006. These studies were targeted towards these two watersheds in order to understand the impact of the Metals TMDLs and not the entire regulatory programs of the Basin Plan. Also, these studies did not take into account the overall impact on housing in the entire region, nor</p>	<p>Comment noted. See General Response(s) 4.</p>

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			from the implementation of future TMDLs in the two watersheds.	
18-32	City of Downey	Nov 10, 2008	The State requires that local governments provide a full range of housing, including affordable housing. Cities are given specific housing allocations in what is known as the Regional Housing Allocation Model (RHNA). The Southern California Association of Governments monitors housing production in the region. The last report (as of 2005) indicated that the San Gabriel River Watershed had fallen behind in producing housing by 2,780 units, while the Los Angeles River watershed had fallen behind by 15,833 units. These studies found that the implementation plans in the TMDL will worsen housing affordability in the watersheds.	Comment noted
18-33	City of Downey	Nov 10, 2008	The Basin Plan review needs to take into consideration the dire economic issues facing the region, the state and the nation, based on the collapse of the sub prime lenders in the last two years. In August California led the nation in housing foreclosures, with 101,485 units. This is a full 1/3 of the national total of foreclosures that month. There were 19,903 units foreclosed in Los Angeles County in August. There is second wave of foreclosures on Alternative A and Option Adjustable Rate Mortgages starting in 2009 and lasting until 2011. The Southern California Association of Governments estimates that the average cost of foreclosures on local government is \$7,000.	Comment noted

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18-34	City of Downey	Nov 10, 2008	The Basin Plan has failed to provide an implementation plan under Water Code Section 13242. Local government will need an implementation plan in order understand whether the standards are reasonably achievable, how they may be achieved and the budget impacts, as well as to provide additional alternatives. We have previously discussed the need for the Basin Plan to consider phased implementation (see League of California Cities comments above).	Comment noted. See General Response(s) 2.
18-35	City of Downey	Nov 10, 2008	The Basin Plan should provide an implementation strategy that would depend on the installation of "dry weather" diversions of urban runoff to the local sewer system. As you are aware, a series of dry weather diversions have been installed by the City and County of Los Angeles in the last several years. The Basin Plan should document the progress of these installations, including their costs. Although expensive, these diversions have resulted in improvements in local surface water quality. However, the County Sanitation Districts studied dry weather diversions along the coast in 2002 at the request of the Regional Board. This study found that the suitability and feasibility of diverting specific storm drains was highly dependant on site conditions. The suitability and feasibility were best determined by identifying a specific impairment in the receiving water, and by performing field reconnaissance and data collection (see letter December 30, 2002 letter from Ms. Victoria Conway to the Mr. Dennis Dickerson). The Los Angeles	See response to comment 12-7.

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			County Sanitation Districts may have capacity issues (line sizes and lift stations) that may prevent some or most-dry weather diversions, without substantial upgrades to the local and regional wastewater treatment facilities. The Triennial Review and Basin Plan should include information from the Sanitation Districts on the ability of the Districts to accommodate dry weather sewer diversions.	
18-36	City of Downey	Nov 10, 2008	The City of Downey considers it imperative that current economic situations of the state and local governments be considered during this Basin Plan Triennial Review. Furthermore, it is imperative that the Board consider the economic, housing and other social impacts of the Basin Plan and TMDL programs and to establish clear priorities for implementation. This must be done in a transparent and open process, involving all of the stakeholders. We are concerned that the recent data solicitation does not request important information relevant to these concerns, and hope that the current request for data is intended to support scoping the proposed triennial review process.	Comment noted.
18-37	City of Downey	Nov 10, 2008	Like most communities, the City of Downey desires to work collaboratively with the Boards to define a process and protocol, which ensures that existing and future water quality standards are assessed in accordance with Water Code Sections 13000, 13241 and 13242 factors. This process should include subsequent focused requests for data and	The Regional Board adopts amendments to the Basin Plan in accordance with state and federal law, and the guidance contained in the State's Administrative Procedures Manual, Chapter 8 - Water Quality.

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			information on particular topics, in order to allow for a more complete examination of the existing information and to ensure that a complete review of the standards occurs.	
19-1	City of La Verne	Nov 5, 2008	The Basin Plan is a very important document that has been used as the foundation of the NPDES Permit and TMDL programs. However, problems with the Basin Plan's use include; a failure to consider how small communities such as La Verne are affected by the costs of program implementation, the use of inadequate science to determine unachievable numeric limits, and the designation of beneficial uses that in actuality, are impossible to ever occur. Additionally, the City of La Verne supports and shares the concerns that are expressed through other comment letters that will be submitted by groups such as the EAC and CPR as well as previous letters sent to Executive Officer Dickerson (2003) and Chairwoman Cloke (2005) attached to this letter.	See Response to Comment(s) No.(s). 1-1, 1-4, 1-5 and 1-7. Also see General Response 1, General Response 3, General Response 4. Effluent limitations (numeric or narrative) are permit conditions, not water quality standards. The triennial review is directed to the management and efficacy of water quality standards. The manner of implementing water quality standards in discharge permits is not a function of the triennial review.
19-2	City of La Verne	Nov 5, 2008	The City of La Verne agrees with the overall goal of the Basin Plan but believes that involving cities and other stakeholders in the development process will enable a better and more productive result. In the past, it seems that concerns and comments have been overlooked and not utilized for a superior and more beneficial product.	In fact the cities were invited to participate and many did participate in the development of the Basin Plan itself. In every triennial review, the Regional Board provides opportunities for public input consistent with federal and state requirements. Regional Board staff has always endeavored to include all interested persons and stakeholders in the periodic reviews of the Basin Plan

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				through solicitation of input, prioritization workshops, and providing opportunities for stakeholders to express their concerns directly to the Board through comment letters and presentations at Board hearings and workshops. Upon selection of projects to be addressed, stakeholders again have the opportunity to participate in the development of Basin Plan amendments.
20-1	City of Los Angeles	Nov 10, 2008	One issue of immediate concern to the Bureau is the need for approval of the Copper Water Effect Ratio (WER) Study for the Los Angeles River submitted to the Regional Board on June 3, 2008, by the Bureau and the City of Burbank. The study followed a rigorous scientific protocol, with guidance from a Technical Advisory Committee and Regional Board staff, to determine copper WERs for the Los Angeles River for use in CTR criteria equations. The Bureau and the City of Burbank are requesting that the WERs be applied to the NPDES permits for our treatment plants and also used, as appropriate, for other water quality planning purposes for the Los Angeles River. This issue is included in the Attachment as Issue #1.	Regional Board staff has been actively involved in the development of the copper WER to modify copper permit limits for three POTWs that discharge to the Los Angeles River and the Burbank Western Channel, a tributary to the Los Angeles River. Staff has since released for public comment a proposed revision to the implementation plan for the Los Angeles River Watershed Metals TMDL and, specifically, the WLAs assigned to the three POTWs on the basis of the WER.
20-2	City of Los Angeles	Nov 10, 2008	Regarding the overall Triennial Review process, the Bureau further requests the: A) Regional Board employ the use of several workshops to identify the priorities from the Bureau and other stakeholders as this forum greatly	On September 25, 2008, Regional Board staff sent out a solicitation letter to interested parties requesting data and information on water quality standards and other Basin Planning issues that

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			<p>enhances the ability of the public to participate in this process; and</p> <p>B) Regional Board provides the status and any final products for the priority actions listed in Resolution No. 2005-003 from the 2004 Triennial Review. It is currently unclear which items have been completed and if the products and services produced met the intent and fulfilled the requirements for these issues.</p>	<p>they felt should be addressed for the Los Angeles Region, during the review. On March 2, 2009 Regional Board staff noticed a public workshop to all interested persons. The workshop was held on April 2, 2009, during a regularly scheduled Board meeting, with the purpose of providing the public and the Board members an opportunity to discuss and begin to identify priority Basin Planning issues to be addressed during the current triennial review period. Staff presented the Board with issues to be prioritized, which included those submitted by stakeholders as well as those identified by Regional Board staff. All stakeholders were provided the opportunity to present their top three priorities at the workshop.</p> <p>On January 19, 2010 Regional Board staff made available the draft Triennial Review Staff Report and Tentative Resolution for public review; allowing a 45-day period for review and input from stakeholders. Further opportunity for public participation will be provided at the Board hearing on April 1, 2010.</p> <p>With respect to the projects identified during the previous triennial review period, the draft Staff Report recently released for public review discusses</p>

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				projects completed during this period and the status of others.
20-3	City of Los Angeles	Nov 10, 2008	The issues identified in this letter are of significance to the operation of the Bureau's wastewater and stormwater programs. The Bureau and other agencies within the Los Angeles Region need to be provided with the appropriate guidance to be able to focus limited public funds on controls that will protect actual beneficial uses and be in the public interest.	Comment noted
20-4	City of Los Angeles	Nov 10, 2008	<p>A copper water effect ratio (WER) study was completed in June 2008 for portions of the Los Angeles River and Burbank Western Channel. The WER can be used to customize national aquatic life criteria, which include California Toxic Rule (CTR) aquatic life criteria established by USEPA in 2000, to reflect site-specific water column conditions.- The WER is used to derive site-specific criteria that maintain the level of protection of aquatic life intended by the "Guidelines for deriving numerical national WQC" (USEPA 1985). If the value of the WER exceeds 1.0, the site water reduces the toxic effects of the pollutant being tested.</p> <p>Conversely, the WER can be less than 1.0, in which case the toxic effects of the pollutant in site water would be greater than that in laboratory water and the site-specific WQC should be less than the WQC. The results of the LA River WER study found that the WERs for those portions of the LA River and Burbank Western Channel tested were greater than 1 and</p>	See response to comment No. 20-1. Also, as resources allow, it is the intent of Regional Board staff to reconsider the Los Angeles River Nitrogen TMDL to revise the WLAs for ammonia, as appropriate, based upon the ammonia site-specific objectives.

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			<p>ranged from 3.661 to 6.071 depending on the section evaluated.</p> <p>In 2003, the Ammonia Water Effects Ratios and Site-Specific Objectives for the Los Angeles County Waterbodies were submitted to the Regional Board. The study began in 1999 with the objective of developing WERs downstream of ten wastewater treatment plants on the Los Angeles River, Santa Clara River, and San Gabriel River Watersheds. The study provided supported for developing WERs in these waterbodies and was adopted by the Regional Board on June 7, 2007. The study was subsequently adopted by the State Water Resources Control Board and OAL and is nearing final approval by U.S. EPA. The Regional Board needs to re-open the Nitrogen TMDL to incorporate the results of this study into the LAR Nitrogen TMDL and also incorporate these results directly into the NPDES permits for the Cities of Los Angeles and Burbank and LACSD.</p> <p>The Los Angeles River Metals and Nitrogen TMDLs should be reopened to revise the allocations based on the WER studies. The POTW permits should be reopened to incorporate revised effluent limits based on the WER studies.</p>	
20-5	City of Los Angeles	Nov 10, 2008	Concise Summary of Data, Information or Evidence: RWQCB Resolution No. 03-009, "Amendment to the Water Quality Control Plan - Los Angeles Region to Incorporate the Los Angeles River Nitrogen Compounds and Related Effects TMDL," contains the	See General Response 3

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			<p>requirement to monitor receiving waters for nitrogen compounds on a weekly basis to ensure compliance with the water quality objective. The Resolution has no rationale for why weekly testing should be required. The TMDL indicates that nitrogen loading is driven by discharges from the three Water Reclamation Facilities (WRF): DC Tillman, Los Angeles Glendale, and Burbank. As such, nitrogen concentrations found in the river will be related to levels found in the WRF effluent monitoring to continually evaluate the correlation.</p> <p>The TMDL should be revised to remove the current weekly monitoring requirement for collection of samples in the LA River and replace it with a one-year monitoring period during which the Bureau can monitor weekly in the river to determine if 1) a correlation exists between the nitrogen concentration in the POTW's discharge and the Nitrogen concentrations found in the river and 2) the variation in the data supports reduction of the monitoring frequency. Once the correlation has been established, the weekly monitoring could be replaced with monthly monitoring to continually evaluate the correlation.</p>	
20-6	City of Los Angeles	Nov 10, 2008	<p>Currently, Region 4 utilizes sediment quality guidelines presented by the National Oceanic and Atmospheric Administration (NOAA) Screening Quick Reference Tables (SQuiRTs) (Buchman, 1999). Multiple sediment screening values are included in the SQuiRTs to help portray the entire spectrum of</p>	<p>See RESPONSE TO COMMENT NO. 12-15. Additionally, Regional Board staff is proposing an administrative update to the Basin Plan, which would include references to applicable State Plans</p>

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			<p>concentrations which have been associated with various probabilities of adverse biological effects." The specific numeric values that have been used to list waterbodies and develop TMDLs include, among others, Effects Range Median (ERM) and Effects Range Low (ERL). However, NOAA states: "These tables are intended for preliminary screening purposes only; they do not represent NOAA policy and do not constitute criteria or clean-up levels. NOAA does not endorse their use for any other purposes."</p> <p>The California Water Code required the State Water Resources Control Board (SWRCB) to develop sediment quality objectives (SQOs) for toxic pollutants for California's enclosed bays and estuaries. The SWRCB specifically chose not to utilize ERMs, ERLs, or other existing numeric sediment screening values to establish the SQOs. Rather, in February 2008, the SWRCB adopted Part 1 of the SQOs that included narrative objectives and an approach to implementing those objectives using a multiple lines of evidence (LOE) approach. LOE includes sediment toxicity, benthic community condition, and sediment chemistry. The adopted SQOs state:</p> <p>None of the individual LOE is sufficiently reliable when used alone to assess sediment quality impacts due to toxic pollutants. Within a given site, the LOEs applied to assess exposure as described in Section V.A. may underestimate or overestimate the risk to benthic communities and do not indicate causality of specific chemicals. The LOEs applied to assess biological effects can respond to stresses associated with</p>	<p>and Policies such as the Enclosed Bays and Estuaries Plan.</p>

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			<p>natural or physical factors, such as sediment grain size, physical disturbance, or organic enrichment. Each LOE produces specific information that, when integrated with the other LOEs, provides a more confident assessment of sediment quality relative to the narrative objective. When the exposure and effects tools are integrated, the approach can quantify protection through effects measures and also provide predictive capability through the exposure assessment.</p> <p>Several TMDLs such as Ballona Creek Estuary and Marina Del Rey Harbor Toxics TMDLs and a TMDL under development by the Regional Board for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters include these NOAA values as numeric targets.</p> <p>Reopen and revise existing TMDLs and Impaired Waters Listings for sediment quality that rely upon NOAA sediment quality guidelines (SQGs), to make them consistent with the California Sediment Quality Objectives (SQO) Policy which includes the Ballona Creek Estuary TMDL, Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters, Marina Del Rey Harbor Toxics TMDL.</p> <p>Remove NOAA SQGs such as ERL, ERM, and TELs from TMDL regulatory targets.</p> <p>Incorporate into the water quality objective chapter of the Basin Plan by reference the use the State's SQO Policy to evaluate sediment concentrations of</p>	

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			pollutants.	
20-7	City of Los Angeles	Nov 10, 2008	<p>The definitions of REC1 and REC2, as written in the Water Quality Control Plan for the Los Angeles Region (Basin Plan), may cause confusion in the implementation of bacteria indicator WQOs as intended by EPA.</p> <p>The current Basin Plan definition of REC1 is, "Uses of water for recreational activities involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water-skiing, skin and scuba diving, surfing, white water activities, fishing, or use of natural hot springs." The current Basin Plan definition of REC2 is "Uses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." EPA developed water quality criteria for indicator bacteria to protect primary contact recreation. Primary contact recreation is functionally equivalent to California's REC1 standard. In EPA's Draft Implementation Guidance for Ambient Water Quality Criteria for Bacteria (USEPA, 2002) it states that primary contact recreation uses should be "designated for water bodies where people engage, or are likely to engage,</p>	See RESPONSE TO COMMENT NO. 9-7.

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			<p>in activities that could result in ingestion of water or immersion". Therefore, the crux of the REC1 is that ingestion or immersion is likely. REC2 uses are functionally equivalent with EPA's secondary contact recreation use. These are defined as uses in the proximity of water where ingestion or immersions are not likely. The current Basin Plan definitions of the REC1 and REC2 uses do not clearly communicate this distinction. In particular, the REC1 beneficial use definition replaces the word "likely" with "reasonably possible"; furthermore, the definition of REC2 also includes the language "where ingestion of water is reasonably possible." The definitions of the REC1 and REC2 beneficial uses should be revised to reflect the intent of EPA in protecting human health.</p> <p>The definition of REC1 should be revised to reflect the intent of EPA, therefore, the term "reasonably possible" should be replaced with "likely", and fishing should be removed from the definition of REC1 as not all types of fishing are likely to result in ingestion or immersion. The definition of REC2 waters should be defined as those used for recreational activities involving proximity to water, but not normally involving body contact with water and where ingestion of water is not likely. Region 8 is considering revising their Basin Plan in a similar fashion. It would be appropriate to use the same definitions adopted by Region 8 for consistency in the greater Southern California Region.</p>	
20-8	City of Los Angeles	Nov 10, 2008	Concise Summary of Data, Information or Evidence: In the Los Angeles Region, many waters are	The Regional Board has addressed this issue in part through a Basin Plan

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			<p>designated REC1 that do not support the use due to the physical nature of the water body. The three main reasons a water body may physically not support a REC1 use are: (1) that the water body is a vertical-walled channel, (2) access to the channel is prohibited, or (3) the water body is too shallow to support immersion or the likely potential for ingestion. These types of water bodies cannot support REC1 beneficial uses and should not be designated as REC1.</p> <p>Water bodies, or sections of water bodies, that cannot support REC1 uses due to physical characteristics of the water body should not be designated REC1 in the Basin Plan.</p>	<p>amendment to suspend the REC-1 beneficial use and associated bacteria objectives in engineered channels throughout Los Angeles County during wet weather conditions characterized by high flows and high velocity.</p> <p>Also, staff has identified this issue as one that should be addressed on a case-by-case basis during this triennial review period. Staff has recommended that the Regional Board consider evaluating appropriate recreational beneficial uses for storm channels with conditions that may not be conducive to fully supporting their REC-1 designation. Any such evaluations would be conducted with the recognition that existing beneficial uses cannot be removed, and in conformance with federal regulations at 40 CFR 131.10(g) as well as US EPA's recommendations for conducting use attainability analyses and developing a subcategory of a designated use that is not an existing use.</p> <p>Federal regulations restrict States from removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if:</p> <ol style="list-style-type: none"> <li>1. They are existing uses, as defined in</li> </ol>

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				<p>40 CFR § 131.3, unless a use requiring more stringent criteria is added; or</p> <p>2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices.</p> <p>The Regional Board will therefore not conduct a blanket review of existing recreational beneficial uses in the Los Angeles Region. However, the Regional Board will re-asses, where appropriate, the application of the potential contact recreation use (REC-1) in highly engineered channels with limited flow and restricted access - on a case by case basis.</p>
20-10	City of Los Angeles	Nov 10, 2008	<p>The epidemiological studies described in EPA's 1986 Ambient Water Quality Criteria for Bacteria (EPA, 1986) were based on designated beach area swimming-related illness rates such that the geometric mean objectives presented in the Criteria Document are protective of water contact recreation where prolonged full body immersion takes place. In Region 4, there are many water bodies designated REC1 where this degree of use does not take place, and the level of protection is unwarranted. Many inland freshwater water bodies are too shallow for full body immersion, and are used infrequently by a small number of people. The EPA Criteria Document</p>	<p>States may remove a designated use which is not an existing use, as defined in 40 CFR § 131.3, or establish sub-categories of a use, if the State can demonstrate that attaining the designated use is not feasible because of factors set forth in 40 CFR § 131.10 (g). Staff has identified re-evaluating the REC beneficial uses in certain waterbodies as an issue that may be considered by the Board during this triennial review.</p> <p>EPA has guidance on conducting UAAs</p>

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			<p>acknowledges that different levels of use require different confidence levels in the level of protection in reference to the frequency and number of people swimming in a water body. This rationale should also apply to water bodies where swimming does not take place, or where there is a lesser extent of water contact.</p> <p>A separate geometric mean objective could be developed for water bodies with only limited water contact recreational use. This objective would apply in water bodies where some REC1 use takes place, but where it is small-scale or infrequent and of a low intensity (see Issue 7 for Use Intensity categories). Additionally, the REC1 beneficial use designation should be subcategorized, modified, or clarified to distinguish between waterbodies where full body immersion takes place and waterbodies with more limited body contact recreation.</p>	<p>which staff has used previously to sub-categorize the REC-1 use in one reach of Ballona Creek, and de-designate the REC-1 use in another reach. This guidance would be used during any re-evaluation of recreational uses.</p> <p>Given the intensive volume of resources this task would require, coupled with the fact that the goals of the federal Clean Water Act and Porter-Cologne Act favor protection of waterbodies (not decreasing protection), a wholesale reassessment of the attainability of every designated use in the Basin Plan (and concomitant consideration of use removals or modifications) cannot feasibly be considered except where specific information about the specific attainability of a particular use in a particular waterbody or reach is presented that demonstrates that the designated use may be inappropriate.</p> <p>Regarding the development of a separate geometric mean objective, US EPA's 1986 ambient water quality criteria for bacteria document provides that option to select the single-sample maximum objective based on "use levels"; however, the geometric mean objective does not change based on these proposed "use levels".</p>

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20-11	City of Los Angeles	Nov 10, 2008	<p>EPA's 1986 Ambient Water Quality Criteria for Bacteria (USEPA, 1986) presents potential single sample maximum (SSM) allowable densities for bacteria indicators in Table 4 of that document. These SSMs are calculated as one-sided confidence limits about the recommended geometric mean (geomean) criteria. The selected confidence levels are associated with level of use intensities that correspond to the chance of leaving a beach open when protection is adequate. By selecting confidence levels for different intensities of recreational use, multiple SSMs may be calculated and assigned where appropriate based on the intensity of use. All current SSMs are based on the use intensity of designated beach areas, though many, if not most, of the Region 4 REC1 waters are not designated beaches, nor do they demonstrate the intensity of use found at designated beaches. Therefore, it is inappropriate for current SSMs to apply in these locations.</p> <p>Additionally, the EPA Criteria Document states that "...It is the long term geometric mean bacterial density that is of interest. Because of day-to-day fluctuations around this mean, a decision based on a single sample...may be erroneous." This rationale implies that 303(d) listings should not be based on SSMs, and listings that are based on SSMs may be erroneous. An EPA Fact Sheet for SSMs in coastal waters (USEPA, 2006) also states that SSMs are not acute criteria, and that the geomean is a more appropriate standard for assessing water quality. The purpose of a</p>	<p>These issues will be considered during the reconsideration of the SMB Beaches Bacteria TMDLs, which has been identified as a Board priority for this year.</p>

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			<p>SSM is to insure that there is never a time when there is no applicable standard. The Fact Sheet also suggests that geomeans may be calculated with no minimum number of samples. It should also be noted that SSMs are a statistical calculation of the geomean criteria and, therefore, represent the same criteria. SSMs considered during a period of time where geomeans were also calculated denote a double counting of the data.</p> <p>Geomeans implications must be re-evaluated as the 30-day rolling geomeans are calculated based on extrapolation of available data. Consequently, frequent uncharacterized spikes in data are carried forward to additional days where there are no exceedances of the SSM (single sample maximum) limit.</p> <p>SSMs appropriate for the level of use of individual water bodies should be assigned based on the qualitative descriptions and confidence levels described in EPA's Criteria Document. If no qualitative level of use is described in the document that is appropriate for the level of use found at an individual water body, then a SSM should be calculated using the equation found in EPA's Criteria Document based on an a higher confidence level.</p> <p>Additionally, the calculation of geomeans could be broadened to include fewer than 5 samples or to expand the averaging period. It is appropriate to calculate seasonal or annual geomeans for some water bodies.</p>	

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			<p>Listings should not double-count samples as both a geomean and a SSM.</p> <p>Develop a method for removing uncharacterized spikes in bacterial data, so that water quality can be measured more accurately.</p>	
20-12	City of Los Angeles	Nov 10, 2008	<p>EPA's 1986 water quality criteria for bacteria recommend the use of enterococci for marine waters and E. coli or enterococci for fresh waters. As indicated in EPA's Office of Water Guidance to States, Tribes, and Regions on Priorities for the Water Quality Standards Program for FY 2000-2002, the transition to E. coli and enterococci bacterial indicators was an Agency priority for the triennial review of water quality standards and EPA continues to believe that when applied and implemented conservatively, EPA's recommended water quality criteria for bacteria are more protective of human health for gastrointestinal illness than fecal coliforms. The Ambient Water Quality Criteria for Bacteria (USEPA, 1986) documents the history of the use of total and fecal coliform as indicators of human health and discusses the results of the epidemiological studies completed for the 1986 criteria. The document states that no correlation was found between fecal coliform density and swimming related gastroenteritis (pg. 6).</p> <p>Furthermore, the EPA Criteria Document does not present total or fecal coliform criteria for use by the States.</p>	<p>Staff has recommended the re-evaluation of the application of bacteria objectives in determining compliance as an issue that should be addressed during this triennial review period. Consideration of the removal of fecal coliform objectives for freshwaters will be part of this evaluation. However, the Regional Board will not consider the removal of the total coliform objective at the present time. The SMB Beaches epidemiological study, conducted over the course of a summer at three beaches along Santa Monica Bay, found a positive correlation between total coliform density and health risk. As a result, the minimum bacteriological standards set forth in State regulation include limits for total coliform to protect public health.</p> <p>The Regional Board acknowledges, as does EPA, that the state of the science of indicator bacteria is evolving. There is on-going research on new criteria,</p>

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			<p>Total coliforms are ubiquitous in the environment and, therefore, are poor indicators of human contamination of waters, and recent studies show that a significant percentage of measured indicator bacteria levels are not human in origin and can fluctuate based on the environmental setting and substrate, for example; Bacterial re-growth, die-off and local sources and effects.</p> <p>Bacteria exhibit fluctuations based on uncharacterized local effects and sources. It should be acknowledged that not all exceedances of WQOs are based on elevated anthropogenic sources such as those from MS4s.</p> <p>The fecal coliform objective should be removed from the Basin Plan for freshwaters, and consideration given to removing both the fecal and total coliform objectives for saltwater.</p> <p>E. coli is the suggested indicator for freshwater and enterococci for marine waters.</p> <p>Regional Board should consider developing a process for measuring and accounting for anthropogenic sources that can be tailored to local conditions.</p>	<p>including local epidemiological studies and methodological developments in the fields of rapid indicators and microbial source tracking. While it would be premature to modify standards during this phase of research and development, the Board will continue to follow the progress of the science and will make changes to the bacteria objectives based on EPA's recommendations.</p>
20-13	City of Los Angeles	Nov 10, 2008	<p>Concise Summary of Data, Information or Evidence: Due to the nature of indicator bacteria, it is prudent that some flexibility should be built into the evaluation of compliance with WQOs.</p>	<p>The US EPA currently does not distinguish between human and nonhuman sources of bacteria based on the conclusion that there are health</p>

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			<p>Indicator bacteria are unlike other pollutants in that the measured parameters are only indicators of constituents that are harmful to human health and not themselves harmful in most cases. WQOs for indicator bacteria are set for the protection of human health against pathogens. Objectives were developed for indicator bacteria rather than for pathogen directly because the number of distinct pathogens are too numerous to monitor. The object of setting objectives for indicator bacteria is not that the indicators themselves are of concern, but rather that the presence of the indicator in the environment may indicate that a pathogen is also present. Therefore, the exact measured number of the indicator is not a precise measure of the risk to human health. Secondly, indicator bacteria are living organisms and have the ability to live and reproduce in the environment; thus the amount of indicator bacteria found in receiving waters is not necessarily equal to the sum of the inputs. Even if inputs are controlled, the amount of indicator bacteria in receiving waters may not decrease proportionally. In addition, many of the sources of indicator bacteria in receiving waters are naturally occurring. It should be acknowledged that there are issues associated with indicator bacteria and the control of bacterial contamination to be considered in the evaluation of compliance with WQOs. Dischargers should not be responsible for controlling naturally occurring bacteria. The bacteria criteria document (USEPA, 1986) includes a section on the limitations of the criteria.</p>	<p>risks associated with both. Furthermore, the Region's bacteria objectives are based on (1) recommendations of EPA regarding the most appropriate bacteria objectives to protect public health and (2) a landmark local epidemiological study in Santa Monica Bay that examined the health risks of swimming in the Bay and demonstrated a positive correlation between health risks and the same bacterial indicators that the Regional Board relies upon to protect the recreational beneficial use.</p> <p>However, the Regional Board does acknowledge, that the state of the science is evolving. There is on-going research on new criteria, including local epidemiological studies and methodological developments in the fields of rapid indicators and microbial source tracking. While it would be premature to modify standards during this phase of research and development, the Board will continue to follow the progress of the science and will make changes to the bacteria objectives based on EPA's recommendations.</p> <p>Furthermore, staff has recommended the re-evaluation of the application of bacteria objectives in determining</p>

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			<p>In this section it states "Therefore, EPA recommends the application of these criteria unless sanitary and epidemiological studies show the sources of the indicator bacteria to be non-human..." The epidemiological studies conducted for the development of the criteria took place at beaches with known sources of human fecal contamination, and the relationship between the indicator bacteria density and the rate of illness found was potentially specific to human sources of fecal contamination, not natural sources. There is doubt as to whether the same rate of illness would be found in waters contaminated with natural, rather than human, sources of fecal pollution. Implementation actions should be allowed to prioritize human sources, and given the controllability issues associated with indicator bacteria, these actions should be allowed to count toward compliance with the objectives.</p>	<p>compliance as an issue that should be addressed during this triennial review period.</p> <p>Further development of the natural sources exclusion approach may be one of the aspects to be evaluated.</p>
20-14	City of Los Angeles	Nov 10, 2008	<p>Concise Summary of Suggested Revisions: Issues associated with indicator bacteria and the control of bacterial contamination should be considered in the evaluation of compliance with WQOs. TMDL implementation actions should focus on human sources and mitigation actions to control anthropogenic sources deemed sufficient to meet compliance with the objectives.</p>	See response to comment No. 20-13
20-15	City of Los Angeles	Nov 10, 2008	<p>Following rainfall events, southern California rivers and streams experience high flow conditions that can be dramatically larger than the dry weather flows</p>	<p>Channelization of waterbodies or waterbody segments in the Los Angeles Region was carried out for the express</p>

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			<p>experienced in the same reaches. High flows are experienced in both concrete-lined and natural channels due to the natural rainfall pattern in southern California's Mediterranean climate, as well as to development and other modifications to some extent. The physical characteristics of these channels create unsafe conditions in rivers and streams such that they do not support any recreational uses. The water volume and velocities experienced during storm flow are such that both the water contact and non-water contact recreational uses are inherently unsafe in these conditions. Because of these physical characteristics, REC1 and REC2 uses do not exist in rivers and streams during high flow conditions.</p> <p>During high flow conditions, REC1 and REC2 beneficial uses and the associated bacterial indicator WQOs should be suspended. High flow conditions should be defined for this purpose, to clarify when the WQOs apply. The criteria could be based on a defined percentile flow from average dry flow conditions or could be triggered by a rain event exceeding a certain rainfall gauge value and the period of time following rainfall.</p>	<p>purpose of conveying stormwater flows as quickly as possible to the ocean. This, among other considerations, was the premise for the suspension of the recreational uses in engineered channels during storm events that resulted in "swift water conditions." Regional Board staff does not consider an evaluation of such a suspension for natural channels a priority at the present.</p>
20-16	City of Los Angeles	Nov 10, 2008	<p>Concise Summary of Data, Information or Evidence: In 1993, EPA altered the traditional regulatory approach for protection of aquatic life by authorizing States to regulate discharges based on dissolved metal concentration instead of total recoverable metal concentration (Prothro, M.</p>	<p>The metals TMDLs address both dissolved and total metals concentrations because of the potential for transformation between the two and in order to address downstream metals impairment of</p>

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			<p>1993. Memorandum concerning "Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria." October 1). This change was an attempt to incorporate into the regulatory process the notion that the concentration of dissolved metal better approximates the toxic fraction than does the concentration of total metal. Several TMDLs in the Region utilize total metals as targets, in the linkage analysis, for allocations, and for determining compliance with the TMDL and attainment of the criteria.</p> <p>The use of total metals to define compliance with TMDLs results in situations where the receiving water is in compliance with CTR criteria which are expressed as the dissolved fraction, but the allocations are expressed as total metals. Essentially, the TMDL is set up such that even if beneficial uses are protected by meeting the CTR objectives in the receiving waters, permittees may be out of compliance with the TMDL Load Allocations. This will lead to the use of funds to reduce loads from permittees that are not causing or contributing to an exceedance of criteria in the receiving water. Given the scarcity of resources, this in effect reduces funding available to deal with issues where beneficial uses are actually impaired.</p> <p>While permit limits must be set as total concentrations per the Clean Water Act, the Regional Board has the discretion to determine compliance with the TMDL in the receiving water</p>	<p>sediment.</p>

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			<p>based on dissolved criteria. TMDLs should be established such that if concentrations in the receiving water meet dissolved criteria (hardness adjusted for appropriate metals), the TMDL has been achieved. If total metals allocations are exceeded and the dissolved criteria (hardness adjusted for appropriate metals) in the receiving water are met, the TMDL should be reopened to revise the allocations.</p>	
20-17	City of Los Angeles	Nov 10, 2008	<p>Concise Summary of Data, Information or Evidence: There is no standard procedure established by the RWQCB to set the sampling location and calculation technique for the hardness values used in calculating CTR hardness dependent metal objectives required for NPDES permits, TMDL targets, WLAs, and compliance. Hardness dependent objectives are applicable to cadmium, chromium III, copper, lead, nickel, silver and zinc. The Bureau supports the use of paired site-specific hardness values to determine such objectives. The hardness determination procedure will directly impact NPDES water quality based permit limits as well as TMDL targets, WLAs, and compliance.</p> <p>When developing CTR hardness dependent metal WLAs for receiving waters, the City recommends calculating the WLA based on the hardness concentration of the receiving sample used for the metals analysis (i.e., the hardness and metal concentrations are determined from the same sample).</p>	<p>State Board is developing a statewide hardness policy for implementation of hardness-based metals criteria that will ensure protective effluent limitations for metals. This work is being done concurrently with its work on Cadmium objectives. Regional Board staff continues to provide support for the development of this policy.</p>

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			<p>Since the SWRCB is currently considering this issue as part of their review of CTR cadmium criteria, the City supports a statewide effort involving all RWQCBs to address this issue.</p> <p>Joint comments submitted to the SWRCB on 10/23/08 by four POTW associations [CASA, CVCWA, SCAP and Tri-TAC] provided a detailed technical analysis of a hardness determination approach for the State to consider. This approach, which considers effluent hardness, receiving water hardness, as well as a mixture of the two, would be protective of the receiving water.</p> <p>The Basin Plan should be amended to include a scientifically sound approach for determining paired site- specific hardness values for use in calculating water quality objectives for hardness dependent metals for use in NPDES permits. This effort should be done in coordination with a similar process now underway at the SWRCB. For receiving water samples, the concentrations of both the hardness and the metal(s) would be determined from the same sample.</p>	
20-18	City of Los Angeles	Nov 10, 2008	The current Basin Plan maps are causing unnecessary confusion in development of TMDLs as well as establishing the 303(d) list. Currently, the Basin Plan has separate maps and tables to identify the various reaches, beneficial uses, and objectives. The link between these three components of the	The boundaries of many watersheds, groundwater basins and reaches within water bodies have been modified since the 1994 Basin Plan update. As a result, the maps and beneficial use tables in the current version of the Basin Plan

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			<p>Basin Plan is unclear and creates confusion as to the applicability of the beneficial uses and objectives to a specific portion of a waterbody. Updating the tables and maps to be consistent throughout the Basin Plan would remove this confusion.</p> <p>Concise Summary of Suggested Revisions:  The following changes and updates to the Basin Plan maps are suggested:</p> <ol style="list-style-type: none"> <li>1. Update reaches to match those used in the 303(d) list process.</li> <li>2. Provide the reach number and hydrologic unit in beneficial use tables.</li> <li>3. Update waterbody-specific surface water and groundwater objective tables to be consistent with the updated reaches.</li> <li>4. Make electronic GIS layers of information available for consistent application of uses and objectives.</li> <li>5. Display watershed management areas.</li> <li>6. Align existing Hydrologic Units with most recent Cal Water 2.2 system.</li> <li>7. Define and delineate estuaries and enclosed bays.</li> <li>8. Update groundwater maps based on Department of Water Resources (DWR) Bulletin 118 (2003 update).</li> </ol> <p>In addition to the proposed work areas, the Regional Board should update the maps to accurately identify designated and existing uses, remove uses that are not existing, and connect the identified beneficial</p>	<p>need to be updated. This issue has been recommended as a project to be addressed during the current triennial review period.</p>

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			uses with the criteria that are employed to protect these uses.	
20-19	City of Los Angeles	Nov 10, 2008	<p>Concise Summary of Data, Information or Evidence: Subsequent to the publication of the Basin Plan in 1994, the Regional Board adopted scores of amendments derived from Triennial Reviews, TMDL adoptions, and other Regional Board technical and administrative initiatives. No current and complete version of the Basin Plan can be obtained from the RWQCB office or website thereby requiring users to insert loose pages of amendments into the binder or make notes in the margins. This ad hoc update process is inefficient and makes it difficult for the users to have confidence that the copy of the Basin Plan that they are viewing is complete.</p> <p>The Regional Board should make available to the public at all times a current and complete version of the Basin Plan. Updates should be produced after each and every amendment is adopted by the Board. The most efficient way to implement this update effort would be to provide the fully updated on-line version of the Basin Plan with notices to the public each time a change is made. To save paper, the Regional Board website should display a log of each Basin Plan change with a list of the pages which need to be reprinted to maintain a fully up-to-date version.</p>	Administrative updates to the Basin Plan have been identified by staff as one of the issues that should be addressed during this triennial review period. This will include updates to maps and beneficial use tables, integration of previously adopted Basin Plan amendments, inclusion of information for clarification purposes, and the incorporation by reference of other relevant regulations and policy that are already in effect.
20-20	City of Los Angeles	Nov 10, 2008	The Basin Plan should be modified to clarify that water quality objectives can be modified in site specific situations to consider natural sources of	See RESPONSE TO COMMENT NO. 9-5 and 10-4.

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			<p>pollutants. TMDLs and discharge permits should take into account cases where natural ground or surface waters contain constituents in excess of Basin Plan water quality objectives. Natural waters in portions of the Los Angeles region may contain selenium or arsenic concentrations in violation of water quality objectives as noted in the SCCWRP natural loadings study.</p> <p>Salts should be included on the list of naturally occurring constituents subject to exclusion.</p> <p>Dischargers should not be responsible for addressing natural sources that would exist in the absence of their discharge.</p> <p>The Bureau supports the use of the natural sources exclusion approach, as well as the reference system/antidegradation method of setting waste load allocations, provided that an appropriate reference system is available. The latter method was created by Regional Board staff for use with the Santa Monica Bay Beaches Bacterial TMDL. These methods should be considered for all TMDLs. Natural source exclusions should also allow for exceedance of the geometric mean objective for bacteria as natural sources of bacteria can cause exceedance of both the single sample maximum and geometric mean objectives.</p> <p>Additionally, Regional Board staff should consider the exclusion of natural background bacterial levels for enclosed bays and beaches, based on local bacterial source tracking studies, as the reference beach approach is not appropriate because of inherent</p>	

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			<p>variability in hydrology and natural settings. Data at Marina Del Rey show less than 5% anthropogenic sources. The Bureau proposes subtracting a baseline value from sample data for nonanthropogenic sources that do not impact human health.</p> <p>Broaden application of "natural sources exclusion" used in some bacteria TMDLs to other naturally occurring constituents [such as arsenic, selenium and salts] and extend the use of the concept to NPDES permits and apply to all applicable objectives (acute, chronic, and geometric mean).</p> <p>Propose subtracting a baseline value from sample data for nonanthropogenic sources.</p>	
20-21	City of Los Angeles	Nov 10, 2008	<p>Highly modified and urbanized water ways such as the Los Angeles River have no readily identifiable "natural temperature" on which to base receiving water limitations for discharges to freshwater. The Basin Plan temperature objective should be modified to account for site specific temperature conditions including seasonal variations and ambient air temperatures.</p> <p>Evaluate how to determine "natural conditions" and deviations from natural conditions with regard to waste discharges when applying the temperature objective. Consider use of maximum observed temperature value(s) as objectives in urbanized, highly modified systems.</p>	See RESPONSE TO COMMENT NO. 11-7.

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20-22	City of Los Angeles	Nov 10, 2008	<p>Wildfires occur frequently in the Region and can significantly affect water quality beyond reasonable control (i.e., through natural sources of pollutants or uncontrollable affects on infrastructure). Wildfires alter soil chemistry and storm water runoff characteristics, which can result adverse effects to downstream water quality. Increased storm flow and sediment runoff following fires have been associated with increases in loads of nutrients, metals, and certain organic pollutants. In addition to the direct effects of runoff on burned landscapes -- materials left behind in ash at the burn location can be carried away from the fire in smoke and ash. The subsequent atmospheric deposition can markedly increase the quantity of various constituents available to storm flows downwind of fires.</p> <p>The pollutants originated from the ash and aerial deposition will end up in storm water and become a major non- point source of water quality impairments. The magnitude of the aerial deposition is large and beyond municipalities control.</p> <p>Consideration should be given to excluding the applicability of Water Quality Objectives during natural disasters.</p> <p>Pollutants should be considered individually; however, consideration should be given</p>	See Response to Comment(s) No(s). 2-14.

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			<p>immediately to certain metals (i.e., copper, nickel, zinc, selenium, and mercury) and bacteria which have been shown to have significant natural sources throughout the region.</p> <p>The WLA's in the TMDLs do not recognize or propose controls for wildfire aerial deposition and runoff which is a large source of contamination to local waterbodies for extended periods of time. Water Quality Objectives should be amended to specify that extreme events of fire and ambient conditions (e.g. atmospheric deposition) beyond a discharger's control may result in exceedances. These exceedances include metals, nutrients, mineral quality objectives, and certain organic pollutants, such as PAHs, and dioxin. Recognize source control actions to the extent possible in the Implementation section of the Basin Plan for wildfires and natural disasters.</p>	
20-23	City of Los Angeles	Nov 10, 2008	<p>The Clean Water Act requires that the state or regional board review at least once every three years all applicable water quality standards (uses and criteria to protect the uses) and, as appropriate, modify existing and adopt new standards. 33 U.S.C. §1313(c)(1). Many of the water quality objectives in the Basin Plan have not been reviewed in depth since at least 1994, if not earlier.</p>	<p>Section 303(c)(1) of the federal Clean Water Act contains a requirement for States to review water quality standards at least once every three years, in a process known as a triennial review. This requirement is based upon recognition that the science of water quality is constantly advancing; its purpose is to ensure that standards are based on current science, methodologies, and US EPA mandates, recommendations and guidance. The</p>

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				<p>triennial review does not involve the revision of all standards every three years. Federal law only requires modifications “<i>as appropriate</i>”. Modifications to the Basin Plan are usually made to incorporate new scientific and technical information, in response to EPA’s mandates, recommendations and guidelines, to address stakeholder concerns, where it is appropriate to do so, and to address issues identified in due course by the Regional Board itself or its staff during the regular course of business.</p> <p>The availability of new scientific information or methodological developments may not directly translate into a change to standards during a triennial review cycle. The state of the science also has to be taken into consideration, as is currently the case with the region’s bacteria objectives for example. In this case, it would be premature to modify standards while scientific understanding is actively evolving and new methodologies are being developed and tested (i.e. on-going research on new criteria, including local epidemiological studies and methodological developments in the fields of rapid indicators and microbial source tracking). Moreover,</p>

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				<p>notwithstanding the evolution of applicable scientific knowledge or policy considerations, federal or state law or regulations may preclude changes that might otherwise be deemed desirable by stakeholders. Therefore, it is common for standards to remain unchanged as a result of a triennial review process. Even where changes are appropriate and lawful, the State's Continuing Planning Process, and other federally approved documents, recognize that the process of modifying water quality standards is resource intensive, and typically limited by staffing and budgetary constraints. As such, the Triennial Review process assists in identifying the most important or compelling projects and allows the States to prioritize those as resources allow.</p>
20-24	City of Los Angeles	Nov 10, 2008	<p>Similarly, the Regional Board must comply with the requirements of the Water Code §13241, which states:            Each Regional Board shall establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance; however, it is recognized that it may be possible for the quality of the water to be changed to some degree without unreasonably affecting beneficial uses.</p>	See General Response 1 and General Response 2

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			<p>Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily be limited to, all of the following:</p> <ul style="list-style-type: none"> <li>a) Past, present, and probable future beneficial uses of water.</li> <li>b) Environmental characteristics of the hydrographic unit under consideration, including the quality of the water available thereto.</li> <li>c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors, which affect water quality in the area.</li> <li>d) Economic considerations.</li> <li>e) The need for developing housing within the region.</li> <li>f) The need to develop and use recycled water.</li> </ul> <p>The Bureau requests a thorough analysis of each of these statutorily-mandated factors when water quality objectives are reviewed, modified, or adopted. To the extent that the Regional Board's Triennial Review adopts new or modifies existing objectives, each of these actions requires a §13241 analysis.</p> <p>In addition, the Water Code §13050(j)(1)-(3) mandates that a water quality control plan, or Basin Plan, not only include the water quality objectives, but also the beneficial uses to be protected by these objectives and a program of implementation that will ensure achievement of the water quality objectives adopted.</p> <p>This program of implementation has been lacking from previous objective-setting processes. The Water Code §13242 specifies that the program for</p>	

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			<p>implementation for achieving water quality objectives shall include, but not be limited to the following:</p> <ul style="list-style-type: none"> <li>a) A description of the nature of actions which are necessary to achieve the objectives, including recommendations for appropriate action by any entity, public or private.</li> <li>b) A time schedule for the actions to be taken.</li> <li>c) A description of surveillance to be undertaken to determine compliance with objectives.</li> </ul> <p>The Bureau requests for each reviewed, modified, and adopted objective that the Regional Board ensure that a program of implementation meeting the mandates of Water Code §13242 be included in the Basin Plan to ensure compliance with state law requirements. This program, along with the time schedule for achievement of the objective, would ensure compliance with the objective.</p> <p>During the 2008 Triennial Review, the Regional Board should review water quality objectives in the Basin Plan to ensure compliance with CWC §13241 and other required factors. (City of Arcadia, et al, v. SWRCB, Orange County Superior Court Case No. 060002974 (March 13, 2008) at p.7.)</p>	
20-25	City of Los Angeles	Nov 10, 2008	<p>The Basin plan currently incorporates Title 22 drinking water standards [MCLs] for surface waters and groundwaters identified as Beneficial Uses MUN or GWR. The Bureau recommends that the Regional Board not use Title 22 drinking water standards as water quality objectives in the Basin Plan. The MCLs are intended to apply to tap water in Department of</p>	<p>Regarding not applying MCLs to waters that may be treated prior to use as drinking water, the Safe Drinking Water Act (SDWA), amended in 1996, promotes a multiple-barrier approach to safeguarding the nation's water supply. This multiple-barrier approach goes</p>

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			<p>Public Health (CDPH) – regulated systems. The Bureau considers the use of MCLs as receiving water quality objectives to be justified only in cases where conventional drinking water treatment systems cannot reasonably control the constituent of concern in the source waters to the MCL level before it reaches the customer’s tap. If MCLs are applied as water quality objectives, they should be applied as they are used by CDPH as annual averages.</p> <p>Also, secondary MCL’s for taste and odor should be removed from the Basin Plan when applied to recycled water irrigation projects as other RWQCB standards already regulate these waters and attributes.</p>	<p>beyond the traditional emphasis on treatment to address new challenges and reflects a better understanding of the need for a coordinated source water protection effort. Preventing contamination of drinking water sources is one of the key elements of the approach. Per EPA, “[r]eliance solely on drinking water treatment, beyond that which is needed to address naturally occurring pollutant concentrations, imposes an unfair burden on communities to address preventable problems caused by man-made sources of pollution” (EPA Memorandum to Regional Water Management Division Directors titled “Effective use of Water Quality Standards to Protect Sources of Drinking Water”. October 1, 2003).</p> <p>Also, secondary MCLs, which are aesthetic standards, are used to translate the Basin Plan’s narrative Water Quality Objectives into numeric effluent limitations, for the protection of human health associated with the MUN beneficial use of the ground water and for the protection of human health associated with the REC-1 and/or MUN beneficial use in surface waters.</p>
20-26	City of Los	Nov 10, 2008	Update Basin Plan Tables 3-5, 3-6, 3-7, and 3-9 to	See response to comment No. 20-25

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	Angeles		note that MCLs are to be applied as water quality objectives only in cases where conventional drinking water treatment systems cannot reasonably control the constituent of concern in the source waters to the MCL level before it reaches the customer's tap. When used, MCLs are to be applied as an annual averages and attenuation in the soil is to be factored into the objective. The Bureau also recommends that all secondary MCLs for drinking water standards be removed from the Basin Plan as applied to recycled water irrigation projects.	
20-27	City of Los Angeles	Nov 10, 2008	<p>Concise Summary of Data, Information or Evidence: The use of recycled water and the use of stormwater can significantly reduce the demand on potable supplies in urban areas of California. However, such use has in some cases come into conflict with water quality objectives for both surface and groundwater. The use of these alternative supplies could be increased if the Basin Plan contained an approach for adjusting objectives while still protecting beneficial uses. The Basin Plan should contain provisions for setting TMDL WLAs for nutrients such that recycled water can be used as make-up water for streams and lakes as long as beneficial uses can be protected. In Region 4 WLAs are set so low that advanced treated recycled water or even potable water cannot be used as makeup water for a local Waterbody.</p> <p>The Santa Ana RWQCB amended its basin plan in 2004 to allow surface and groundwater quality objectives to be adjusted based on a "maximum</p>	The State Water Resources Control Board adopted a Recycled Water Policy in February 2009 (effective date May 14, 2009). The purpose of this Policy is to increase the use of recycled water from municipal wastewater sources that meets the definition in Water Code section 13050(n), in a manner that implements state and federal water quality laws. The State Board expects to develop additional policies to encourage the reuse of stormwater, water conservation, and the conjunctive use of surface and groundwater, as well as to improve the use of local water supplies. The Regional Board intends to fully comply with the directives of the Recycled Water Policy including the requirement to support the development of Salt and Nutrient Management Plans.

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			<p>benefit" concept. In cases where a discharge would violate antidegradation-based objectives, the objectives may be adjusted to be less stringent if a study by the permittee demonstrates that the effect of the discharge is consistent with the maximum benefit to the people of the state. The Santa Ana Basin Plan contains a number of these "maximum benefit" water quality objectives for certain groundwater management zones, as well as the required programs and projects for specific dischargers who apply for them.</p> <p>The proposed SWRCB Recycled Water Policy, due for adoption in January 2009, contains provisions for salt and nutrient groundwater Management Plans, which will be developed through a stakeholder process, to address cases where degradation of groundwater is threatened by recycled water application. The groundwater Management Plans will likely be structured to identify mitigation measures, including the possible adjustment of groundwater objectives that will comply with the State antidegradation policy - including the "maximum benefit" principle. The plans can be expected to address loads from stormwater recharge where appropriate.</p> <p>Amend the Basin Plan to include a policy or guidance to promote the use of recycled water and the use of stormwater. This amendment should as a minimum:                      1) be consistent with the groundwater salt and nutrient Management Plan procedures to be included in the upcoming SWRCB Recycled Water Policy</p>	

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			2) provide guidance to facilitate "maximum benefit" analyses as recognized by the Santa Ana Board in cases where a discharge would otherwise be prohibited if degradation of surface or groundwater will occur.	
21-1	City of Monterey Park	Nov 7, 2008	We understand that your office will be receiving comments from many stakeholders regarding your request for data dated September 25, 2008, so we will limit our comments to what we believe are the five most important points concerning the City of Monterey Park. We have also attached copies of two letters previously submitted to your office by others (a letter to Mr. Dennis Dickerson dated July 3, 2003, and a letter to Ms. Susan Cloke dated February 11, 2005) that address many shared concerns.	Comment noted
21-2	City of Monterey Park	Nov 7, 2008	Stormwater runoff from the City of Monterey Park is conveyed via several underground storm drain systems to three waterbodies/reaches outside the City limits. Runoff from the western portion of the City flows southerly and eventually discharges into the Los Angeles River near the 710 Freeway. The northern portion of the City generally flows easterly and discharges into the Whittier Narrows Recreation Area and the remainder of the City flows southeasterly and discharges into the Rio Hondo Spreading Grounds. The beneficial uses of these waterbodies include the following: - Conditional Municipal and Domestic Water Supply - Industrial Water Supply	Comment noted

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			<ul style="list-style-type: none"> <li>- Groundwater Recharge</li> <li>- Contact Recreational Use</li> <li>- Non-Contact Recreational Use</li> <li>- Wildlife Habitat</li> <li>- Rare, Threatened or Endangered</li> <li>- Wetlands Habitat</li> <li>- Warm Freshwater Habitat</li> </ul> <p>It is imperative that these beneficial uses be accurately designated for the receiving waters.</p>	
21-3	City of Monterey Park	Nov 7, 2008	<p>For example, it is not clear that the Conditional Municipal and Domestic Water Supply designation is applicable. Certainly it would not be applicable for the discharge to the main Los Angeles River which is concrete lined until its outlet to the Long Beach Harbor. The runoff discharged into the Rio Hondo Spreading Grounds could ultimately provide groundwater recharge, but only after percolating a substantial distance through the soil strata and there would be a corresponding attenuation of many potential contaminants. For both discharges, since public entry is not permitted, the Contact Recreational Use designation, even if a possibility at some future time, is not reasonably foreseeable and should be eliminated.</p>	See Response to Comment(s) No(s). 9-3.
21-4	City of Monterey Park	Nov 7, 2008	<p>There seem to be conflicting beneficial uses. Waterbodies will have both a Contact Recreational Use with the implied human swimming or related activities and a Wet, Warm or Wild designation with the associated bird habitat resulting in high bacteria</p>	The Regional Board's approach to implementing the region's bacteria objectives is to use a reference system or natural sources exclusion approach, which allows for some exceedances due

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			levels. The two designations would appear to be mutually exclusive.	to natural sources in recognition of the value of both the recreational and aquatic life beneficial uses.
21-5	City of Monterey Park	Nov 7, 2008	We suggest that the most convenient way to review and update beneficial use designations may be to review existing designations concurrently with the development of each TMDL for the affected waterbodies.	See Response to Comment(s) No(s). 3-9.
21-6	City of Monterey Park	Nov 7, 2008	One further comment in regards to the beneficial uses is the difficulty in ascertaining which reach a particular discharge point is assigned. There is a Rio Hondo Channel reach downstream of the spreading grounds and a Rio Hondo Channel reach upstream of the spreading grounds, but it is not clear which reach, if either, applies to a discharge directly into the spreading grounds.	See Response to Comment(s) No(s). 3-10.
21-7	City of Monterey Park	Nov 7, 2008	The City has completed and attached an economic analysis worksheet that has been circulated among the permittees. This worksheet takes into account the cost of implementing the current MS4 permit as well as TMDLs (metals and trash). The projected cost of \$560 per household. per year due primarily to the installation of catch basin inserts for the Trash TMDL and construction of sand filters for the Metals TMDL will consume nearly one-third of the City's annual General Fund budget every year (\$11 million in annual costs from a \$32 million General Fund). Obviously, economic factors of this magnitude must be taken into account.	See General Response 4. Additionally, the cost of the metals and trash TMDLs were considered by the Board at the time of TMDL adoption

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21-8	City of Monterey Park	Nov 7, 2008	<p>It is not appropriate to establish compliance goals that effectively place permittees immediately in jeopardy of exceeding the goals. Attempting to overcome this by allowing a few years for assessment and compliance time is simply not adequate given the length of time required to design and install structural BMPs as well as find funding sources. We believe an iterative BMP process is a far better path. For example, the Brake Pad Partnership studied the South San Francisco Bay area and determined the major source of copper in runoff entering the bay is from brake pads, which has resulted in greater efforts by brake pad manufacturers to reduce the amount of copper in brake pads. This will be a far less expensive and more effective BMP than treatment. This is doubly important given the projected \$11 million in annual cost primarily for sand filters to reduce metal loads if the primary source will be eliminated within the foreseeable future at minimal cost.</p>	<p>See General Response 3 and General Response 4. In recognition of the planning, development, and iteration needed by responsible jurisdictions to achieve compliance with TMDL requirements, many TMDLs contain extended schedules for compliance with the assigned waste load allocations and load allocations. For example the Los Angeles River Metals TMDL allows 22 years to conduct studies and achieve compliance with the TMDL requirements.</p> <p>This is sufficient time for responsible jurisdictions to apply the iterative BMP process to achieve final compliance with TMDL requirements.</p>
21-9	City of Monterey Park	Nov 7, 2008	<p>There are no provisions in the Basin Plan addressing the discharge of reclaimed water (other than general support for its use). With the current projections of an extended drought and continued water shortages, the use of reclaimed water will likely continue to grow. Clear guidance for runoff from reclaimed water is needed and that policy would seem to be a good fit in the Strategic Planning Section of the Basin Plan.</p>	<p>The State Water Resources Control Board adopted a Recycled Water Policy in February 2009 (effective date May 14, 2009). The purpose of this Policy is to increase the use of recycled water from municipal wastewater sources that meets the definition in Water Code section 13050(n), in a manner that implements state and federal water quality laws. The State Board expects to develop additional policies to encourage</p>

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				the reuse of stormwater, water conservation, and the conjunctive use of surface and groundwater, as well as to improve the use of local water supplies. The Regional Board intends to fully comply with the directives of the Recycled Water Policy.
21-10	City of Monterey Park	Nov 7, 2008	This broad brush approach to establishing discharge limits for storm water runoff is overly restrictive. The application of the CTR will have a significant adverse effect on municipal budgets. When a municipality or group of municipalities wishes to scientifically investigate the appropriateness of a particular CTR limit, the cost can be expected to be in the neighborhood of \$1 million per pollutant per waterbody. This is especially financially burdensome. The Basin Plan should include a discussion for considering the applicability of the CTR on individual waterbodies, realistic costs and timelines.	See General Response 4. See also Response to Comment(s) No(s). 11-8. Federal law requires the Regional Board to implement the CTR in any water body with aquatic life or human health beneficial uses. Moreover, federal regulations limit the Regional Board's authority to grant additional compliance schedules for CTR attainment.
22-1	City of Pico Rivera	Nov 10, 2008	The City of Pico Rivera believes that the water quality standards in the Basin Plan need to be reasonably feasible to attain. Since there is a limit to the financial resources the City of Pico Rivera can devote to water quality improvements, and . since we exist to provide a range of services, our City Council must balance many competing needs, water quality being one of those needs. As a result, the City of Pico Rivera has some brief initial concerns while reviewing the Basin Plan. The Basin Plan lists existing beneficial uses for	See Response to Comment(s) No(s). 1-4, and General Response 4.

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			recreation in the flood channels (known as REC1 and REC-2 beneficial uses). Many of our flood channels and storm drains are generally access restricted to the public. These uses currently trigger bacterial controls, which are technically expensive to implement and standards that may not be attainable at any cost.	
22-2	City of Pico Rivera	Nov 10, 2008	The Basin Plan also does not provide an implementation plan as required under Water Code Section 13242. The City of Pico Rivera will need an implementation plan in order to understand the budget impacts, as well as to provide additional alternatives. The need for a phased implementation plan should be considered that includes a detailed description of dry weather diversions:	See General Response 2
22-3	City of Pico Rivera	Nov 10, 2008	We request that the Regional Board staff estimate what they believe are the likely costs of complying with the Basin Plan's regulations on our community. This would include providing the City with a conceptual implementation plan, an assessment of potential factors that could affect the cost estimate, including technological uncertainties and monitoring limitations. We would be pleased to review The Regional Board's cost estimate and the provide feedback to the Regional Board on the financial impacts on our community.	See General Response 2
23-1	City of Pomona	Nov 10, 2008	Design storm and BMP sizing - The current Basin Plan, and most of its amendments, does not include design storm sizing criteria, inferring that compliance occur through worst-case, over-sized and overly expensive BMPs that distort the balancing	See Response to Comment(s) No(s). 2-16.

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			of economic and societal criteria as required under Porter Cologne. For the most beneficial site designs and BMP implementation, region specific needs must be addressed.	
23-2	City of Pomona	Nov 10, 2008	TMDL Implementation - With the many scientific factors affecting TMDL development and implementation, short and long term phasing may benefit the overall development. "In situations where data and information needed to determine the TMDL and associated allocations are limited, USEPA provides for a phased approach to enable States to adopt TMDLs and begin implementation while collecting additional information needed to review and if necessary, revise TMDL elements based on new information. TMDLs developed under phased approach must identify specific implementation actions, monitoring plans and a schedule for considering revisions to the TMDLs." (re: SGRWMC letter dated November 10, 2008).	See General Response 2 and General Response 3. In situations where data and information needed to determine the TMDL and associated allocations are limited, TMDLs do allow for collection of additional information needed for the possible revision of TMDL requirements. Provisions to reconsider elements of these TMDLs are included, recognizing that revisions may be warranted based on additional data. Implementation options are always presented in the TMDLs allowing responsible jurisdictions to determine the specifics of how they intend to comply with TMDL requirements, and compliance monitoring requirements are specified also allowing responsible jurisdictions to develop monitoring plans. In addition, compliance schedules are usually elongated to accommodate the need for additional studies and information.
23-3	City of Pomona	Nov 10, 2008	Other Regional Boards have identified that the historical methods for designating beneficial uses may not be accurate. In the Santa Ana River	The Basin Plan clearly defines and identifies all of the beneficial uses designated for surface and ground

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			<p>Watershed, a long-term on-going study is tracking real REC-1 and REC-2 uses. This photographic study verified that many portions of the river were not used for REC-1 or REC -2 uses. In some areas it was impossible for entry and in other accessible areas, there was no human contact. Future beneficial use designations should include clear, rational criteria relating to their development, or be developed and implemented through a collaborative process whereby the local stakeholders and responsible agencies for each water body are stakeholders. These criteria should facilitate the future completion of use attainability analyses (UAAs) as necessary to support seasonal and/or tiered use designations. Given limited resources, it is imperative that we cooperatively pool our efforts in accomplishing this objective.</p>	<p>waters within the Los Angeles Region in Chapter 2. In addition, existing uses are defined by federal regulation as “those beneficial uses that have been attained on a waterbody on, or after November 28, 1975”; this was the basis for the designation of existing uses in the Basin Plan. Staff considers additional criteria unnecessary for identifying existing beneficial uses, since any additional criteria established by the Regional Board could not substitute for the requirements set forth in federal regulation. As for any future considerations of new or revised beneficial uses, as required for all potential Basin Plan amendments, the public would receive timely notice of these, and be given an opportunity to provide input.</p>
23-4	City of Pomona	Nov 10, 2008	<p>Indicator Bacteria Objectives - Since projects to control bacterial indicators and correct impairments can be costly, slow to implement, and may not show improvements in water quality, it is important that the Regional Board place a high priority on their review during this Triennial Review. Without a thorough, accurate, and scientifically based review, public health and resources could be jeopardized or squandered. As recently suggested by the SGRWMC November 5, 2008 letter to the State Board, the alternative would be to suspend these</p>	<p>The Regional Board acknowledges, as does EPA, that the state of the science with respect to bacteria indicators is evolving. There is on-going research on new criteria, including local epidemiological studies and methodological developments in the fields of rapid indicators and microbial source tracking. However, it would be premature to modify standards during this phase of research and</p>

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			standards while the United States Environmental Protection Agency develops new analytical methods to assess pathogens and human health risk.	development. The Board will continue to follow the progress of the science and will make changes to the bacteria objectives based on EPA's recommendations.  However, in the interest of public health, use of the current bacteria indicators cannot be suspended.
23-5	City of Pomona	Nov 10, 2008	Sediment quality objectives - The sediment quality objectives (SQO) adopted by the State Board on February 19, 2008, assesses sediment impairment based on multiple lines of evidence including chemistry, toxicity, and benthic communities. The newly adopted SQO is based on sound scientific studies, multiple lines of evidence and protective of environment and human health. The SQO is a comprehensive policy and unlike NOAA's guidelines does not depend only on one line of evidence. The Basin Plan Review should prioritize integrated use of chemical and biological measures to determine if the biota and public health are protected or degraded, as a result of exposure to toxic pollutants in sediments.	See Response to Comment(s) No(s). 12-15.
23-6	City of Pomona	Nov 10, 2008	Additionally, the City of Pomona supports and shares the concerns that are expressed through the comment letters that will be submitted by stakeholder groups such as SGRWMC, EAC and CPR as well as previous letters sent to Executive Officer Dickerson (2003) and Chairwoman Cloke	Comment noted.

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			(2005) as attached to this letter.	
23-7	City of Pomona	Nov 10, 2008	The City of Pomona agrees with the overall goal of the Basin Plan, but believes that involving cities and other stakeholders in the development process will enable a better and more productive result. With the current severe economic impacts to most stakeholders, consideration of our concerns and comments should not be overlooked and can be utilized for a realistic and more beneficial Basin Plan. We request that the Regional Board staff estimate what they believe are the likely costs of complying with the Basin Plan's regulations on our community. This would include providing the City with a conceptual implementation plan, an assessment of potential factors that could affect the cost estimate, including technological uncertainties and monitoring limitations. We would be pleased to review The Regional Board's cost estimate and provide feedback to the Regional Board on the financial impacts on our community.	See General Response 2 and General Response 4
24-1	City of Pomona SGRW	Nov 10, 2008	Design Storm and BMP Sizing During this Triennial Review or Basin Plan Revision, Board staff should develop a water quality and/or storm sizing "cutoff" for the design and construction of Best Management Practices (BMPs) and the (re)development circumstances under which the criteria are to apply. The Water Boards enabling legislation (Porter Cologne) and several recent studies (e.g. <a href="ftp://ftp.sccwrp.org/pub/download/PDFs/520_design">ftp://ftp.sccwrp.org/pub/download/PDFs/520_design</a>	See response to comment No. 23-1

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			<p><u>Storm.pdf</u> and <a href="http://www.practicalregulation.com/dynamic/downloads/individual_download_file_link_english_175.pdf">http://www.practicalregulation.com/dynamic/downloads/individual_download_file_link_english_175.pdf</a> have noted the challenge of balancing water quality protection with costs and societal factors. The current Basin Plan, and most of its amendments, does not include design storm sizing criteria, inferring that compliance occur through worst-case, over-sized and overly expensive BMPs that distort the balancing of economic and societal criteria as required under Porter Cologne. In addition, the design storm should be derived using the Los Angeles and Ventura County Hydrology Manuals and their agency conveyance and detention design criteria. Board and Non-Governmental Organization (NGO) efforts to translate hydromodification criteria into planning policy and MS4 permits should encourage analyses based on locally hydrology methods.</p> <p>In the San Gabriel River Watershed, which has extensive spreading grounds above Reach 1, minor storms (nominally 1 cm) in the upper urban catchments normally infiltrate, shifting the primary regulatory burden to the tributary Coyote Creek sub-watershed and the Santa Ana Regional Board. Only infrequent, large events produce sufficient runoff to cascade into the lowest river reach. A design storm provision becomes the difference between implementing cost-effective on-site Low Impact Development BMPs or very expensive and land intensive regional efforts; without a Design Storm, the Basin Plan analysis should assume the latter</p>	

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			contingency.	
24-2	City of Pomona SGRW	Nov 10, 2008	<p>In order to reliably expend scarce resources for TMDL implementation actions, agencies need greater assurance that the state required implementation plans, will be adopted by the Board. Implementation plans are a required component of Basin Plans. "Under State law, the Regional Board must adopt an implementation plan for the TMDL. The plan should be adopted concurrently with the other TMDL components, if practicable, or within a short time frame thereafter. If it is not, the TMDL would not be effective until the implementation plan is adopted." "The fact that the Regional Water Boards can include compliance schedules in individual waste discharge requirements, or in limited circumstances in NPDES permits, would not obviate the need for an implementation program with a time schedule to achieve compliance with the applicable standard.</p>	<p>TMDLs provide responsible agencies with possible implementation scenarios as a means of demonstrating that the WLA are attainable with available technology. Anything more specific would be too prescriptive and prevent responsible jurisdictions from determining what implementation approach best suits their resources and abilities. More detailed TMDL implementation plans are developed individually or collectively by responsible jurisdictions.</p> <p>TMDLs require responsible agencies to control impairing pollutants to levels specified by the WLAs. Responsible agencies have the flexibility of determining what control measures will be best suited to achieve this in their jurisdiction. While the Regional Board can speak to the adequacy of an implementation plan, it is compliance with the final WLAs, not the adequacy of the plan that is necessary to demonstrate compliance with TMDL requirements.</p>
24-4	City of Pomona	Nov 10, 2008	Although determination of the exact means of	See General Response 2

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	SGRW		<p>compliance is the role of the responsible agency, the plan must provide a discussion of the anticipated and/or possible means of compliance."<sup>4</sup></p> <p>"The implementation program must include a description of actions that are necessary to achieve the objectives, a time schedule for these actions, and a description of surveillance to determine compliance with the objectives."<sup>5</sup> "The program of implementation must describe the nature of actions that are necessary to meet the objectives, including recommendations for action by both private and public entities."<sup>6</sup></p>	
24-5	City of Pomona SGRW	Nov 10, 2008	<p>"CEQA compliance, in the absence of a defined implementation plan, could potentially be more difficult than it would be with one. Under CEQA, the Regional Water Board would have to identify the reasonably foreseeable methods of compliance with any TMDL provisions that established performance standards or treatment requirements. The numeric targets and load allocations would probably fall into the category of performance standards. After identifying the reasonably foreseeable compliance methods, the Regional Water Board would have to analyze their reasonably foreseeable environmental impacts, taking into account a reasonable range of environmental, economic and technical factors. A defined implementation plan may allow the Regional Water Board to more narrowly focus its CEQA analysis. Without one, the CEQA analysis could potentially be broader and more burdensome."</p>	<p>TMDLs and their accompanying Substitute Environmental Documents (which constitutes CEQA compliance under Public Resources Code section 21080.5) do offer a range of implementation options that could be applied towards achieving compliance with TMDL requirements. The potential environmental impacts of these options are clearly analyzed. However, it is left to each responsible jurisdiction to determine the specific manner in which compliance with the TMDL requirements will be attained within their jurisdiction.</p>

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24-6	City of Pomona SGRW	Nov 10, 2008	<p>"If a TMDL or other regulatory action is being adopted without sufficient information to develop a complete implementation plan, the implementation plan can be developed consistent with an adaptive approach that outlines the various stages of implementation that are expected and the process for fully realizing the regulatory actions." "Adaptive implementation is, in fact, the application of the scientific method to decision-making. It is a process of taking actions of limited scope commensurate with available data and information to continuously improve our understanding of the problem and its solutions while at the same time making progress toward attaining the water quality standards.</p>	Comment noted. See response to comment No. 24-2.
24-7	City of Pomona SGRW	Nov 10, 2008	<p>In situations where data and information needed to determine the TMDL and associated allocations are limited, USEPA provides for a phased approach to enable States to adopt TMDLs and begin implementation while collecting additional information needed to review and if necessary, revise TMDL elements based on new information. "TMDLs developed under phased approach must identify specific implementation actions, monitoring plans and a schedule for considering revisions to the TMDLs.</p> <p>For the SGR Watershed, implementation plans may need to be jointly developed and adopted by both the LARWQCB and SARWQCB to fairly balance the public resource commitments and significant environmental impacts of future Permits and</p>	See Response to Comment(s) No(s). 23-2.

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			TMDLs.	
24-8	City of Pomona SGRW	Nov 10, 2008	<p>Inappropriately designated Beneficial Use Objectives confuse local agency priorities, forestalling progress toward obtaining regional water quality objectives. Recent court directions propose removal of "potential" Basin Plan beneficial use designations making this a necessary and high priority issue for this basin planning cycle. Future beneficial use designations should include clear, rational criteria relating to their development, or be developed and implemented through a collaborative process whereby the local stakeholders and responsible agencies for each water body are stakeholders. These criteria should facilitate the future completion of use attainability analyses (JAAs) as necessary to support seasonal and/or tiered use designations. Given limited resources, it is imperative that we cooperatively pool our efforts in accomplishing this objective.</p> <p>In the SGR Watershed, several channels have REC1 beneficial use designations for areas where entrance is both dangerous and prohibited due to vertical channel walls. If trespass is prohibited, then a body contact recreation beneficial use is logically counter indicated and any REC1 use impairments ranked with a low resource prioritization.</p>	See Response to Comment(s) No(s). 1-4. Also see General Response 1.
24-9	City of Pomona SGRW	Nov 10, 2008	Recent water quality monitoring studies have included extensive analyses of indicator bacteria, in an effort to better assess public health risk,	See response to comment No. 2-10.

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			<p>understand indicator bacteria ecology, and identify sources so that effective control strategies may be implemented. These analyses and studies have demonstrated serious flaws in the use of indicator bacteria as surrogates for pathogens and human health risk, which has important implications for how water quality criteria are linked to Beneficial Use Objectives. These concerns and new information should demonstrate that a significant scientifically based review of the objectives is overdue. Since projects to control bacterial indicators and correct impairments can be costly, slow to implement, and may not show improvements in water quality, it is important that the Regional Board place a high priority on their review during this Triennial Review. Without a thorough, accurate, and scientifically based review, public health and resources could be jeopardized or squandered. As recently suggested in our November 5, 2008 letter to the State Board, the alternative would be to suspend these standards while the United States Environmental Protection Agency develops new analytical methods to assess pathogens and human health risk.</p>	
24-10	City of Pomona SGRW	Nov 10, 2008	<p>Sediment quality guidelines from the National Oceanic and Atmospheric Administration (NOAA) are being used by the Regional Board in assessing 303(d) list impairments in the Los Angeles area. These guidelines, specifically the values for Effects Range-Low (ERL), Effects Range-Medium (ERM), Threshold Effects Level (TEL), and probable Effects Level (PEL), were translated into numeric targets in</p>	See Response to Comment(s) No(s). 12-15.

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			<p>the Ballona Creek Estuary Toxics and Marina Del Rey Harbor Toxics TMDLs adopted by the Board. These values (ERL, ERM, TEL, and PEL) are based on <u>empirical data</u>, from field and laboratory studies, that were never intended to be used for numeric compliance assessment. Toxic TMDLs, under development by the Regional Board for the Dominguez Channel and Los Angeles/Long Beach Harbor, also include these guidelines as compliance targets, even though other triad based sediment quality guidelines are available. The Sediment Quality Objectives (SQO) adopted by the State Board on February 19, 2008, assesses sediment impairment based on multiple lines of evidence including chemistry, toxicity, and benthic communities. The newly adopted SQO is based on sound scientific studies, multiple lines of evidence and protective of environment and human health. The SQO is a comprehensive policy and unlike NOAA's guidelines doesn't depend only on one line of evidence. The Basin Plan Review should prioritize integrated use of chemical and biological measures to determine if the biota and public health are protected or degraded, as a result of exposure to toxic pollutants in sediments.</p>	
24-11	City of Pomona SGRW	Nov 10, 2008	<p>Prior to developing any sediment TMDLs for SGRWMAC lakes a biota assessment should be used to determine whether any impairments are comparable to the resources that would be expended to undo the damage resulting from legacy pesticides.</p>	<p>See General Response 3. The comment has been directed to the TMDL unit.</p>

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24-12	City of Pomona SGRW	Nov 10, 2008	<p>In conclusion, the information presented in this letter was developed by a consensus group of MS4 Permittees and are not ordered by priority, since each Permittee might differently rank their importance based on watershed location and local characteristics. Several of the SGRWMAC members and NPDES permittees in general, are separately submitting agency specific letters that will highlight their individual priorities. The SGRWMAC appreciate your consideration of our concerns and would appreciate having the opportunity to work with the State in resolving these complex and interdisciplinary issues. Given the worsening budgetary constraints that are being placed on federal, state, and local governments, it is time to move from litigation and efforts to shift costs and responsibilities among the stakeholders, to Cooperating with each other and setting rational cost-effective priorities for shared implementation. We all share the objective of improved water quality; setting mutually agreed goals for achieving them will allow us to target the most beneficial and highest priority challenges first.</p>	Comment noted.
25-1	City of South Gate	Nov 10, 2008	<p><u>BMP based compliance instead of numerical</u>  The varied nature of storms; wide range of flow rates in the river channels; varying pollutant loads in first flush versus last flush; and the likelihood of rain falling in one geographical area of the watershed and not in another make numerical limitations inappropriate at this time for assessing compliance</p>	<p>See General Response 3  Specific permit requirements are outside the scope of the triennial review, and should be presented to the relevant permitting program during permit development.  Nevertheless, it is the Regional Board's</p>

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			<p>with Water Quality Standards. Instead, reliance on the adequate implementation of Best Management Practices (BMPs) to show compliance should continue as they have in previous Municipal Separate Storm Sewer Systems (MS4) permits. Our concern is that a numerical limit significantly reduces the flexibility of the City to comply. The cost of compliance With the metals and trash Total Maximum Daily Loads (TMDLs) will be high, as much as \$8 million over the next 10 years if compliance is solely based upon structural controls.</p>	<p>mission to preserve and enhance water quality in the Los Angeles Region for the benefit of present and future generations. Therefore it is necessary to ensure that the water quality objectives set to protect beneficial uses of the region's waters are complied with. Responsible jurisdictions that contribute to the discharge of pollutants into surface and ground waters have the flexibility of determining how they will comply with receiving water limits. Therefore where Best Management Practices –structural and/or nonstructural – are able to achieve compliance with these objectives, they may be used.</p>
25-2	City of South Gate	Nov 10, 2008	<p>The City is concerned that current estimates of up to 50% of copper in runoff can be attributed to brake dust. There has been a 12 year effort by Bay Area stakeholders and others to investigate and confirm this fact, and there is on ongoing effort now to reduce the amount of copper in brake pads. Requiring the City to embark on a program of implementing costly structural BMPs (sand filters as outlined in the metals TMDL) only to have the source of the copper reduced in the near future represents a waste of public funds. Practicable and reasonable iterative BMPs, that is, try the most cost-effective and logical BMP first, if it doesn't work discard it and try another one. This should be the standard in lieu of numerical limits.</p>	<p>See Response to Comment(s) No(s). 25-1.</p>

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25-3	City of South Gate	Nov 10, 2008	<p><u>Reasonable Beneficial Uses</u>  Stormwater runoff from the City discharges into Compton Creek and Hydro Unit 405.15 (Reach 2) of the Los Angeles River. The beneficial uses of these waterbodies are listed as:</p> <ul style="list-style-type: none"> <li>▪ Conditional Municipal and Domestic Water Supply: Los Angeles River (P), Compton Creek (P)</li> <li>▪ Industrial Water Supply: Los Angeles River (P), Compton Creek (NA)</li> <li>▪ Groundwater Recharge: Los Angeles River (E), Compton Creek (E)</li> <li>▪ Contact Recreational Use: Los Angeles River (Es), Compton Creek (Es)</li> <li>▪ None-Contact Creational Use: Los Angeles River (E), Compton Creek (E)</li> <li>▪ Warm Freshwater Habitat: Los Angeles River (E), Compton Creek (E)</li> <li>▪ Wild Life Habitat: Los Angeles River (E), Compton Creek (E)</li> <li>▪ Wetland Habitat: Los Angeles River (NA), Compton Creek (E)</li> </ul>	Comment noted
25-4			First, since over 80% of the dry-weather flow is treated effluent from sewage treatment, plants, municipal and domestic water supply is not realistic.	The MUN beneficial use in Compton Creek is only conditionally designated based on the asterisks marker and EPA's assertion that "the waters identified with (*) in Table 2-1 do not have MUN as a designated use until such a time as the states undertake additional study and modifies its Basin Plan" (EPA memo to the California State

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				<p>Water Resources Control Board ref:“WTR-5”, dated February 15, 2002).</p> <p>This beneficial use is also listed as potential therefore a UAA could be conducted on this waterbody to re-asses the MUN designation.</p>
25-5			<p>Second, since access is prohibited with no recreational use well into the foreseeable future, this use should not be listed as REC-1. Also, since REC-2 use is essentially limited to only visual impact, a REC-3 or REC-X designation should be developed to reflect more appropriate Water Quality Objectives.</p>	<p>The Regional Board has addressed this issue in part through a Basin Plan amendment to suspend the REC-1 beneficial use and associated bacteria objectives in engineered channels throughout Los Angeles County during wet weather conditions characterized by high flows.</p> <p>Also, staff has identified this issue as one that should be addressed on a case-by-case basis during this triennial review period. Staff has recommended that the Regional Board consider evaluating appropriate recreational beneficial uses for storm channels with conditions that may not be conducive to fully supporting their REC-1 designation. Any such evaluations would be conducted with the recognition that existing beneficial uses cannot be removed, and in conformance with federal regulations at 40 CFR 131.10(g) as well as US EPA’s recommendations for conducting use attainability analyses</p>

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				and developing a subcategory of a designated use that is not an existing use.
25-6			Third Industrial Water Supply is not realistic. This would also require the user to obtain water rights and since there are no current users of this type on either Reach 1 of the Los Angeles River or Compton Creek, if this was a realistic possibility, it would have already been done.	Federal regulations restrict States from removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if: 1. They are existing uses, as defined in 40 CFR § 131.3, unless a use requiring more stringent criteria is added; or 2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices.  The IND beneficial use is designated as an existing use and therefore cannot be removed.
25-7			And fourth, the Los Angeles River is concrete lined throughout its course; through and below South Gate. Compton Creek, except for a small soft bottom segment near its conjunction with the Los Angeles River is similarly concrete lined. Any reasonable opportunity for ground water recharge is minimal.	See response to comment No. 25-6. The GWR beneficial use is designated as an existing use and therefore cannot be removed.
25-8	City of South Gate	Nov 10, 2008	<u>Reasonable Water Quality Objectives</u> All of the Water Quality Objectives should be reviewed and updated. A review should include the California	See Response to Comment(s) No(s). 20-23.

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			Toxics Rule (CTR) and floatables (zero floatables, no matter how desirable; is not realistic).	Furthermore, the criteria contained in the California Toxics Rule (CTR) were promulgated by the US EPA in the absence of State-adopted water quality objectives for the priority pollutants. Changes to the criteria in the CTR must be made by the US EPA. Finally, the commenter does not provide the rationale for a review and update of the narrative water quality objective for “floatables”, which is based on US EPA’s 1986 water quality criteria recommendations that waters are free from a variety of pollutants, including floatables, that would cause impacts to beneficial uses.
25-9			For example, with the rapidly evolving improvements in analytical and assessment techniques, the continued inclusion of indicator bacteria of fecal/total coliform is outdated. The State Water Resources Control Board has recently proposed adopting the 1986 US. EPA standards. Unfortunately, these are likely out of date too. A tool-box approach should be used in which the most current micro biological, non-microbial, genetic markers and rapid test methods are used and new technologies are incorporated as they become available.	See Response to Comment(s) No(s). 2-10.
25-10			Also, since the literature routinely points to birds as a significant source, contributions by natural sources	The Regional Board addresses the issue of controlling natural sources of

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			should be taken into account.	<p>bacteria through its reference system/antidegradation and natural sources exclusion approaches that are a part of the implementation provisions for the region's bacteria objectives. Using the reference system approach, exceedances of the objectives are allowed under certain circumstances where the exceedances are no more frequent than those that are observed in a "reference" system (i.e., a largely pristine, undeveloped area). A beach reference system was identified for use in several bacteria TMDLs in the region. In addition, the Southern California Coastal Water Research Project (SCCWRP) completed a study of reference inland streams in 2008, the results of which may be used in future bacteria TMDLs for inland surface waters. The natural sources exclusion approach is applicable for situations in which an appropriate reference system cannot be identified for the target waterbody, or in instances where natural sources are the sole source of bacteria contamination (i.e. where anthropogenic sources are not present or have been fully controlled). This approach may be further developed for specific watersheds, where supported by adequate data.</p>

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25-11			The City is aware that a recent study (Water Effects Ratio) regarding the appropriate levels of copper for an upstream reach of the Los Angeles River has been submitted to the Regional Board by the City of Burbank and others. It is our understanding the results of this study show the river can assimilate a higher concentration of copper than the current limits allow. The results of this study should be incorporated into the Water Quality Objectives.	See response to comment No. 20-1
25-12	City of South Gate	Nov 10, 2008	<u>Economic Concerns</u> The potential cost of compliance with the various MS4 and TMDL requirements has the potential to be staggering. The attached worksheet outlines the anticipated costs of a program that continues to implement the MS4 permit, as well as install full capture catch basin trash inserts throughout the city and employ sand infiltration BMPs for 60 percent of the city: The projected cost is \$8.2 million per year for the next ten years. The City's General Fund revenues are currently \$38 million while General Fund expenses are \$43 million. Essentially the projected costs will add an additional 20% to a budget that is already 12% in the red. Clearly there needs to be alternative methods that will allow the City to still achieve the goals of this program, and yet be financially implementable.	See General Response 4
25-13	City of South Gate	Nov 10, 2008	One final comment, we have also noticed that the hydrological units (HU) and actual watershed areas as delineated in the Basin Plan do not coincide. For example, the lower reach of the Los Angeles River is in HU 405.12, which also includes the Dominguez	See Response to Comment(s) No(s). 3-10.

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			Channel and portions of Santa Monica Bay, while the middle reaches of the Los Angeles River are in HU 405.15 which includes the San Gabriel River. This is very confusing. It is difficult to determine precisely where one waterbody section ends and another section begins, especially with regard to the minor waterways. This is important when attempting to determine which beneficial uses apply to specific locations.	
25-14	City of South Gate	Nov 10, 2008	Many of these issues have been raised before by the Sanitation Districts and Los Angeles County (2005 letter to Susan Cloke signed by the Sanitation Districts and others, and in the 2003 letters to Dennis Dickerson signed by Los Angeles County and others); and we appreciate your attention to their comments.	Comment noted
26-1	Gary Ohst, private citizen		<p>The Seaside Lagoon has progressed through some operating challenges. The 2008 season ran with no significant water quality exceedences which is a substantial improvement over the past 2002-2007 period. Even though, the city has lost interest in maintaining the existing sand bottom configuration blaming <u>past</u> operating problems and a fear of ever increasing standards.</p> <p>Attempts to close the lagoon have been stopped by citizen advocacy, with support of the California Coastal Commission. The last threat was a large-scale redevelopment project, supported by the city that was marginally feasible and required an illegal</p>	Seaside Lagoon is a recreational facility that discharges to King Harbor in the City of Redondo Beach and, therefore, is subject to water quality regulation to protect the beneficial uses of the Harbor. The Regional Board appreciates the recreational value of this facility; however, this does not eliminate the need for Seaside Lagoon to comply with the permit requirements that allow discharge to the Harbor.

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			<p>zoning change as no proper EIR had been conducted to rezone the Seaside Lagoon from parks to development.</p> <p>The city obtained a temporary TSO to keep the lagoon in operation. This TSO expires in March of 2010. The city states that the existing sand bottom facility is no longer feasible. They cite continuing RWQCB fines and a fear of more restrictive water standards.</p> <p>The Seaside Lagoon operations have changed and improved to meet current standards. The prior bacteria and BOD problems that occurred after the water was dechlorinated, but before being returned to the ocean have been fixed with better cleaning of the exit piping.</p> <p>More improvements to the lagoon are possible. The TSS problem comes and goes, but could be related to the high clay content of the Seaside Lagoon sand. This is not true beach sand, but some type of construction sand with a much higher clay content. The fine silts in clay stay in suspension far longer than coarse beach sand grains.</p> <p>The water board needs to clarify beneficial uses as including facilities like Seaside Lagoon, and act to assist local agencies attempting to maintain them as opposed to setting tougher standards which will ultimately be the demise of the very beneficial uses we are trying to protect.</p>	

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26-2	Gary Ohst, private citizen		<p>The RWQCB needs to take into consideration the recreational benefit of some facilities that are themselves beneficial uses. The Seaside Lagoon is not a power plant, oil refinery or waste treatment plant where the real potential for serious contamination exists.</p> <p>Some facilities like Seaside Lagoon are very unique and offer a very safe ocean water and beach experience for young children that could never be replaced or replicated.</p> <p>The water board needs to understand that a rigid fine based enforcement policy causes many city officials to simply close facilities like the Seaside Lagoon. They claim that tougher regulation will continue to come along and the situation is hopeless. The water board has an obligation to keep the coastal water clean, but they also have an obligation to set reasonable standards and apply some flexibility in their enforcement. The end goal is water that meets clean water standards and flexible solutions should first be considered along with later fines if they do not work out.</p> <p>There must be some sense of stability in the water quality standards. Something longer than the 5-year window for each NPDES permit would be good. Waiting to determine fines going back over 5 years does not add any clarity to the process. The city was just notified what the fines were going way back to 2002. The water board needs to respond sooner than 5 years as to what any fines will be.</p>	<p>See response to comment No. 26-1. Additionally, issues regarding the permitting of a facility are outside the purview of the triennial review and should be directed to the NPDES permitting program. See General Response 3.</p>

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			<p>These long delays just create unnecessary suspense and generate more excuses to just abandon the facility because it is difficult to manage. The Seaside Lagoon faces an uphill battle and local citizens are prepared to advocate for it. Having the possibility to extend the upcoming TSO deadline and set long term standard will greatly assist in these efforts. The city is evaluating options, but will probably not have anything in place prior to March 2010. Without water board flexibility this beneficial use could very well close.</p>	
27-1	SCOPE	Nov 10. 2008	<p>The Santa Clarita Valley is covered by an AB3030 plan, a consensus agreement as to water pumping capabilities for the upper watershed. This is not working very well, as the water districts generally pump as much as they can get. The 3030 plan was based on "new hydrological reports" that indicated that even greater amounts than previously pumped, could be "safely" extracted from the Santa Clara River. Earlier reports (that we previously provided to your agency) including a USGS report from 1972 and a Report in 1986 by Richard Slade, stating lower sustainable extraction levels were disregarded. Also, sustainable extraction was based merely on the ability of the alluvial aquifer to "recharge" back to previous levels. No other measurements of sustainability such as subsidence or biological die back due to a drop in water levels were included in the assessment. Biological die back indicating over-pumping is immediately apparent when historical photographs</p>	<p>Regulation of pumping activities is outside the purview of the Regional Board and should be directed to the State Board Division of Water Rights.</p>

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			<p>obtained from the Dept. of Fish and Game vs. current conditions are compared. Also, subsidence seems to be occurring based on cracking at some bridge joints.</p> <p>There is also some evidence that wells did not fully recover to previous levels after the 1992 drought, but these data was generally ignored as "anomalies" or "measuring errors".</p> <p>A last absurd finding in these reports is that urbanization and hardscaping has resulted in increased re-charge to the Santa Clara River because more water runs into it. This two-page memo by an engineering firm controlled by the water agencies should be carefully examined for this far-fetched claim. From the US EPA to the local flood control agency's estimates of run off after hardscaping and fire, it is a well-established fact that urbanization reduces ground water recharge and increases run off.</p>	
27-2	SCOPE	Nov 10. 2008	<p>In 2005, the Regional Water Quality Control Board passed a resolution regarding hydrological modification of tributaries in the Los Angeles Regional Basin. This Resolution came in part due to a study conducted by the Board that indicated diminishing water quality caused by such hardscaping. We had high hopes that this Resolution would result in a reduction of the granting of 401 permits to alter tributaries and the Santa Clara River or would require more sustainable "bio stabilization" of banks where bank stabilization was required.</p>	<p>Development of a hydromodification policy is an issue identified by staff to be worked on during this triennial review period. The Regional Board has been working towards a comprehensive policy to control the water quality related impacts of hydromodification in order to protect wetlands and stream systems and their beneficial uses in the Los Angeles Region. Recently, Regional Board staff applied for and received</p>

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			<p>Unfortunately, this did not occur and the march of concrete that diminishes ground water recharge and habitat uses continues to take place with the Board's blessing.</p> <p>We request that this issue is visited in the Basin Plan, that the cumulative loss of recharge from such hardscaping be examined and that the cumulative impacts to other beneficial uses such as habitat, be included in the Plan. It is imperative that our recharge areas be protected if we are ever to become self-sufficient and rely on our local water supply. The burden of protecting this resource cannot be placed completely on local public interest groups. The agencies must step up to the plate and enforce their own regulations.</p>	<p>stimulus (ARRA) funds for a technical component of this project that will be completed by SCCWRP. The related policy component will be developed by Board staff as resources allow. These efforts complement the work of the State Board and the North Coast and San Francisco Bay Regional Boards on the Wetland and Riparian Areas Protection Policy, which is intended to protect and restore the physical integrity of streams, riparian areas, estuaries and wetlands in order to enhance water quality and support beneficial uses.</p>
27-3	SCOPE	Nov 10. 2008	<p>In the Santa Clarita Valley, the Santa Clara River and its tributaries serves the beneficial use of providing natural habitat to fish and amphibians. Because of over-pumping, many of the ephemeral ponds or surface water that these animals require to survive has either disappeared or is disappearing. We call on the Board to address and redress this problem in the Basin Plan.</p> <p>Further, permits granted by the Army Corps and Regional Board for channel clearing have eliminated the cover required for migrating animals and the nesting areas for local amphibians. Due to such careless policies, local frogs and toads have all but disappeared and migrating animals such as</p>	<p>Maintaining sufficient stream flows to support aquatic life and habitat is outside the purview of the Regional Board. This issue should be directed to the Department of Fish and Game. The Department in a 2009 Annual Report on its Instream Flow Program states that it has developed and continued to maintain a partnership with SWRCB for purposes of harmonizing priority setting, study availability, and data evaluation. Several meetings took place in 2008 with SWRCB staff and Department staff that were focused on better coordinating future efforts related to instream flows in</p>

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			<p>coyotes, raccoons and bobcats wander into adjoining neighborhoods in search of cover.</p> <p>In addition, the beneficial natural water quality treatment provided by riparian vegetation is eliminated, thus reducing water quality. Permits in previous years required that only alternative year bank clearing occur, or one side of the creek be cleared one year and the other the next, allowing some vegetation to remain. But the last several years, everything was just rototilled. This apparently occurred because we were unaware of the comment period and therefore didn't request that such methods be used.</p>	<p>California. The Department committed to maintain a partnership with the SWRCB, and to develop and transmit flow recommendations to SWRCB in a timely manner. Likewise, SWRCB updated its Strategic Plan to reflect an expectation that the Department will develop instream flow recommendations.</p>
27-4	SCOPE	Nov 10. 2008	<p>Again, the burden for beneficial use protection should not rest solely on the shoulders of a non-funded public interest group. The Board MUST address this issue in the Basin Plan and find a way to protect these beneficial uses so that the public trust is protected even when we miss a comment period.</p>	<p>See response to comment No. 27-4</p>
27-5	SCOPE	Nov 10. 2008	<p>The Regional Board has worked on a plan to resolve the rising chloride levels in the Santa Clara River for almost ten years. A resolution to this problem that depends on a combination of reverse osmosis to remove salts and dilution with an additional water source seems to be close to completion. However, if building continues without a reduction in water use, any water quality improvements from this plan may be diminished or</p>	<p>The Regional Board agrees that groundwater is an important source of water in Los Angeles County, providing approximately 40% of the total demand. Groundwater reserves also provide an emergency supply of water during droughts and natural disasters that disrupt normal water deliveries. The Central and West Coast Groundwater</p>

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			<p>not forth-coming due to failure to find a source for the required dilution and continued building that depends on State Water Project supplies that are high in salts.</p> <p>This is another reason the Regional Board must use all its regulation power to ensure that ground water recharge areas are protected for local self-sufficiency. These issues should be discussed in the Basin Plan.</p>	<p>Basins are artificially replenished by spreading and injecting replacement water. One of the three sources of the replacement water is highly treated recycled water (reclaimed wastewater), purchased from the Los Angeles County Sanitation District, which is conveyed to various spreading grounds. The Regional Board also understands that in dry years water agencies must import water from the State Water Project, where chloride concentrations can exceed the groundwater recharge standards. Furthermore, water conservation efforts increase the mineral content of wastewater, making it difficult to conserve water, while meeting water quality standards.</p> <p>The State Water Resources Control Board adopted a Recycled Water Policy in February 2009 (effective date May 14, 2009). The purpose of this Policy is to increase the use of recycled water from municipal wastewater sources that meets the definition in Water Code section 13050(n), in a manner that implements state and federal water quality laws. The State Board expects to develop additional policies to encourage the reuse of stormwater, water conservation, and the conjunctive use of surface and groundwater, as well as to</p>

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				improve the use of local water supplies. The Regional Board intends to fully comply with the directives of the Recycled Water Policy including the requirement to support the development of Salt and Nutrient Management Plans to address issues such as the one identified by the commenter.
27-6	SCOPE	Nov 10. 2008	Lastly, the water agencies in the Santa Clarita Valley continue to place new water wells in the Santa Clara River and its tributaries without obtaining permits as required from the State Water Resources Control Board. We request that the Board address this issue in the Basin Plan.	This issue is outside the purview of the Los Angeles Regional Board and should be directed to State Board.
28-1	County of Ventura	Nov 10, 2008	The epidemiological studies described in EPA's 1986 Ambient Water Quality Criteria for Bacteria (EPA, 1986) were based on designated beach area, swimming-related illness rates, such that the geometric mean objectives are protective of water contact recreation where prolonged full body immersion takes place. The EPA Criteria Document acknowledges that different levels of use require different confidence levels in the level of protection in reference to the frequency and number of people swimming in a water body. This rationale should also apply to water bodies where swimming does not take place, but rather there is a lesser extent of water contact. Furthermore, on June 27, the Senate Committee on Environment and Public Works' Subcommittee on Transportation Safety, Infrastructure Security, and Water Quality held a	See Response to Comment(s) No(s). 2-10 and 20-10.

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			<p>hearing to discuss the Beach Protection Act of 2007, which will reauthorize and expand the Beaches Environmental Assessment and Coastal Health (BEACH) Act passed by Congress in 2000. As part of this effort, various studies commissioned by the USEPA as well as a report from the United States Government Accountability Office, GAO 07-591 (Washington, D.C. May 1, 2007) suggests that E. Coli may not be the best indicator of human pathogens in marine or estuary environments. Moreover, most human pathogens are not capable of "environmental multiplication", therefore, a distinction must be made between indicator organisms from the natural environment (birds, wildlife) and human fecal organisms.</p>	
28-2	County of Ventura	Nov 10, 2008	<p>We request the Regional Board consider adopting a site specific objective (SSO) for Kiddie and Hobie Beaches, and any future potentially affected waterbodies within Ventura County. A separate geometric mean objective could be developed for water bodies with only limited water contact recreational use. This objective would apply in water bodies where some REC1 use takes place, but only where it is small-scale or infrequent, and of a low intensity.</p> <p>Additionally, the REC1 beneficial use designation should be subcategorized, modified, or clarified to distinguish between waterbodies where full body immersion takes place and waterbodies with more limited body contact recreation. This is germane to</p>	See Response to Comment(s) No(s). 2-10 and 20-10.

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			<p>this TMDL in that indicator organisms, if not a human pathogen (e.g., E. coli from an avian source), may cause or contribute to a determination of Load Allocation "exceedance", yet may not constitute a human health risk, and may not reflect anthropological contamination.</p>	
29-1	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>Evaluate Basin Plan Definitions of Recreational Uses and Revise the Basin Plan definitions of REC1 and REC2 to be consistent with EPA guidance (Table 1)</p> <p>Many Southern California waterbodies cannot support full body contact recreational uses because they are too shallow for immersion; therefore it is not appropriate to designate these waterbodies REC1 for the protection of human health. A third level of recreational use category between the current REC1 and REC2 uses should be developed for waterbodies where full body water contact does not take place, but water contact is more than incidental. The above recommendation is the preferred approach, however at a minimum the definition of REC1 should be revised to reflect the intent of EPA, therefore, the term "reasonably possible" should be replaced with "likely", and should be modified to include only some forms of fishing and wading in the definition of REC1 as not all types of fishing are likely to result in ingestion or immersion.</p> <p>The definition of REC2 waters should be defined as those used for recreational activities involving</p>	See Response to Comment(s) No(s). 9-7.

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			<p>proximity to water, but not normally involving body contact with water where ingestion of water is not likely.</p> <p>The Santa Ana Water Board is considering revising their Basin Plan in a similar fashion. The following preliminary draft language is potentially being considered by other Regional Boards. It would be appropriate to use the same definitions for consistency among Regional Boards.</p> <p>Primary Contact Recreation (REC1*): are waters used for recreational activities involving deliberate water contact, especially by children, where ingestion is likely. Examples of REC1 may include, but are not limited to: swimming, water-skiing, surfing, whitewater rafting, float-tubing, bathing in natural hot springs, skin diving, scuba diving and some forms of wading and fishing. Incidental or accidental water contact resulting in brief exposures that is limited primarily to body extremities (e.g. hands and feet), is not deemed to be REC1.</p>	
29-2	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>Develop criteria for designating high flow conditions that would trigger suspension of the REC1 and REC2 bacterial indicator water quality objectives (Table 2)</p> <p>During high flow conditions, REC1 and REC2 bacterial indicator Water Quality Objectives (WQOs) should be suspended in identified channels within Ventura County (regardless of whether they are engineered or natural) where the wet weather</p>	<p>Staff already evaluated the extension of the high flow suspension of the REC-1 use and associated bacteria objectives to a broader array of channels and time periods when developing the "Amendment to Suspend Recreational Beneficial Uses in Engineered Channels during Unsafe Wet Weather Conditions," Final Resolution and</p>

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			<p>events and resulting high flows create physically unsafe conditions. During wet weather events, the resulting flows within the channels can create life threatening conditions during and immediately following storm events. The unconditional application of REC uses promotes unsafe conditions. The inherent danger of recreating in the creeks, streams, and/or channels during these conditions is widely recognized and already addressed in related Ventura County Watershed Protection District operations.</p> <p>Although Resolution No. 2003-010 (July 10, 2003) created a limited temporary suspension of the water contact recreational uses for various water body segments in Los Angeles County, this suspension only applies to concrete-lined engineered channels in Los Angeles County (those specifically identified in Table 2-1 of the Basin Plan). This was based on the results of a use attainability analysis, which determined that REC1 and REC2 uses are not attainable in these channels during storm events of 0.5 inch or greater- and the 24 hrs following the rain event.</p> <p>Since similar conditions exist in Ventura County (see supporting data submitted with Table 2), the LA Water Board should consider a similar amendment for the identified channels in Ventura County to ensure consistency in regional policies. High flow conditions should be defined for this purpose, such that it is clear when the WQOs apply. The criteria could be based on a defined percentile</p>	<p>Amendments (as adopted on July 10, 2003). Staff determined that a suspension was only appropriate under certain conditions. Using available information, staff identified those water body segments that for their entire length meet the definition of an engineered flood control channel. Engineered channels are defined as inland, flowing surface water bodies with a box, V-shaped or trapezoidal configuration that have been lined on the sides and/or bottom with concrete.</p> <p>These engineered flood control channels are constructed to reduce the incidence of flooding in urbanized areas by conveying stormwater runoff to the ocean or other discharge point as efficiently as possible. These modifications create life threatening “swiftwater” conditions during and immediately following significant storm events. As a result, the REC-1 and REC-2 uses are not fully attainable during and immediately following these storm events. These flashy conditions result in intermittent dangerous flow volumes and velocities after rain events that prevent the attainment of the use during and for 24 hours following a rain event of ½ inch or greater. The Los Angeles County Multi-Agency</p>

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			flow from average dry flow conditions, or could be set as a certain time period following a stipulated rainfall.	<p>Swiftwater Rescue Committee's protocols are supportive of the Board's suspension in that the protocols require swiftwater rescue teams to be on alert and require flood control agencies to lock access gates to these channels during these storm conditions.</p> <p>As necessary data become available, staff intends to develop a similar amendment for engineered channels in Ventura County.</p>
29-3	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>Consider de-designating the REC1 use for waterbodies, or sections of waterbodies, that cannot support REC 1 uses due to their physical characteristics (Table 3)</p> <p>In Ventura County, many waters are designated REC1 that do not support this beneficial use due to the physical nature of the water body. The three main reasons a water body may not physically support a REC1 use are 1) the water body is a vertical-walled channel, 2) access to the channel is prohibited, or 3) the water body is too shallow to support immersion or the likely potential for ingestion. These types of water bodies cannot support REC1 beneficial uses, and should not be designated as REC1. This issue is somewhat related to Modification No. 2 and should be reviewed concurrently.</p>	See response to comment No. 20-8
29-4	Ventura	Nov 10, 2008	Remove the fecal coliform objective from the Basin	The previous fecal coliform objectives

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	Countywide Stormwater Quality Management Program		<p>Plan for freshwaters, and consider removing both the fecal and total coliform objectives for marine waters (Table 4)</p> <p>The fecal coliform objective should be removed from the Basin Plan for freshwaters, and it should be considered whether both the fecal and total coliform objectives should be removed for marine waters.</p>	<p>were retained in the 2001 revision of the bacteria objectives to provide for a transition period from fecal coliform-based objectives to <i>E. coli</i> objectives. However, since that time, various agencies have researched the ratio between fecal coliform and <i>E. coli</i> in local waters and, knowledgeable about that relationship, have been using the IDEXX™ chromogenic substrate method for enumerating <i>E. coli</i> for comparing ambient samples to both <i>E. coli</i> and fecal coliform objectives; therefore, Regional Board staff has recommended removing fecal coliform objectives for freshwaters. See also Response to Comment(s) No(s). 20-12.</p>
29-5	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>Consider assigning single sample maximum allowable densities (SSMs) appropriate for the level of use of individual water bodies based on the qualitative descriptions and confidence levels described in EPA's Criteria Document (Table 5)</p> <p>Single sample maximums (SSMs) appropriate for the level of use of individual water bodies should be assigned based on the qualitative descriptions and confidence levels described in EPA's Criteria Document. If no qualitative level of use is described in the document that is appropriate for the level of use found at an individual water body then' an SSM should be calculated using the equation found in EPA's Criteria Document based on an a higher confidence level.</p>	<p>As part of the reconsideration of the application of bacteria water quality objectives in compliance determination, Regional Board staff has recommended evaluating alternatives for using the single sample and geometric mean objectives in regulatory programs, and evaluating statistical approaches to calculating geometric means for comparison with objectives.</p>

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			<p>Additionally, the calculation of geomeans could be broadened to include fewer than 5 samples, or to expand the averaging period. It may be appropriate to calculate seasonal geomeans for some water bodies. Listings should not double-count samples as both a geomean and a SSM.</p>	
29-6	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>Develop a number of exceedance days for inland water bodies based on inland and local conditions (Table 6) Exceedance frequencies for marine water bodies should not be applied to inland water bodies. Instead, the number of allowable exceedance days for inland water bodies should be developed based on inland and local conditions.</p>	<p>In 2008, the Southern California Coastal Water Research Project (SCCWRP) completed a study of reference inland streams, including exceedance frequencies of bacteria objectives. The results of this study may be used in future bacteria TMDLs for inland surface waters.</p>
29-7	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>The controllability issues with indicator bacteria should be acknowledged within implementation actions. (Table 7) The controllability issues with indicator bacteria should be acknowledged. Implementation actions should be allowed to prioritize human sources, and, given the controllability issues associated with indicator bacteria, these actions should be allowed to count toward compliance with the objectives.</p>	<p>EPA has not differentiated between human and non-human sources in setting its recommended national ambient water quality criteria for bacteria. This is because, to date, there are no definitive epidemiological studies demonstrating that the level of risk associated with only non-human sources is substantially less than that of human sources. However, the Regional Board addresses the issue of controlling natural sources of bacteria through its reference system/antidegradation and natural sources exclusion approaches that are a part of the implementation</p>

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				<p>provisions for the region's bacteria objectives. Using the reference system approach, exceedances of the objectives are allowed under certain circumstances where the exceedances are no more frequent than those that are observed in a "reference" system (i.e., a largely pristine, undeveloped area). A beach reference system was identified for use in several bacteria TMDLs in the region. In addition, the Southern California Coastal Water Research Project (SCCWRP) completed a study of reference inland streams in 2008, the results of which may be used in future bacteria TMDLs for inland surface waters. The natural sources exclusion approach is applicable for situations in which an appropriate reference system cannot be identified for the target waterbody, or in instances where natural sources are the sole source of bacteria contamination (i.e. where anthropogenic sources are not present or have been fully controlled). This approach may be further developed for specific watersheds, where supported by adequate data.</p>
29-8	Ventura Countywide Stormwater	Nov 10, 2008	<p>Update the maps and tables in the 1994 Basin Plan It is suggested that the maps and tables in the 1994</p>	See response to comment No. 20-18

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	Quality Management Program		<p>Basin Plan be functionally updated as follows. Updating the maps and corresponding tables as needed would reduce the unnecessary confusion that occurs.</p> <ul style="list-style-type: none"> <li>- Display the watershed management areas;</li> <li>- Align the existing Hydrologic Units (HU) with the most recent Cal Water 2.2 system (although this is on our list of suggestions, we understand that the Regional Board currently plans to update the Basin Plan to align the HUs with the most recent Cal Water 2.2 database);</li> <li>- Update the reaches as appropriate. The current Basin Plan reach definitions are not consistent with the 303(d) listed reaches, which results in confusion in the application of objectives and listings within the affected watersheds.</li> <li>- Define and delineate estuaries and enclosed bays;</li> <li>- Review for consistency between the reach maps and beneficial use tables - provide the reach number and hydrologic unit in the beneficial use tables;</li> <li>- Update the waterbody-specific surface water and groundwater objectives tables to be consistent with the updated reaches;</li> <li>- Update the groundwater maps based on the Department of Water Resources (DWR) Bulletin 118 (2003 update); and</li> <li>- Make electronic GIS layers of information available for consistent application of waterbodies, reaches, uses, and objectives.</li> </ul> <p>Once the maps and reaches are updated, it will be necessary to evaluate the application of beneficial</p>	

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			uses and waterbody-specific water quality objectives. The beneficial uses should be specific to the area in which the use applies.	
29-9	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	Clarify the application of the tributary rule The applicable beneficial uses and water quality objectives should be clearly delineated under the tributary rule and not be applied to treatment BMPs. Confusion often arises when municipalities propose to use stormwater treatment BMPs and their relations to nearby water bodies. Clarification is needed to avoid defining stormwater treatment BMPs as waters of the State. Consistent with the Clean Water Act definition for waters of the United States, waste treatment ponds, including treatment ponds (e.g. stormwater treatment control BMPs), are not waters of the United States (40 CFR 122.2).	See Response to Comment(s) No(s). 4-8.
29-10	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	Consider adopting a variance policy or general permit for short-term discharges with no significant impact General Waste Discharge Requirements, Order No. 93-010 allows the discharge of groundwater from dewatering projects back underground to qualifying enrollees. As a condition for permit coverage, dischargers may be required to submit hydrogeologic site studies and demonstrate that the discharge is in compliance with applicable water quality objectives and Department of Health Services drinking water standards. Thus, groundwater that already exceeds an objective or standard could not be recharged to the same	Currently the Regional Board does not have the authority without a variance policy to grant exceptions to water quality standards. However, there may be situations, such as groundwater dewatering during construction, where because the discharge is small, of a limited duration, and has no significant potential environmental impacts, a variance may be appropriate for certain constituents (e.g., salts). Such a policy would not apply to any priority pollutants. According to EPA, water quality standard variances require

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			<p>groundwater where it came from, which is problematic and results in a discharge to the storm drain or sewer. Instead, it is recommended that the LA Water Board develop a policy that would allow these waters to be recharged to the same groundwater where they originated so long as no additional contaminants are added during dewatering or treatment. In the surface water construction dewatering general permit (Order No. 08-0032) separate provisions were outlined for creekside construction dewatering projects to allow for discharge of groundwaters with mineral objectives that exceeded Basin Plan objectives if the groundwater quality was connected to the surface water and the composition of the water was of similar quality. A similar provision could be considered for groundwater discharges.</p>	<p>similar substantive and procedural requirements to removing a designated use, but unlike removing a use, variances are discharger and pollutant specific, are for a limited period of time, and do not remove the underlying beneficial use(s) of the water body. A variance policy has been developed for groundwater mineral quality objectives where mineral concentrations are elevated due to proximity to the coast.</p>
29-11	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>Convene a wet weather task force to identify a menu of project concepts addressing wet weather concerns as they relate to water quality standards (potential for wet weather objectives?) As noted previously, most of our suggested modifications relate to the application and appropriateness of water quality objectives during storm events. From a broader perspective, the LA Water Board (or more likely the State Water Board) should consider the development of wet weather standards. Although this may be a daunting task, until such an effort is taken, the implementation of the Basin Plan will continue to provide challenges to the stormwater programs.</p>	See response to comment No.2-16.

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29-12	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>Establish stormwater treatment BMP performance goals that should be incorporated into the Basin Plan.</p> <p>The Basin Plan should be updated to incorporate stormwater treatment Best Management Practice (BMP) performance goals that are based on a robust dataset. The goals should acknowledge the uncertainty of the technology and the variability of the design criteria in the BMP performance database. Again this effort should also be addressed from a broader state and/or national perspective but regardless, it would provide the technology based expectations of treatment BMPs that is needed.</p>	<p>Stormwater treatment Best Management Practice (BMP) performance goals are better suited for incorporation into stormwater permits, where appropriate.</p>
			<p>Develop guidance on incorporation of TMDL requirements into permits</p> <p>While the development of total maximum daily loads (TMDLs) is proceeding at a rapid rate throughout the Los Angeles region (including Ventura County), there is still substantial uncertainty as to how the TMDL requirements could/should be translated into the municipal stormwater permits. Since separate departments within the LA Water Board develop TMDLs and waste discharge permits, it is strongly suggested that the TMDL Basin Plan amendments provide clear guidance on the inclusion of TMDL requirements into permits so that the implementation of the TMDLs is consistent with the original intent of the TMDL. The guidance should address the application of concentration or mass-</p>	<p>Regional Board staff recognizes the value of developing guidance on incorporation of TMDL requirements into permits and has recommended that such guidance be developed on a pollutant (or pollutant group)-specific basis, as the TMDLs are incorporated into stormwater permits.</p>

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			<p>based limits, determining compliance (point(s) of compliance, frequency, etc.), responsible parties, and the inclusion of special studies into permits.</p>	
			<p>Broaden application of "natural sources exclusion" used in bacterial TMDLs to other naturally occurring constituents based on SCCWRP natural loadings study</p> <p>The LA Water Board adopted a natural sources exclusion and reference system/antidegradation implementation procedure for bacteria in the Los Angeles Region. The adoption of the implementation procedures were based on the acknowledgement that there are natural sources of bacteria that can cause or contribute to exceedances of the water quality objectives. However, a number of other constituents have natural sources that can cause or contribute to exceedances of water quality objectives. Therefore, we request that the application of "natural sources exclusion" used in bacterial TMDLs be broadened to other naturally occurring constituents based on SCCWRP natural loadings study and TMDL source analyses.</p> <p>In the Calleguas Creek Watershed, TMDLs for salts, metals, and selenium have identified the possibility that naturally occurring concentrations of constituents in groundwater and soils are contributing to water quality objective exceedances. Groundwater seepages in the upper portions of the watershed, above wastewater treatment plants,</p>	<p>See response to comment No. 20-20</p>

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			<p>contain high concentrations of chloride, TDS and sulfate. Additionally, high concentrations of selenium in groundwater have been identified in tributaries to Revolon Slough where no anthropogenic sources of selenium were identified. Finally, elevated levels of mercury and nickel have been identified in watershed soils.</p> <p>Since TMDLs may require special studies to look more closely at the potentially naturally occurring sources of these constituents and SCCWRP is looking at natural loadings for constituents beyond bacteria, the results of these studies, when available, should be used to update the Basin Plan to allow for natural sources exclusions and/or reference system/antidegradation implementation procedures for other constituents. The Basin Plan should also include a definition of applicable characteristics of reference sites and "natural conditions".</p>	
29-15	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>Develop a framework to work with federal and state agencies to reduce pollutants in waterbodies caused by air deposition</p> <p>The LA Water Board should modify the Basin Plan to recognize/incorporate a framework for working with federal and state agencies to reduce pollutants in waterbodies caused by atmospheric deposition. The LA Water Board and cities, counties, etc. could work together with the South Coast Air Quality Management District and the California Air Resources Board to address point source and non-</p>	<p>Atmospheric deposition is a controllable anthropogenic source. However, because it is generated from a different media it is necessary to work in conjunction with regulators of air pollution to come up with a comprehensive approach of dealing with its impacts on water quality. The State and Regional Boards have initiated several discussions with the ARB and South Coast AQMD on this issue.</p>

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			point source air emissions that contribute to direct and indirect deposition of pollutants on the land and in the local waterbodies.	
29-16	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	Develop a regional policy on hydromodification of watercourses in the LA Region It is recommended that the LA Water Board coordinate with the Southern California Storm Water Monitoring Coalition (SMC) and consider modifying the Basin Plan to incorporate the results of the SMC regional methodology (once completed) to eliminate or mitigate the adverse impacts of hydromodification as a result of urbanization, including hydromodification assessment and management tools. The current permitting efforts in the State (resulting from the draft Ventura stormwater NPDES permit) has led to a state of confusion and inconsistency. Furthermore, the efforts appear premature until such time that the SMC methodology has been completed.	See response to comment No. 27-4
29-17	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	Recognize flood protection and public safety as necessary uses of waterbodies and develop a policy for addressing incompatibilities between waterbody beneficial uses The waterbodies in Ventura County serve as the primary mechanism for carrying stormwater flows safely to the ocean. The use of the waterbodies as flood conveyances to protect property and human life is not considered a beneficial use of the waterbodies. However, this necessary use should be recognized in the Basin Plan.	See Response to Comment(s) No(s). 1-6.

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29-18	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	<p>With the recognition of these waterbodies uses comes the need to evaluate the compatibility of various uses of waterbodies. For example, removal of water for agricultural, industrial and process uses may not be consistent with aquatic life and groundwater recharge beneficial uses. Use of a waterbody to convey flood waters is not consistent with safe recreational uses of the waterbody. Additionally, naturally occurring conditions, such as drought, alter the temperature, flow, and quality of water available to aquatic life and other users. These natural alterations of the waterbody would occur regardless of the anthropogenic influences currently present in the watersheds. Finally, the alteration of natural flow conditions by adding treated wastewater effluent and urban runoff to waterbodies that would not naturally flow year round to create aquatic life habitat needs to be considered. It is not feasible for all waters to maintain all of the designated uses at all times, and under all conditions without creating conflict between the uses.</p> <p>The LA Water Board should consider the development of guidance or a policy for evaluating and prioritizing competing beneficial uses, and adjusting objectives and uses as necessary during periods of naturally-occurring changes in water characteristics. The policy should also address the benefit of artificially maintaining flows for aquatic</p>	<p>Waterbodies in the Los Angeles Region can support beneficial uses that appear to conflict.</p> <p>Permit issuance for uses such as the removal of water for agricultural, industrial and process uses will take into consideration any aquatic life and groundwater recharge beneficial uses.</p> <p>Aquatic life should be able to adapt to natural alterations of a waterbody. Except in the case of natural disasters, problems usually arise where alteration of waterbody conditions are as a result of anthropogenic activity.</p> <p>Finally, the Regional Board acknowledges the concerns regarding the beneficial use designations of the effluent dominated waters. There is a suite of existing regulatory tools available to address some of these compliance concerns. Some of the tools already available or under development include site-specific objectives (SSOs), translators, use attainability analyses (UAAs), tiered aquatic life uses (TALUs), and case-by-case exceptions (under the SIP). Other</p>

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			habitat in waterbodies that would naturally have intermittent flows.	potential tools that may warrant exploration include limited term variances for certain pollutants. These tools may allow the State Board and Regional Boards to protect the beneficial uses of effluent dominated waters, while also addressing the compliance concerns of dischargers to these waters.
29-19	Ventura Countywide Stormwater Quality Management Program	Nov 10, 2008	Update the Basin Plan to incorporate program effectiveness assessment principles identified by CASQA It is recommended that the Basin Plan be updated to incorporate the program effectiveness assessment principles identified in the California Stormwater Quality Association (CASQA) Municipal Stormwater Program Effectiveness Assessment Guidance document, May 2007.	Program effectiveness assessments will be better suited for incorporation into stormwater permits.
30-1	County Sanitation Districts of Los Angeles County	Nov 10, 2008	The Districts believe that the Basin Plan should be modified to specify how mineral objectives are implemented, particularly as it relates to the setting of targets for Total Maximum Daily Loads (TMDLs) and the setting of NPDES effluent limits, waste discharge requirements, and water recycling requirements. In Attachment 1, we have included information from the original 1975/1978 Basin Plans, which specified applicable averaging periods for surface waters and groundwater basins for various watersheds in the Los Angeles Region. For surface water reaches in the Los Angeles	This issue has been addressed in the Santa Clara River Watershed through the adoption of conditional site-specific chloride objectives in the upper Santa Clara River (Regional Board Resolution R08-012). The Regional Board may eventually re-consider averaging periods for mineral water quality objectives in other watersheds.

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			<p>Basin, the 1975 Basin Plan and 1978, Basin Plan Amendments specified "mean" mineral objectives for various surface water reaches. For surface water reaches in the Santa Clara River watershed, the 1975 Basin Plan specified both how (as a flow-weighted annual average) and where (at the end of each surface water reach) mineral objectives should apply. For groundwater, in both the Los Angeles Basin and Santa Clara River watershed, the 1975 Basin Plan and 1978 Basin Plan Amendments specified that mineral objectives would be interpreted as a flow-weighted annual average of all groundwater in a hydrologic subarea by water year (October 1 to September 30).</p> <p>These important directives on applicable averaging periods were not included in the Basin Plan following the 1994 Basin Plan update,' and mineral objectives for both surface waters and groundwater have since been interpreted as instantaneous "not to exceed" objectives. The current interpretation of mineral objective averaging periods has a substantial impact on how NPDES permits, waste discharge requirements, and water recycling requirements are established, as well as how' future salt management plans in accordance with the State Water Resources Control Board's Recycled Water Policy will be formulated. Given the original intent of the 1975 Basin Plan and 1978 Basin Plan Amendments and the fact that these mineral objectives in many cases were not set at levels needed to protect uses (rather, they were set based on "background" levels determined</p>	

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			<p>based on an unsuitably small dataset), we believe that a reevaluation of the appropriate averaging period for mineral objectives in surface water and groundwater is warranted. The Sanitation Districts hope the enclosed information will be helpful in an effort to evaluate how the current Basin Plan mineral objectives should be interpreted and applied.</p>	
30-2	County Sanitation Districts of Los Angeles County	Nov 10, 2008	<p>The Basin Plan currently states that the pH of inland surface waters shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges. Additionally, it states that ambient pH levels shall not be changed more than 0.5 units from natural conditions as a result of waste discharge. The Basin Plan should be amended to remove the "0.5 pH unit change" component of the objective. The Districts are requesting this change because a pH differential of greater than 0.5 pH units often occurs at the points where discharges from the Districts' water reclamation plants discharge to inland surface waters. While our discharges meet the receiving water standard for pH of 6.5 to 8.5 pH units, it is unavoidable that the ambient condition may be changed by greater than 0.5 pH units when small quantities of water from upstream mix with our much larger discharges. Furthermore, the pH in the receiving waters upstream of our discharges is often elevated, particularly where the flow occurs in a concrete-lined channel. In such cases, it is desirable from an aquatic life standpoint that pH be reduced to a</p>	<p>The Board may consider this issue in the future if it is identified as a priority and if resources are available.</p>

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			<p>more neutral condition through mixing with our discharge.</p> <p>Current scientific evidence does not support a restriction on the change in pH that may be caused by a discharge.. Supporting scientific evidence has been previously prepared by the California Regional Water Quality Control Board, Central Valley Region (Central Valley Regional Board) and reviewed by the State Water Resources Control Board (State Board) as part of preparation and approval of a similar Basin Plan amendment for the Central Valley. In October 2007 the Central Valley Regional Board removed the restriction on pH changes in the Basin Plan for the Sacramento and San Joaquin River Basins. The staff report in support of the Central Valley amendment found that the USEPA does not limit the amount of change of pH, and it concluded that there are no known aquatic life impacts when pH varies but is maintained within the safe range. The State Board released an opportunity to comment on the proposed Central Valley Regional Board amendment in July 2008. In its staff report, the State Board stated, "Scientific literature provides evidence that, when pH is maintained within the range of 6.5 to 8.5, rapid changes in pH do not cause adverse impacts to freshwater aquatic life... Therefore, it does not appear necessary to regulate rapid pH changes by a maximum limit of 0.5 to protect beneficial uses while the ambient pH is maintained between 6.5 and 8.5." It additionally stated, "The amendments to the pH... objectives</p>	

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			<p>are consistent with current science, based on CWA 304(a) criteria guidance, consistent with federal and State antidegradation policies, and will continue to protect existing and potential beneficial uses.”</p> <p>Because scientific evidence indicates that restricting pH changes to 0.5 pH units is unwarranted, the Sanitation Districts request that the Regional Board modify the pH objective for all inland surface waters to remove this restriction. Sources of data and information relevant to this request are listed below. (If copies of these documents are desired, the Sanitation Districts will provide them.):</p> <ol style="list-style-type: none"> <li>1. State Water Resources Control Board, July 7, 2008, Notice of Opportunity to Comment: Proposed Approval of an Amendment to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan) to Revise Water Quality Objectives for pH and Turbidity, including the agenda language and the draft resolution.</li> <li>2. Central Valley Regional Water Quality Control Board, October 2007, Final Staff Report, Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for pH and Turbidity, Final Staff Report</li> <li>3. Central Valley Regional Water Quality Control Board, October 25, 2007, Resolution No. R5-2007-0136, Amendments to the</li> </ol>	

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			<p align="center">Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for pH and Turbidity.</p> <p>Sanitation Districts, April 18, 2007, Email from Nicholas Small to Deborah Neither of the Regional Board, transmitting all receiving water data from June 2004 to February 2007 for the Sanitation Districts' Long Beach, Los Coyotes, Pomona, San Jose Creek, Saugus, Valencia, and Whittier Narrows Water Reclamation Plants.</p>	
30-3	County Sanitation Districts of Los Angeles County	Nov 10, 2008	<p>The Basin Plan currently calls for waters with a Municipal and Domestic Supply (MUN) beneficial use to meet Title 22 Maximum Contaminant Level (MCL) values for inorganic chemicals, fluoride, and organic chemicals. However, the Basin Plan does not specify the averaging period over which these objectives apply. When Title 22 MCLs are used for regulation of drinking water, Title 22 specifies the averaging period that must be met for each type of MCL, and these are typically annual averages. (See, for example, Title 22 Chapter 15 Section 64432(g) for inorganic chemicals and Section 64445.1(c).(5) for organic chemicals.) Because the water quality objectives are set to protect the drinking water use, the most appropriate averaging period to use for the objectives is that used in the drinking water regulations. This change is necessary to avoid designation of exceedances of MCL-based permit limits due to anomalous high concentrations of pollutants such as</p>	<p>The Basin Plan incorporates by reference, some of the provisions of Title 22, which include the MCLs for inorganic chemicals, fluoride, organic chemicals, and radioactivity. These MCLs serve as water quality objectives for waters designated as MUN. However, the Basin Plan does not incorporate other provisions of Title 22, such as the quarterly monitoring provision or the annual compliance provision.</p> <p>The Basin Plan currently does not specify how the Title 22 MCLs should be implemented in permits. Regional Board staff have relied on 40 CFR part 122.45 (d)(2), which requires the following:</p>

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			<p>tetrachloroethylene in the effluent, which are not considered problematic from a public health protection perspective but which nonetheless become permit violations as currently interpreted by the Regional Board. We are not submitting data related to this issue, but the appropriate averaging periods are specified in the Title 22 regulations. As an alternative, the Regional Board could simply modify its interpretation of all Title 22 based water quality objectives to include the averaging periods as part of what is incorporated by reference from Title 22 into the Basin Plan. This change in interpretation may not even necessitate a Basin Plan amendment, since the averaging period is considered part of a water quality standard.</p>	<p>(d) Continuous discharges. For continuous discharges all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, shall unless impracticable be stated as:</p> <p>(2) Average weekly and average monthly discharge limitations for POTWs.</p> <p>Therefore, in POTW NPDES permits for the Los Angeles Region, the MCL-based effluent limitations are expressed as monthly averages and monthly monitoring, as required by federal regulation, to determine compliance with the limitations.</p> <p>For the purpose of water quality assessments, the State Board is responsible for the Listing Policy. This could be an issue addressed during a revision of the Listing Policy.</p>
30-4	County Sanitation Districts of Los Angeles County	Nov 10, 2008	<p>During the last triennial review, the Regional Board directed staff to participate in a Wet Weather Task Force to look into storm water issues. The Task Force assembled a Design Storm Subcommittee and contracted with the Southern California Coastal Water Research Project (SCCWRP) to assess the</p>	<p>See Response to Comment(s) No(s). 2-16.</p>

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			<p>impacts of hypothetical design storms. At the conclusion of SCCWRP's efforts, a model had been developed that assessed the affect of storm size on water quality; however, more work was needed to evaluate potential treatment options and the costs associated with potential design storms. The Sanitation Districts encourage the Regional Board to continue the process of setting a design storm that considers the factors outlined in Sections 13241 and 13242 of the California Water Code.</p>	
30-5	County Sanitation Districts of Los Angeles County	Nov 10, 2008	<p>The Sanitation Districts request that the Regional Board consider developing a policy on trading/offsets for inclusion in the Basin Plan. Finding optimal solutions to complex water quality problems requires innovative approaches, and pollutant trading is an approach that offers efficiency in achieving water quality goals on a watershed basis. It allows one source to meet its regulatory obligations by using pollutant reductions created by another source that has lower pollution control costs. Trading capitalizes on economies of scale and the control cost differentials among and between sources. Pollutant trading may provide greater flexibility and offer greater potential to achieve water quality and environmental benefits that would otherwise be achieved under more traditional regulatory approaches. The U.S. EPA has issued a policy to encourage states to develop and implement water quality trading programs for nutrients, sediments, and other pollutants where opportunities exist to achieve water quality</p>	<p>Pollutant trading is an approach that potentially offers efficiency in achieving water quality goals on a watershed basis. It allows one source to meet its regulatory obligations by using pollutant reductions by another source that has lower pollution control costs. Trading capitalizes on economies of scale and the control cost differentials among and between sources.</p> <p>The U.S. EPA believes that under certain circumstances market-based approaches such as pollutant trading may provide greater flexibility and have greater potential to achieve water quality and environmental benefits than would otherwise be achieved under more traditional regulatory approaches. Market-based programs can potentially achieve water quality goals at</p>

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			<p>improvements at reduced costs. More specifically, the policy is intended to encourage voluntary trading programs that facilitate implementation of TMDLs, reduce the costs of compliance with regulations, establish incentives for voluntary reductions, and promote watershed-based initiatives. The U.S. EPA has developed a guidance document, Water Quality Trading Policy, January 13, 2003, that can be used by the Regional Board to facilitate development of a trading/offset policy.</p>	<p>substantial economic savings.</p> <p>U.S. EPA has issued a policy to encourage states, interstate agencies and tribes to develop and implement water quality trading programs for nutrients, sediments and other pollutants where opportunities exist to achieve water quality improvements at reduced costs. More specifically, the policy is intended to encourage voluntary trading programs that facilitate implementation of TMDLs, reduce the costs of compliance with CWA regulations, establish incentives for voluntary reductions and promote watershed-based initiatives. A number of states are in various stages of developing trading programs. U.S. EPA's policy provides guidance for states, interstate agencies and tribes to assist them in developing and implementing such programs. The Regional Board does not consider this issue as one of its priorities at this time. If a specific opportunity for pollutant trading is presented by stakeholders and its viability is certain (i.e. it will protect beneficial uses, achieve water quality standards, and result in overall cost savings), the Regional Board may consider it.</p>

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31-1	EAC et al	Nov 10, 2008	<p>We are pleased to see that the Regional Board recently issued a request for data and information on water quality standards and other basin planning issues for the Los Angeles Region. We bring to your attention letters that were sent to Dennis Dickerson on July 3, 2003, and to Susan Cloke on February 11, 2005, and that are attached to this letter. In those letters, we identified our initial assessment of the most important Basin Planning priorities, and we offered to work with the Regional Board to develop a work plan, to identify necessary resources and procedures to address those priority issues, and to form a Stakeholder Task Force to work on relevant issues. We still wish to pursue these joint efforts with you and other stakeholders.</p>	Comment noted.
31-2	EAC et al	Nov 10, 2008	<p>As residents of the region, practitioners on the front lines of water quality protection, and members of the region's business community, we are committed to improving water quality. We are proud of our efforts to conduct scientific studies, to collect relevant data, and to implement water quality improvement measures over the last several years. Examples of our Region's efforts include:</p> <ul style="list-style-type: none"> <li>• Execution of a water effect ratio (WER) study for copper in the Los Angeles River</li> <li>• Completion of studies of the sources of bacteria in the Los Angeles River</li> <li>• Development and implementation of special studies related to the metals TMDL for the Los Angeles River</li> </ul>	Comment noted

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			<ul style="list-style-type: none"> <li>• Completion of surveys to quantify trash volumes</li> <li>• Evaluation of BMPs and trash capture strategies to prioritize BMP implementation</li> <li>• Development and begun to execute a coordinated monitoring program (CMP) for metals in the Los Angeles River</li> <li>• Development of site-specific objectives for chloride and a watershed-based compliance program for chloride in the Santa Clara River</li> <li>• Installation of full-capture trash collection systems</li> <li>• Investigation of alternative infiltration systems to control dissolved pollutants in storm water</li> <li>• Installation of numerous measures to control or divert dry weather flows.</li> <li>• Completion of studies to evaluate BMP and filter media</li> <li>• Installation of porous pavement and large-scale infiltration projects to maximize storm water infiltration</li> </ul> <p>Much of this research and information has been shared with the Regional Board and with our colleagues at technical conferences.</p>	
31-3	EAC et al	Nov 10, 2008	We are encouraged that the Regional Board is beginning a new triennial review process and believe that many of the issues we raised previously continue to be relevant. We believe that we should	See General Response 1 and General Response 4.

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			<p>ensure that the water quality standards for the Region are reasonably feasible to attain, fully assess natural background conditions, and maximize our Region's, ability to develop and use local water supplies. Given the current economic situation in the State, we also believe that it is imperative to consider the economic, housing, and social impacts of the Basin Planning and TMDL programs and to establish clear priorities for implementation of water quality management measures.</p> <p>However, we are concerned that the recent data solicitation does not request information relevant to these concerns, and trust that the current data solicitation is intended to support scoping the proposed next triennial review process, not to provide all the data necessary to complete a triennial review.</p>	
31-4	EAC et al	Nov 10, 2008	<p>We would like to work collaboratively with the Board to define a process and analytical protocols to ensure that existing and future Basin Plan water quality standards are substantively assessed during this triennial review process in accordance with Porter Cologne Section 13000, 13241, and 13242 factors. That process should include subsequent focused requests for data and information on particular topics to allow a more complete examination of existing information and to ensure that a complete standards review occurs. Establishing standards within this framework will</p>	See General Response 1 and General Response 2.

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			provide a firm foundation for stakeholders to work in partnership to attain water quality goals.	
32-1	County of Los Angeles	Nov 10, 2008	Although we are encouraged that staff has begun the Triennial Review process, we have serious concerns about the apparent limited scope of the review and the short time frame allotted for this initial data solicitation. We are concerned that this and other future planning and Total Maximum Daily Load efforts of the Basin Plan may not consider the full range of factors necessary to establish a solid regulatory framework for stormwater discharges, and thus may not resolve many of the issues that have been raised repeatedly in the past.	<p>See General Response 1. The data and information solicited for the current Triennial Review concerned stakeholder identification of their issues of concern with respect to Basin Planning issues. Sufficient time was given for the identification of these issues with a 45-day comment period. In addition stakeholders had the option of submitting additional comments on their prioritized issues of concern for two additional weeks following the Board workshop. Stakeholders were not limited in the scope of information to be provided to support their concerns.</p> <p>Upon direction from the Regional Board as to what specific issues should be addressed during the current review period given available resources, further solicitation for data and information relevant to the selected projects will be undertaken as necessary and additional opportunities for public input will be provided as required.</p>
32-2	County of Los Angeles	Nov 10, 2008	The Basin Plan states that "those beneficial uses that have been attained for a waterbody on, or after, November 28, 1975, must be designated as 'existing' in the Basin Plans. Other uses	See Response to Comment(s) No(s). 13-3. The Regional Board's historic files are available for public review by contacting..... Since a review of

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			<p>can be designated, whether or not they have been attained on a waterbody, in order to implement either federal or state mandates and goals (such as fishable and swimmable) for regional waters" (LARWQCB, 1994). It is our understanding that comprehensive reviews of existing data and solicited input from stakeholders were conducted in the 1970s and again in the early 1990s to determine the existing use designations (LARWQCB, 2003). We request that this information be made available for public review. In highly urbanized areas, the Regional Board has discretionary authority to designate beneficial uses less stringent than the CWA interim goal of "swimmable-fishable" by requiring a Use Attainability Analysis to support a finding that restoration is not currently feasible and recovery is not likely in a reasonable period of time. According to the National Research Council:</p> <p>The concept of tiered beneficial uses and use attainability is especially important with regard to urban stormwater because of the potential irreversibility of anthropogenic development and the substantial costs that might be incurred in attempting to repair degraded urban watersheds to "swimmable-fishable" or higher status. Indeed, it is important to consider what public benefits and costs might occur for different designated uses. (NRC, 2008)</p> <p>We are in agreement with the NRC's statement. Many beneficial uses designated as "existing" have not been attained since 1975 and are unlikely to be attained in</p>	<p>historical files alone would not be adequate to justify a possible standards action, the commenter is invited to submit any current evidence about the non-existence of specific uses in specific water bodies at anytime. If specific water bodies identify uses as existing that don't actually meet the definition of existing, that would be a consideration supporting a decision to prioritize a use attainability analysis. Other factors, however, might support a contrary decision depending upon the facts related to the specific use in the specific water body. See General Response 1.</p>

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			<p>the foreseeable future due to the irreversibility of anthropogenic development, the implementation of low impact development practices notwithstanding. We recommend that the Regional Board develop clear guidelines for the designation of beneficial uses, taking into consideration tiered uses (see comment BU-3) and use attainability (see comment BU-5), and re-evaluate all beneficial uses currently designated as "existing". Removal of existing uses should be possible if the original uses were designated in error or if they were designated to implement the CWA interim "fishable-swimmable" goal in highly urbanized areas where such a goal is unlikely to be realized.</p>	
32-3	County of Los Angeles	Nov 10, 2008	<p>Most streams in Los Angeles County are heavily engineered to provide flood protection for its 10 million residents. These "urban streams" are concrete-lined and steep-sided. Los Angeles County Flood Control District, which is responsible for providing flood protection in the region, restricts access to dozens of waterbodies to protect public safety. Most of these channels are dry or effluent dominated during most of the year. We believe that the waterbody contact recreation use designations (REC-1) in most if not all of the waterbodies in the urbanized parts of the watersheds should be removed because they have never been attained and are not likely to be attained in the future.</p> <p>The Basin Plan currently denotes restricted access to a waterbody through the use of footnotes: "m" for "Access prohibited by Los Angeles County</p>	See response to comment No. 1-4.

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			<p>Department of Public Works in the concrete-channelized areas" and "s" for "Access prohibited by Los Angeles County DPW", and "x" for "Owner prohibits entry" (LARWQCB, 1994).</p> <p>Conduct Use Attainability Analyses to assess the appropriateness of REC-1 beneficial uses designated as "existing" for engineered flood control channels in which body contact recreational use is inappropriate, including specifically those areas where the footnotes indicate that there is limited public access or access is prohibited. If supported by the result of the UAA, remove the REC-1 beneficial uses designated as "existing" for engineered flood protection channels.</p>	
32-4	County of Los Angeles	Nov 10, 2008	<p>In order to develop a defensible approach for beneficial uses designations, streams in the region need to be categorized and assigned uses with respect to their water quality expectations, considering all natural and anthropogenic factors. Natural factors that characterize uses may include flow conditions, climatological conditions, and topographic conditions; while anthropogenic factors include engineered stream conditions, flow diversions or storage conditions, and imperviousness conditions of the catchments. Designation of uses made based on these factors provides a realistic attainable use and, the approach can be referred as "tiered" approach. A tiered system of use designations provides for different levels of protection and reflects the choices implicit in reconciling the "ideal" (represented by least</p>	See Response to Comment(s) No(s). 13-3.

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			<p>impacted or pristine natural conditions) with the "reality" (the ongoing effects of decades and centuries of intensive human use of land and water resources).</p> <p>By increasing land imperviousness, it is well noted that urbanization has profoundly altered the natural hydrologic processes (stormwater flows patterns), and the water quality and habitat conditions of stream system. Most of these changes are irreversible, and the maximum level of water quality improvement that could be attained for these urbanized areas are different from what can be attained for non-urbanized or less- impacted areas. It is with this understanding that the National Research Council, in its recent EPA's stormwater program review, recommended the use of imperviousness cover (an indicator of level of urbanization) as a surrogate to tier/classify streams for establishing realistic water quality targets (i.e., beneficial objectives) uses plus water quality associated with each class/tier (NRC, 2008).In other words, a target level that can be achievable under the existing alterations/conditions should be set for each tier.</p> <p>The tiered aquatic life use (TALU) study that has been initiated by the EPA and Regional Board is one example (Tetra Tech, 2006). It is important that the TALU study be completed and similar studies be conducted for other uses.</p> <p>CONCISE SUMMARY OF SUGGESTED REVISION:</p>	

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			<ul style="list-style-type: none"> <li>■ Develop and apply the principle of "tiered" approach for use designations and for setting expectations/targets.</li> <li>■ Complete the tried aquatic life use (TALU) study that has been initiated as part of the 2004 Triennial Review.</li> </ul>	
32-5	County of Los Angeles	Nov 10, 2008	<p>Regional Board Resolution 2003-010, adopted on July 3, 2003, temporarily suspends the REC-1 and REC-2 uses, and the associated bacteriological objectives set to protect those activities, in certain engineered channels during and immediately following significant storm events.</p> <p>The High Flow Suspension amendment applies "on days with rainfall greater than or equal to 1/2 inch and the 24 hours following the end of the 1/2 inch or greater rainfall event".</p> <p>We appreciate the Regional Board's recognition of the inherent danger of recreating in flood control channels and the subsequent adoption of Resolution No. 2003-010. We are concerned however that the amendment apparently defines "significant storm event" using swiftwater rescue protocol as a surrogate for actual safety considerations.</p> <p>Therefore, we request the opportunity to review the UAA on which the amendment was based to more fully understand the range of factors that were considered. We would also welcome the opportunity to work with staff and other interested parties to</p>	<p>The Administrative Record for Regional Board Resolution R03-010 is available for review by submitting a Public Records Act request. Given limited resources and the fact that the commenter and other interested persons were given the opportunity to comment on the amendment prior to its adoption, a reconsideration of the amendment has not been identified as a priority at this time.</p>

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			<p>conduct another UAA leading to a refinement of the "significant storm event" definition by taking into account actual safety considerations.</p> <p>Pending the conduct of a Use Attainability Analysis, amend Resolution No. 2003-010 to modify the definition of "significant storm event".</p>	
32-6	County of Los Angeles	Nov 10, 2008	<p>According to EPA, the key concept in assigning beneficial uses is 'attainability', or the ability to achieve water quality goals under a given set of natural, anthropogenic, and economic conditions. Under these conditions many of the waterbodies in Los Angeles region may not meet the fishable/swimmable goals as envisioned by the CWA, and thus, the current water quality standards in the Basin Plan are facing the question of attainability. For example, recreational water uses during wet weather events and aquatic life uses in effluent dominated and ephemeral waters are very difficult to attain, if possible at all.</p> <p>The CWA requires that permits be written to achieve water quality standards. If the standards are not attainable, then a permit would be written in a manner that is infeasible to achieve, thereby creating a permanent situation of non-compliance with the permit. We believe that setting attainable water quality goals is required to advance actions to improve water quality. One way to achieve assigning attainable beneficial uses is by conducting proper use attainability analysis (UAA)</p>	<p>The Basin Plan clearly defines and identifies all of the beneficial uses designated for surface and ground waters within the Los Angeles Region in Chapter 2. In addition, existing uses are defined by federal regulation as "those beneficial uses that have been attained on a waterbody on, or after November 28, 1975"; this was the basis for the designation of existing uses in the Basin Plan. Staff considers additional criteria unnecessary for identifying existing beneficial uses, since any additional criteria established by the Regional Board could not substitute for the requirements set forth in federal regulation. As for any future considerations of new or revised beneficial uses, as required for all potential Basin Plan amendments, the public would receive timely notice of these, and be given an opportunity to provide input.</p>

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			<p>(US EPA, 1994). UAA is a structured scientific assessment that examines the factors affecting the attainment of uses in waterbodies. UAAs are especially valuable in watersheds where the stream cannot meet its designated use due to factors outlined in 40 CFR 131.10(g), which include such factors as the physical, chemical, biological, and economic conditions.</p> <p>It is our understanding that UAAs were not conducted when beneficial uses were originally designated in the Basin Plan, leaving uncertainty in the attainability of the already designated uses. Under such uncertain conditions, conducting UAAs are essential for establishing attainable uses. EPA recommends conducting these UAAs in coordination with TMDL development if possible, but prior to completing the TMDL (USEPA, 2002, 2006). We request that the Regional Board develop a protocol that can be used as guidance for any party interested in conducting UAAs in the region to help provide scientifically defensible information on existing and attainable uses. We also request that the Regional Board conduct the necessary UAA studies and engage the public in meaningful discussions to assess attainable uses for various waterbodies. The results of UAA should provide the basis for amending/refining the designated uses and the associated water quality objectives. We strongly believe that water quality programs will be most successful if the public well understands not only the goals, but also the processes by which the goals were set, and contribute to the process.</p>	<p>With regard to the re-evaluation of beneficial uses via a use attainability analysis (UAA), federal regulations restrict States from removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if:</p> <ol style="list-style-type: none"> <li>1. They are existing uses, as defined in 40 CFR § 131.3, unless a use requiring more stringent criteria is added; or</li> <li>2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices.</li> </ol> <p>Furthermore, 40 CFR § 131.10 (i) states that where existing water quality standards specify designated uses less than those which are presently being attained, the State shall revise its standards to reflect the uses actually being attained (i.e. existing uses).</p> <p>States may remove a designated use which is not an existing use, as defined in 40 CFR § 131.3, or establish sub-categories of a use, if the State can demonstrate that attaining the designated use is not feasible because of factors set forth in 40 CFR § 131.10 (g). Staff has identified re-evaluating the REC beneficial uses in certain</p>

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			<p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>■ Develop protocol to ensure consistency in conducting use attainability analyses and establish criteria for how the results will be evaluated.</li> <li>■ Conduct use attainability analyses, in collaboration with stakeholders for waterbodies in the region</li> </ul>	<p>waterbodies as an issue that may be considered by the Board during this triennial review. EPA has guidance on conducting UAAs, which staff has used previously to sub-categorize the REC-1 use in one reach of Ballona Creek, and de-designated the REC-1 use in another reach. This guidance would be used during any re-evaluation of recreational uses. Should the need arise for the re-evaluation of other beneficial uses, the applicable guidance will be used. Given the intensive volume of resources this task would require, coupled with the fact that the goals of the federal Clean Water Act and Porter-Cologne Act favor protection of waterbodies (not decreasing protection), a wholesale reassessment of the attainability of every designated use in the Basin Plan (and concomitant consideration of use removals or modifications) cannot feasibly be considered except where specific information about the specific attainability of a particular use in a particular waterbody or reach is presented that demonstrates that the designated use may be inappropriate.</p>
32-7	County of Los Angeles	Nov 10, 2008	Several recent scientific studies question the validity of the use of traditional bacteria indicators (i.e., total coliform, fecal coliform, enterococcus, and E. coli) as	See Response to Comment(s) No(s). 2-10.

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			<p>surrogates for human health risk (e.g., Colford et al., 2007; Schiff et al., 2008). For instance, the study conducted for Mission Bay (Colford et al., 2007) indicates the absence of a correlation between these traditional bacteria indicators and human health risks. A recent study of recreational waters in Orange County also reveals that 40 to 55 percent of the enterococcus bacteria originate from plants: 54% in urban runoff, 47% in bays/harbors/wetlands, and 42% in ocean waters (Moore et al., 2007). US EPA also recognizes the lack of sound science on bacteria standards and has agreed to conduct necessary scientific studies to establish new indicators and objectives for recreational waters by 2012 (ENS, 2008). Currently, there is debate on how geometric mean should be calculated and used for compliance measures. For example, analysis of recent data from reference waterbodies, where there is little influence from anthropogenic sources, (e.g., LACDPW, 2008; Tiefenthaler et al., 2008) has shown geomean exceedances. This contradicts the current standard that imposes no geometric mean exceedance criteria in our TMDLs.</p> <p>US EPA, in 40 CFR 131, recognizes that geomean should be used as a measure to determine the state or condition of a site or reach over time (i.e., to determine the need for potential mitigating measures), but not as a parameter for compliance measure (EPA, 2004).</p> <p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>■ Form a "Bacteria Study Task Force"</li> </ul>	

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			<p>consisting of Regulated Agencies, Regional Board, Environmental community, and Research Institutions.</p> <ul style="list-style-type: none"> <li>■ With the help of the Task Force, conduct an extensive review of the current state of science on bacteria issues, and prepare "white paper" guidelines.</li> <li>■ Participate in the US EPA bacteria study being planned at national level.</li> <li>■ Based on the findings of the Bacteria Study Task Force and US EPA study, revise the bacteria objectives in the Basin Plan as appropriate.</li> </ul>	
32-8	County of Los Angeles	Nov 10, 2008	<p>Sediment quality guidelines and numeric targets established by the National Oceanic and Atmospheric Administration (NOAA; Long et al., 1995) have been used by the State and Regional Boards in evaluating waterbodies within the Los Angeles Region for the development of both the 303(d) list and several TMDLs in the region, including the already promulgated Toxics TMDLs of Ballona Creek Estuary (LARWQCB, 2005) and Marina Del Rey Harbor (LARWQCB, 2005), and the Toxic TMDL being developed for Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters. NOAA threshold values were established based on empirical chemical data compiled from numerous field and laboratory studies, and were never intended to be used as numeric targets for TMDLs.</p> <p>Realizing the absence of reasonable sediment quality</p>	See Response to Comment(s) No(s). 12-15.

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			<p>guidelines in California, the State Water Resources Control Board (State Water Board) was mandated by the California Water Code §13393 (SWRCB, 2006) to develop sediment quality objectives (SQO). The State Water Board has divided the effort into Parts 1 (aquatic life health) and 2 (human health). After several years of effort, the State Water Board has recently adopted Part 1 of the SQO for Enclosed Bays and Estuaries on September 16, 2008 (SWRCB, 2008).</p> <p>Under this plan, Regional Water Boards are encouraged to evaluate sediment impairments in bays and estuaries and develop 303(d) listings based on multiple lines of evidence, consisting of sediment chemistry, sediment toxicity, and benthic community conditions of the waterbody (SWRCB, 2008). Several case studies have been conducted recently using the proposed SQO to evaluate the sediment impairment in bays, harbors and estuaries in the region (e.g., Barnett et al., 2007; LACDPW et al., 2008). Unlike NOAA's sediment guideline, which uses single line of evidence, the State's SQO uses multiple line of evidence and is developed with sound science and stakeholders' participation. Thus, it is important that the Regional Board consider incorporating the State SQO into the Basin Plan, and apply the objective to the current and future TMDLs, and associated stormwater regulations.</p> <p><b>CONCISE SUMMARY OF SUGGESTED REVISION:</b></p> <ul style="list-style-type: none"> <li>■ Adopt the sediment quality objectives (SQO) being developed by the State Water Resources</li> </ul>	

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			<p>Control Board.</p> <ul style="list-style-type: none"> <li>■ Evaluate sediment impairment in bays and estuaries in the region based on the State SQO guidelines.</li> <li>■ Per sediment impairment findings using SQO guidelines, revise the 303(d) list for sediment impairment in bays and estuaries.</li> </ul>	
32-9	County of Los Angeles	Nov 10, 2008	<p>Numerous waterbodies in the Los Angeles region have been designated as impaired for water quality and, hence, listed under Section 303(d) of the Clean Water Act for a range of constituents (e.g., 2006 303(d) list), which led to the development of several TMDLs.</p> <p>One of the important steps in TMDL development is the identification of the sources and the estimation of associated loads for pollutants of concern. Recent studies (e.g., Stein and Yoon, 2007) show that a significant portion of the pollutant loadings to receiving waters originate from natural background (i.e., non-anthropogenic sources). These natural sources could be attributed to both the overlying land-cover and the underlying geologic formation. For example, trace metals occur naturally in the soil environment and could leach to waterbodies during weathering and hydrologic processes. Vegetation cover has also been known to contribute nutrients. Plants and wildlife have been known to contribute a significant portion of bacteria levels in receiving waters (e.g., Moore et al., 2007).</p>	See Response to Comment(s) No(s). 2-14.

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			<p>Further, wildfires are becoming increasingly common in southern California and are known to contribute significant pollutant loadings to water bodies (e.g., Stein and Brown, 2008). The effects of fire on hydrologic response and sediment loads in Southern California have been noted for a long time, and historical records show that total runoff volume may increase by 25% and peak storm flow rates may increase five-fold following fires (SAWPA, 2004). Increased storm flow and sediment runoff following fires have been associated with load increases in nutrients, metals, and certain organic pollutants. In addition to the direct effects of runoff from burned landscapes, the ash materials left behind at the burn location can be transported through the air (smoke) or man-made conveyance (deposition of ash at landfill), creating new pollutant effects. Subsequent atmospheric deposition can markedly increase the quantity of various constituents available to storm flows downwind of fires. For example, Sabin et al. (2005) reported that during the severe 2003 Southern California forest fire season, atmospheric deposition rates for copper, lead, and zinc, increased by factors of four, eight, and six, respectively, at an unburned site.</p> <p>Pollutant load contributions from these natural sources are often high and even to the extent of exceeding established water quality standards. Despite such high contributions from natural sources, TMDLs in the LA region are often developed by allocating these contributions to stormwater drain discharges. As a result, these TMDLs are subject to overly stringent</p>	

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			<p>load allocations to ultimately meet numeric targets. To fully evaluate the effect of anthropogenic activities and guide management decisions, understanding and quantifying the contribution from natural sources and wildfire effects is necessary. It is inappropriate to make municipalities accountable for pollutants that emerge from such natural sources. Necessary studies need to be conducted to quantify loadings from undeveloped catchments and guidelines need to be developed on how to account for natural background conditions in establishing numeric targets in stormwater regulations, including TMDLs and NPDES permits.</p> <p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>■ Form "Natural Sources Study Task Force" consisting of Regulated Agencies, Regional Board, Environmental community, and Research Institutions.</li> <li>■ With the help of the Task Force, conduct an extensive review of the current state of science on natural source issues, and prepare "white paper" guideline on the subject.</li> <li>■ Conduct scientific studies that quantify the pollutant loading contribution from natural sources, including wildfires</li> <li>■ Develop guidelines for consideration of natural sources in establishing water quality objectives, based on scientific study findings.</li> </ul>	
32-10	County of Los Angeles	Nov 10, 2008	Threshold concentrations for a variety of	See Response to Comment(s) No(s). 2-12.

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			<p>environmentally toxic contaminants based on national ambient water quality criteria (AWQC). These criteria are derived from empirical toxicity data and are stringent enough to protect the most sensitive species potentially exposed to a contaminant in a waterbody. However, since different waterbodies, and organisms that live in them, vary in sensitivity to contaminants, AWQC may prove to be over- or under-protective in some aquatic systems. Thus, AWQC may poorly reflect effect concentrations in specific surface waters where conditions are different from those under which AWQC were developed (i.e., laboratory waters).</p> <p>Because of these differing conditions, Federal regulations (40 CFR 131.11) allow adjusting AWQC to reflect site-specific or local environmental conditions. According to the US EPA, "site-specific criterion derivation may be justified because species at the site may be more or less sensitive than those in the national criterion document," or "...differences in physical and chemical characteristics of water have been demonstrated to ameliorate or enhance the biological availability and/or toxicity of chemicals." As such, site specific criterion derivation is intended to come closer than national criteria in providing the necessary level of protection to aquatic life at the site by taking into account the species composition and water quality characteristics at the site.</p> <p>Many of the waterbodies in the Los Angeles region have different characteristics from waterbodies in other regions. For example, the water-effect-ratio</p>	

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			<p>(WER) study conducted for Copper for LA River shows that copper objectives established for the river are overly stringent (by-a factor of 4 to 6), depending on the river reach (Cities of LA and Burbank, 2008). The water-effect-ratio has been developed to compensate for site-specific biogeochemical factors such as hardness, alkalinity, organic carbon, etc., which can influence the bioavailability and toxicity of metals (USEPA, 1994). Thus, it is important that site-specific objectives be developed for various water bodies for all pollutants of concern using WER, or other appropriate methods.</p> <p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>■ Form "SSO Study Task Force" consisting of Regional Board staff, discharger community, environmental community, and research institutions.</li> <li>■ With the help of the Task Force, conduct an extensive review of the current state of science on SSO issues, and prepare "white paper" guideline on the subject.</li> <li>■ Establish site-specific objectives (SSO) for various water bodies for all pollutants of concern using appropriate method by conducting necessary scientific studies.</li> <li>■ Incorporate the SSOs into the Basin Plan through a Basin Plan Amendment</li> </ul>	
32-11	County of Los Angeles	Nov 10, 2008	To evaluate the feasibility of incorporating numeric effluent limits into municipal stormwater NPDES permits, the State Water Board convened a panel of	See Response to Comment(s) No(s). 18-8.

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			<p>stormwater experts in 2005-06.  The "Blue Ribbon" panel found that:</p> <ul style="list-style-type: none"> <li>■ Setting enforceable numeric effluent limits for municipal stormwater discharges is technically not feasible.</li> <li>■ Effluent limit approaches often focus only on water quality constituents that may not be responsible for water body impairments in urban settings.</li> <li>■ Stormwater agencies should not be held accountable for water quality exceedances that resulted from storms in excess of the size for which a BMP is designed.</li> <li>■ There is a need for the development of enforceable BMP design, and a permit process in which the compliance would be measured in terms of achieving the design criteria, maintenance plan, and schedule of the BMP (i.e., technology based effluent limits).</li> </ul> <p>Recent TMDLs, on the contrary, were developed based on numeric objectives being incorporated into MS4 permits in the Los Angeles Region. Water quality standards should be achieved through the implementation of BMPs in an iterative fashion in accordance with the MEP requirements.</p> <p>CONCISE SUMMARY OF SUGGESTED REVISION  Establish policy for incorporating TMDLs into municipal stormwater permits through iterative BMP implementation and technology based "action levels".</p>	
32-12	County of Los	Nov 10, 2008	To date, the Regional Board has not adopted a TMDL	See General Response 2, General

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	Angeles		<p>Implementation Compliance Plan submitted by any "Responsible Agencies" Group. The State mentions, "Although determination of the exact means of compliance is the role of the responsible agency, the plan must still provide a discussion of the anticipated and/or possible means of compliance." At this time, the discussion of the anticipated and/or possible means of implementation compliance is very vague.</p> <p>Combining this vague discussion and the lack of Regional Board adoption of the Implementation Compliance Plans leads to uncertainties in addressing the control/removal of the subject constituent(s) in an impaired waterbody.</p> <p>Such uncertainties and associated impacts include: Property acquisition in order to construct and install the required BMPs, which may include the need to demolish existing residential or industrial areas, and thus be inconsistent with Porter-Cologne.</p> <p>Oversized BMPs, which would further exhaust unnecessary public funds and thus be inconsistent with Porter-Cologne. Lack of Regional Board involvement, coordination, and guidance, and thus having the Responsible Agencies potentially proceeding inappropriately.</p> <p><b>CONCISE SUMMARY OF SUGGESTED REVISION</b>            Establish clear guidelines to create a program of implementation, consistent with Porter-Cologne Section 13242.</p> <p>Establish clear guidelines for the preparation and</p>	<p>Response 3. Also, as stated in General Response 4, responsible jurisdictions are aware of the pollutant-water body impairments as described on the 303(d) list, and are encouraged to create attainment strategies that are both effective and cost-effective at bringing their jurisdictions' contributions to these impairments into compliance. Awaiting the Regional Board's TMDL adoption process (consistent with the federal Consent Decree schedule) may not be the most efficient means for each jurisdiction to determine how to comply with the requirements of the Clean Water Act.</p>

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			approval of TMDL Implementation Compliance Plans so that responsible agencies' implementation efforts are in accordance with an adopted implementation compliance plan.	
32-13	County of Los Angeles	Nov 10, 2008	<p>In order to effectively control the adverse impacts of urban stormwater discharge on water quality, determination of the appropriate maximum rainfall depth or runoff volume that need to be captured and treated by structural BMPs is required (NRC, 2008; Shaver et al., 2007).</p> <p>There is a general understanding that design storm events for water quality should focus on capturing smaller storms, which generally contain the highest concentration/load of pollutants. The National Research Council, in its review of the EPA stormwater program (NRC, 2008), identified "water quality design storm" as one of the elements missing in the program, and has recommended that the permitting authority establish guidelines for the selection of water quality design storms for controlling pollution from stormwater discharges.</p> <p>With the exception of trash TMDLs, currently there are no established design storm guidelines for water quality in the Los Angeles region. This has placed a tremendous challenge on the implementation of a stormwater program in the region.</p> <p>At this time, little is known of the relationship between rainfall and water quality in arid climates, and the question of "what storm size needs to be treated to</p>	See response to comment No. 2-16

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			<p>meet water quality standards in Los Angeles Region" is yet to be answered. Given this, the Regional Board and regulated communities in Southern California have explored this issue and have begun drafting an initial conceptual framework in 2007 (Ackerman et al., 2007).</p> <p>A previous attempt in 2005 by the Regional Board hired SCRRWP, which assembled a Wet Weather Task Force, to formulate, wet weather design flow criteria. Because various competing issues were raised in the process, the increased costs exceeded the Regional Board's funding allowance. The efforts, thus, came to a complete halt in 2007.</p> <p>Without storm sizing criteria, the design of stormwater structural BMPs would be difficult and/or result in over- or under-sized facilities.</p> <p>CONCISE SUMMARY OF SUGGESTED REVISION:</p> <ul style="list-style-type: none"> <li>■ Use the existing (or form a new) "Design Storm Work Group" and conduct the second phase of the study to develop appropriate design storm criteria.</li> <li>■ Amend the Basin Plan to incorporate guidelines on water quality design storm.</li> </ul>	
33-1	Los Angeles Stormwater Quality	Nov 10, 2008	Water quality design storm - During the 2005-2007 Triennial Review process, stakeholders suggested, and the Regional Water Board endorsed, the formation of a Wet Weather Task Force to discuss and identify potential solutions to the challenges	See Response to Comment(s) No(s). 2-16.

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			<p>involved in complying with water quality standards and TMDLs during wet weather. The Wet Weather Task Force (WWTF) was convened in 2005 and as a result of meeting, convened a Project Steering Committee for a specific project to evaluate design storm criteria for achieving TMDL requirements and water quality standards during wet weather. Members of the Committee included representatives from municipal permittees, environmental non-governmental organizations, and the building industry, among others. A design storm is a storm of specific size, intensity and/or duration that can be used to design stormwater controls. This project was identified as a high priority by both the WWTF and the Regional Water Board in its adoption of the Los Angeles River Metals TMDL.</p> <p>The Regional Water Board contracted with the Southern California Coastal Water Research Project (SCCWRP) to develop potential design storm criteria and evaluate these concepts and study findings with the Project Steering Committee. The Regional Water Board, SCCWRP, and the Committee conducted the project over a two year period. The initial phase of the project was completed about a year ago, resulting in a conceptual framework and pilot modeling application that have been endorsed by the members of the Committee.</p> <p>It was noted in the project's final report recommendations that:</p>	

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			<p>"Before design storm criteria can be incorporated into a regulatory framework, the application of the technical concepts developed herein need to be evaluated in greater detail."</p> <p>And the report listed three questions that need to be addressed before the job of developing design storm criteria is complete. The questions related to the ability to: 1) extrapolate the initial results, 2) develop more precise estimates of pollutant reductions, and 3) implement the water quality design storm criteria under different development scenarios (i.e., new development, redevelopment, and existing development).</p> <p>The National Research Council of The National Academies recently reviewed the USEPA stormwater program<sup>2</sup> and corroborated the importance of identifying "water quality design storm" as essential to engineering design decisions: "It is important that the permitting authority designate the basis for the determination of the water quality design storm..."</p> <p>Given: 1) a critical need to achieving water quality standards has been identified; 2) significant effort has already been expended; 3) the opportunity is at hand to leverage the work to-date to other watersheds, land uses, and pollutants; and 4) the imperative, nature of having water quality design storm criteria that stormwater quality engineers can use to design best management practices; we believe the Regional Water Board should make</p>	

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			finishing the work on this issue of the highest priority.	
33-2	Los Angeles Stormwater Quality	Nov 10, 2008	<p>TMDL implementation planning - In order to expend public funds for implementation of TMDLs, responsible agencies need assurance that actions taken by the agencies are in accordance with an adopted or approved implementation plan. To date, the Regional Water Board has not adopted or approved a TMDL Implementation Compliance Plan submitted by any "Responsible Agencies" Group. However, in discussing implementation plans developed by Regional Water Board staff in its Impaired Waters Guidance<sup>3</sup> the Water Boards state: "Although determination of the exact means of compliance is the role of the responsible agency, the [Regional Water Board's] plan must still provide a discussion of the anticipated and/or possible means of compliance." At this time, the discussion of the anticipated and/or possible means of implementation compliance is very vague in Regional Water Board implementation plans. Combining this vague discussion and the lack of Regional Water Board adoption or approval of the Implementation Compliance Plans submitted by responsible agencies leads to significant uncertainty in addressing TMDL waste load allocations.</p> <p>Regarding implementation planning, the State's Impaired Waters Guidance also asserts: "...the early planning of implementation options is essential." p. 7-2</p>	<p>See General Response 2 and General Response 4. Responsible jurisdictions are invited to propose implementation plans that are intended to result in compliance with water quality standards. To the extent Regional Board staff determines that the plans are appropriately timed and designed to achieve compliance with the jurisdictions' obligations under their permits or future obligations under not-yet-developed TMDLs, staff will endeavor to incorporate such plans in future regulatory actions.</p> <p>This comment appears to be directed to the Implementation Compliance Plans required by the Santa Monica Bay Bacteria TMDL. That TMDL required jurisdictions to propose implementation for compliance with the requirements of the TMDL. The Regional Board has supported all such plans related to Marina del Rey and Santa Monica Bay that have been brought before the Regional Board. The requirement to submit such plans is directed to ensuring reasonable further progress is made in developing corrective strategies</p>

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			<p>"For regulatory actions requiring Basin Plan amendments, the scientific basis of the implementation plan is subject to peer review as well." p. 7-3</p> <p>"Implementation planning should begin in the earliest stages of project planning and incorporate stakeholder involvement and recognition of the various sources likely to be affected by the management actions." p. 7-3</p> <p>"Project analyses are performed with the goal of evaluating and selecting solutions that can be implemented. Selection of management alternatives and TMDL allocations also incorporates knowledge of how implementation can be achieved and what cost-effective options are available. Although stakeholders often have latitude in selecting how a loading goal will be achieved, identifying feasible and successful actions is essential to building effective plans." pp. 7-3 - 7-4</p> <p>Therefore, consistent with Water Boards' guidance, we believe the Regional Water Board should make it a high priority to:</p> <ul style="list-style-type: none"> <li>• Follow the guidance in Chapter 7 - Development of an Implementation Plan in A Process for Addressing Impaired Waters in California when developing TMDL implementation plans.</li> <li>▪ Establish clear guidelines to create a program of</li> </ul>	<p>for attainment. The commenter seems to be asking for assurances that implementation of the plans will constitute compliance with the commenters' obligations under the TMDLs. However, federal law requires attainment of the waste load allocations. While staff is happy to offer its expertise to stakeholders in generating implementation strategies, the Regional Board is not in the position of determining what means of compliance is appropriate for any particular stakeholder, or guaranteeing that any particular approach will result in compliance under all circumstances.</p>

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			<p>implementation, consistent with Porter Cologne Section 13242.</p> <ul style="list-style-type: none"> <li>• Establish clear guidelines for the preparation and approval of TMDL Implementation Compliance Plans so that responsible agencies' implementation efforts are in accordance with an adopted implementation compliance plan.</li> </ul>	
34-1	San Gabriel River Watershed Management Area Committee	Nov 10, 2008	<p>Design Storm and BMP Sizing</p> <p>During this Triennial Review or Basin Plan Revision, Board staff should develop a water quality and/or storm sizing "cutoff" for the design and construction of Best Management Practices (BMPs) and the (re)development circumstances under which the criteria are to apply. The Water Boards enabling legislation (Porter Cologne) and several recent studies (e.g. <a href="ftp://ftp.sccwrp.org/pub/download/PDFs/520designStorm.pdf">ftp://ftp.sccwrp.org/pub/download/PDFs/520designStorm.pdf</a> and <a href="http://www.practicalregulation.com/dynamic/downloads/individual%20download%20file%20link%20english%20175.pdf">http://www.practicalregulation.com/dynamic/downloads/individual download file link english 175.pdf</a>) have noted the challenge of balancing water quality protection with costs and societal factors. The current Basin Plan, and most of its amendments, does not include design storm sizing criteria, inferring that compliance occur through worst-case, over-sized and overly expensive BMPs that distort the balancing of economic and societal criteria as required under Porter Cologne. In addition, the design storm should be derived using the Los Angeles and Ventura County Hydrology Manuals</p>	See Response to Comment(s) No(s). 2-12.

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			<p>and their agency conveyance and detention design criteria. Board and Non-Governmental Organization (NGO) efforts to translate hydromodification criteria into planning policy and MS4 permits should encourage analyses based on locally hydrology methods.</p> <p>In the San Gabriel River Watershed, which has extensive spreading grounds above Reach 1, minor storms (nominally 1 cm) in the upper urban catchments normally infiltrate, shifting the primary regulatory burden to the tributary Coyote Creek sub-watershed and the Santa Ana Regional Board. Only infrequent, large events produce sufficient runoff to cascade into the lowest river reach. A design storm provision becomes the difference between implementing cost-effective on-site Low Impact Development BMPs or very expensive and land intensive regional efforts; without a Design Storm, the Basin Plan analysis should assume the latter contingency.</p>	
34-2	San Gabriel River Watershed Management Area Committee	Nov 10, 2008	<p>TMDL Implementation</p> <p>In order to reliably expend scarce resources for TMDL implementation actions, agencies need greater assurance that the state required implementation plans, will be adopted by the Board. Implementation plans are a required component of basin plans. "Under state law, the Regional Board must adopt an implementation plan for the TMDL. The plan should be adopted concurrently with the other TMDL components, if practicable, or within a</p>	<p>See GR 2 and General Response 3. See also 33-2. CEQA's is a component of most basin planning actions, including standards revisions and TMDLs. Where appropriate, the Regional Board coordinates its regulatory actions with adjacent regional water boards.</p>

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			<p>short time frame thereafter. If it is not, the TMDL would not be effective until the implementation plan is adopted."<sup>2</sup> "The fact that the Regional Water Boards can include compliance schedules in individual waste discharge requirements, or in limited circumstances in NPDES permits, would not obviate the need for an implementation program with a time schedule to achieve compliance with the applicable standard."<sup>3</sup></p> <p>"Although determination of the exact means of compliance is the role of the responsible agency, the plan must provide a discussion of the anticipated and/or possible means of compliance."<sup>4</sup> "The implementation program must include a description of actions that are necessary to achieve the objectives, a time schedule for these actions, and a description of surveillance to determine compliance with the objectives."<sup>5</sup> "The program of implementation must describe the nature of actions that are necessary to meet the objectives, including recommendations for action by both private and public entities."<sup>6</sup></p> <p>"CEQA compliance, in the absence of a defined implementation plan, could potentially be more difficult than it would be with one. Under CEQA, the Regional Water Board would have to identify the reasonably foreseeable methods of compliance with any TMDL provisions that established performance standards or treatment requirements. The numeric targets and load allocations would probably fall into the category of performance standards. After</p>	

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			<p>identifying the reasonably foreseeable compliance methods, the Regional Water Board would have to analyze their reasonably foreseeable environmental impacts, taking into account a reasonable range of environmental, economic and technical factors. A defined implementation plan may allow the Regional Water Board to more narrowly focus its CEQA analysis. Without one, the CEQA analysis could potentially be broader and more burdensome."</p> <p>"If a TMDL or other regulatory action is being adopted without sufficient information to develop a complete implementation plan, the implementation plan can be developed consistent with an adaptive approach that outlines the various stages of implementation that are expected and the process for fully realizing the regulatory actions."<sup>8</sup> "Adaptive implementation is, in fact, the application of the scientific method to decision-making. It is a process of taking actions of limited scope commensurate with available data and information to continuously improve our understanding of the problem and its solutions while at the same time making progress toward attaining the water quality standards."<sup>9</sup></p> <p>In situations where data and information needed to determine the TMDL and associated allocations are limited, USEPA provides for a phased approach to enable States to adopt TMDLs and begin implementation while collecting additional information needed to review and if necessary, revise TMDL elements based on new information.<sup>10</sup> "TMDLs developed under phased approach must</p>	

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			<p>identify specific implementation actions, monitoring plans and a schedule for considering revisions to the TMDLs."<sup>11</sup></p> <p>For the SGR Watershed, implementation plans may need to be jointly developed and adopted by both the LARWQCB and SARWQCB to fairly balance the public resource commitments and significant environmental impacts of future Permits and TMDLs.</p>	
34-3	San Gabriel River Watershed Management Area Committee	Nov 10, 2008	<p>Updating Beneficial Use Designations Inappropriately designated Beneficial Use Objectives confuse local agency priorities, forestalling progress toward obtaining regional water quality objectives. Recent court directions propose removal of "potential" Basin Plan beneficial use designations making this a necessary and high priority issue for this basin planning cycle. Future beneficial use designations should include clear, rational criteria relating to their development, or be developed and implemented through a collaborative process whereby the local stakeholders and responsible agencies for each water body are stakeholders. These criteria should facilitate the future completion of use attainability analyses (UAAs) as necessary to support seasonal and/or tiered use designations. Given limited resources, it is imperative that we cooperative pool our efforts in accomplishing this objective. In the SGR Watershed, several channels have REC1 beneficial use designations for areas where entrance is both</p>	<p>See General Response 1. See also Response to Comment(s) No(s). 1-4.</p>

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			dangerous and prohibited due to vertical channel walls. If trespass is prohibited, then a body contact recreation beneficial use is logically counter indicated and any REC1 use impairments ranked with a low resource prioritization.	
34-4	San Gabriel River Watershed Management Area Committee	Nov 10, 2008	Indicator Bacteria Objectives Recent water quality monitoring studies have included extensive analyses of indicator bacteria, in an effort to better assess public health risk, understand indicator bacteria ecology, and identify sources so that effective control strategies may be implemented. These analyses and studies have demonstrated serious flaws in the use of indicator bacteria as surrogates for pathogens and human health risk, which has important implications for how water quality criteria are linked to Beneficial Use Objectives. These concerns and new information should demonstrate that a significant scientifically based review of the objectives is overdue. Since projects to control bacterial indicators and correct impairments can be costly, slow to implement, and may not show improvements in water quality, it is important that the Regional Board place a high priority on their review during this Triennial Review. Without a thorough, accurate, and scientifically based review, public health and resources could be jeopardized or squandered. As recently suggested in our November 5, 2008 letter to the State Board, the alternative would be to suspend these standards while the United States Environmental Protection Agency develops new analytical methods to assess	See Response to Comment(s) No(s). 2-10.

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			pathogens and human health risk.	
34-5	San Gabriel River Watershed Management Area Committee	Nov 10, 2008	<p>Sediment quality objectives</p> <p>Sediment quality guidelines from the National Oceanic and Atmospheric Administration (NOAA) are being used by the Regional Board in assessing 303(d) list impairments in the Los Angeles area. These guidelines, specifically the values for Effects Range-Low (ERL), Effects Range-Medium (ERM), Threshold Effects Level (TEL), and probable Effects Level (PEL), were translated into numeric targets in the Ballona Creek Estuary Toxics and Marina Del Rey Harbor Toxics TMDLs adopted by the Board. These values (ERL, ERM, TEL, and PEL) are based on <u>empirical data</u>, from field and laboratory studies, that were never intended to be used for numeric compliance assessment. Toxic TMDLs, under development by the Regional Board for the Dominguez Channel and Los Angeles/Long Beach Harbor, also include these guidelines as compliance targets, even though other triad based sediment quality guidelines are available. The sediment quality objectives (SQO) adopted by the State Board on February 19, 2008 assesses sediment impairment based on multiple lines of evidence including chemistry, toxicity, and benthic communities. The newly adopted SQO is based on sound scientific studies, multiple lines of evidence and protective of environment and human health. The SQO is a comprehensive policy and unlike NOAA's guidelines doesn't depend only on one line of evidence. The Basin Plan Review should</p>	See Response to Comment(s) No(s). 12-15.

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			<p>prioritize integrated use of chemical and biological measures to determine if the biota and public health are protected or degraded, as a result of exposure to toxic pollutants in sediments.</p>	
34-6	San Gabriel River Watershed Management Area Committee	Nov 10, 2008	<p>Prior to developing any sediment TMDLs for SGRWMAC lakes, a biota assessment should be used to determine whether any impairments are comparable to the resources that would be expended to undue the damage resulting from legacy pesticides.</p>	<p>See Response to Comment(s) No(s). 24-11.</p>
34-7	San Gabriel River Watershed Management Area Committee	Nov 10, 2008	<p>In conclusion, the information presented in this letter was developed by a consensus group of MS4 Permittees and are not ordered by priority, since each Permittee might differently rank there importance based on watershed location and local characteristics. Several of the SGRWMAC members and NPDES permittees in general, are separately submitting agency specific letters that will highlight their individual priorities. The SGRWMAC appreciate your consideration of our concerns and would appreciate having the opportunity to work with the State in resolving these complex and interdisciplinary issues. Given the worsening budgetary constraints that are being placed on federal, state, and local governments, it is time to move from litigation and efforts to shift costs and responsibilities among the stakeholders, to cooperating with each other and setting rational cost-effective priorities for shared implementation. We all share the objective of improved water quality,</p>	<p>Comment noted.</p>

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			setting mutually agreed goals for achieving them will allow us to target the most beneficial and highest priority challenges first.	
35-1	Sierra Club Angeles Chapter		The process, as outlined in the cover document “REQUEST FOR DATA...” seems designed to eliminate public input at the early stages of the review. In spite of language in paragraph 2 of the cover letter, stating that “the public is asked to provide input on possible additions or revisions to water quality standards,” and the assurances on page 3 that there will be workshops, the language is unfriendly and legalistic in tone and will be a hindrance to the many diverse communities in Los Angeles who may wish to provide input into an area of major concern to them.	Staff regrets that the commenter perceived the solicitation for data as “unfriendly and legalistic”. The intent was to provide clarification as to the purpose of the solicitation and the nature of the information being sought, and to obviate the need for stakeholder to craft and submit comments that are outside of the scope of the triennial review process, or to submit comments or information that are too broad or vague to effectively use in identifying standards that should be prioritized during this phase of the triennial review. All interested persons are welcome to contact Regional Board staff for additional information or clarification on the Board’s triennial review process and how to participate in the process.
35-2	Sierra Club Angeles Chapter		Statements, such as “(D)ata, information, documents and other evidence”, are symptomatic of the problem. The statement that “All submittals should include at a minimum...” phrasing is the equivalent of a poll tax; such phrasing effectively screens out “the public” and implies that only researchers, engineers, or those employed in water management need comment.	See response to comment No. 35-1

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35-3	Sierra Club Angeles Chapter		While it is appropriate to seek evidence of academic research conducted since your last report, there needs to be a place for the general public to express their opinions about new and emerging areas of concern without their having to cite or provide the data.	The public can express their opinions about new and emerging areas of concern without their having to cite or provide the data. In addition to the data and information solicitation, the Regional Board has held a Board workshop on the triennial review in April 2009, and will hold a Board hearing on the triennial review at its upcoming April Board meeting. The public is always welcome to make comments at these meetings or in writing on items before the Board.
35-4	Sierra Club Angeles Chapter		In particular it appears that based on this initial input phase that the next opportunity for involvement by the public will only occur after the staff has gathered the input from this step and is proposing amendments to the plan. This seems counter to the scoping requirements for environmental planning and assessment under state and federal law.	The purpose of the initial phase of the review is to determine what projects will be addressed based on stakeholder and Regional Board priorities and available staff resources. There are no requirements for scoping at this stage. CEQA scoping is usually conducted when a project has been selected for development. At that point, there are additional opportunities to provide input on the specific project being developed. See also Response to Comment(s) No(s). 35-3.
35-5	Sierra Club Angeles Chapter		The Sierra Club requests that in addition to this step in the Triennial Review that the Board immediately provide opportunities for: <ul style="list-style-type: none"> <li>• Circulation and internet availability of all basic information, data, and any other basis for</li> </ul>	The Regional Board has met all public noticing requirements for the data and information solicitation. Information requested was not limited to data; the public's concerns, goals, and objectives

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			changes; <ul style="list-style-type: none"> <li>• Additional solicitations of public input in a more appropriate manner;</li> <li>• Open public meetings where the focus is not on the examination of data in tables but solicitation of public concerns, goals, and objectives based on available information from all available sources.</li> </ul>	were also solicited. A public workshop to encourage such input was held at a Regional Board meeting on April 2, 2009. Additionally, a staff report and supporting appendices for the triennial review are available on the Regional Board's website, which summarize all concerns that were raised in the public solicitation. Review of materials submitted by other interested persons may be conducted through a Public Records Act request to review available files at the Regional Board.
35-6	Sierra Club Angeles Chapter		Most of the pages provided for review consists of a plan adopted over a decade ago and contain references to resolutions adopted over 50 years ago. These documents are not readily available for the public to review or relate to previous objectives and evaluate the need for changes. The earlier plan and currently available documents do not provide a readily public accessible and understandable solicitation or process for public participation; slighting of context and excessive use of acronyms makes the reading of the tables and charts very difficult for typical public reviewers.	The current version of the Basin Plan is available on the Regional Board's website at <a href="http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.shtml">http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.shtml</a> . Hard copies are also available upon request. Also see response to comment No. 35-1 and 35-5.
35-7	Sierra Club Angeles Chapter		Beneficial Uses The Sierra Club's policy is that the beneficial uses of water should be prioritized. We realize that the impetus for establishing a Regional Water Quality Control Board is to protect human health and assure a clean healthy domestic supply of water.	The Regional Board's goal is to protect all designated beneficial uses identified in the Basin Plan; these include not only uses related to human health such as water contact recreation, commercial and sport fishing and water supply, but

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			<p>However, the Club's area of support and interest is also to protect those parts of the environment who cannot speak for themselves and without whom the fragile remnants of nature that remain in this highly urbanized area might disappear. For Los Angeles, facing extended shortage, as projected by most scenarios under climate change models, it is highly likely that the natural environment will suffer without appropriate additional consideration of the needs of these environmental communities.</p> <p>Therefore, we recommend that priorities be established and that a high priority is set on assuring water for the eleven beneficial uses of water in the natural environment that were enumerated in your list.</p>	<p>also myriad uses associated with aquatic and wild life protection and habitat protection.</p>
35-8	Sierra Club Angeles Chapter		<p>We believe all the rivers and surface waters in the Los Angeles basin should be eligible for consideration as suitable municipal or ground water recharge uses. Retaining treated water and replenishing ground water has been shown to be suitable and acceptable to the public in Orange County. The practice of one-time use is inappropriate under the various models of climate change when the traditional sources of water for this region will be severely constrained. One cannot say "drought" when the prospect for a "wet" year or years essentially disappears</p>	<p>The Statewide Sources of Drinking Water Policy (State Board Resolution No. 88-63) required that the Regional Boards designate all surface and ground waters as suitable, or potentially suitable, for municipal and domestic supply with certain exceptions. However, as a result of a court decision affecting the Los Angeles Region, the US EPA has asserted that those waterbodies designated as "potential" municipal supply solely as a result of this policy have this beneficial use conditional upon the Regional Board undertaking additional study to assess these waters.</p>

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35-9	Sierra Club Angeles Chapter		Change the current objectives for all surface waters to the Municipal and/or Groundwater Recharge Standards All water bodies above +10ft and below 1000ft elevation (stabilized channel floor or averaged ground levels beyond any levee or wall, whichever the lower) will be affected by this change, including Ballona Creek, Los Angeles River, Rio Hondo, and San Gabriel River as enumerated in 405.13+.15; 405.14; 405.16; 405.21+.24+.25; 405.31+.32+.33; 405.41+.42+.43; 405.51+.52+.53 (6. Monitoring and Assessment – Table 6-3)	See response to comment No. 35-8
35-10	Sierra Club Angeles Chapter		Los Angeles basins require massive imports of water but generally discharge to waterways with no further directly human-related uses. Total freshwater discharges to marine waters are greater than pre-1800 flows. More channels are lined and incapable of significant recharge compared to pre-1800 flows.	Comment noted. See also Response to Comment(s) No(s). 24-7.
35-11	Sierra Club Angeles Chapter		The Mayor of Los Angeles’s Proposal for Recycling of Treated Sewage Effluent has resurrected what has been known for many decades; recharge and recovery has been well established for more than 100 years. Local reuse of treated wastewater effluent, as in Orange County’s OC-Water Plant 21, has demonstrated the reliability and long-term use of treated sewage effluent for groundwater recharge.	Comment noted. See also Response to Comment(s) No(s). 20-27.
35-12	Sierra Club		Monterey Regional Wastewater Treatment Plant	Comment noted. See also Response to

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	Angeles Chapter		had/has "Demonstration Project for Eatable Crop Irrigation" under monitoring of Cal.Dept. Health Services and demonstrated virus- and bacterial-free effluent without reverse osmosis or other nano/microfiltration. Many large cities in the Mississippi Basin source potable supplies and reuse surface waters with flows of predominately treated discharges from upstream sewage treatment plants. Numerous international locations with direct reuse of treated and even untreated but groundwater recharged sewage without any demonstrated bio-risks.	Comment(s) No(s). 20-27.
35-13	Sierra Club Angeles Chapter		Revise all segments and basins below 1000ft and above 10ft elevation to MUN and GWR without conditions or constraints. Promote and encourage full reuse of non-storm water flows (median base-flow+25%) for direct and indirect water sources for municipal supplies and groundwater recharge for storage and recovery for MUN uses.	See response to comment No. 35-8 and 20-27.
35-14	Sierra Club Angeles Chapter		We have noted that Ballona Creek, among others, has no established water quality standards. This creek at least is mentioned. Some others, such as San Jose Creek, which receives water from a treatment plant, provides much of the flow of the Rio Hondo below Whittier Narrows are not even mentioned. These and all other surface waters from at least 1000 ft down to 10 feet, both with and without existing standards, should have the same standards as either Municipal or Ground Water Recharge so that all of the waters in the county are	The Basin Plan lists existing beneficial uses of Ballona Creek as Limited Contact Recreation (LREC) , Non-Contact Recreation (REC-2), Estuarine Habitat (EST), Marine Habitat (MAR), Wildlife Habitat (WILD), Migration of Aquatic Organisms (MIGR), Rare Threatened or Endangered species (RARE), Spawning Reproduction and/or Early Development (SPWN) Shellfish Harvesting (SHELL), Commercial and

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			eligible for application to these uses.	<p>Sport Fishing (COMM), and Navigation (NAV). The potential beneficial uses for Ballona Creek include Municipal and Domestic Supply (MUN), and Warm Freshwater Habitat (WARM). The water quality standards that protect these beneficial uses, apply to Ballona Creek.</p> <p>San Jose Creek is listed in the Basin Plan as a tributary of San Gabriel River and per the Tributary Rule has the beneficial uses of the reach to which it is tributary and hence, the corresponding water quality standards.</p>
35-15	Sierra Club Angeles Chapter		Oil and Grease: Non-point pollution – airborne bits of rubber, asbestos from brakes, particulates from diesel combustions, and other petrochemical pollutants --- which settles on the roofs of buildings, streets, sidewalks and other impermeable surfaces are the source of major episodes of ocean pollution and estuary stress during the initial flows from both summer and winter storms. These problem flows should be addressed individually and not buried in annual averages. Standards which would apply to possible diversions of these flows to areas where they might be cleaned up before being allowed to join the other waters need to be delineated.	The individual toxic pollutants conveyed by these materials do have receiving water standards contained in the California Toxics Rule. Where impairments have been determined for specific waterbodies, TMDLs are developed to address them. See also Response to Comment(s) No(s). 29-15.
35-16	Sierra Club Angeles Chapter		Floating material: Storm drains are not up to the task of handling plastics, polystyrene, etc. Many street drains remain open and un-grated inviting trash disposal. A private organizational effort to	The Regional Board has addressed this issue through the development of Trash TMDLs in waterbodies impacted by trash discharges. To date the Regional

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			mark all drains with “Drains directly to the Ocean” in an effort to stop the volume of trash that reaches the beaches doesn’t reach all of Los Angeles County. The Board needs to enforce measures which will reduce this material.	Board has adopted nine trash TMDLs for waterbodies in Los Angeles and Ventura Counties. These TMDLs hold responsible jurisdictions accountable for trash discharges from their jurisdictions.
35-17	Sierra Club Angeles Chapter		The Chlorine Total Residual standard needs to be lowered, and is achievable with modifications in application and use of alternatives. Recent accidents involving large spills of Chlorine during transport, storage and use, as well as other toxic chemicals call for rethinking about the uses of these chemicals.	Revision of the Total Residual Chlorine Objective is being addressed by the State Board on a statewide basis. State Board staff is proposing adoption of US EPA’s recommended water quality criteria for protection of aquatic life.
35-18	Sierra Club Angeles Chapter		MBAS. The plan states p 4-47 that “the Regional Board discourages the prolonged use of septic systems, except in isolated areas....” However, portions of the City of Los Angeles, in the Mount Washington area just east of downtown and, adjacent to the Los Angeles River are still on septic systems. These are some of the oldest communities in Los Angeles. We’re sure there are other portions of the region which are also on septic systems. While that may be appropriate in some remote locations, it seems insupportable that in this central city location that the City hasn’t been asked to get those neighborhoods on the sewer system for all the reasons cited in the plan	The Regional Board does discourage the prolonged use of septic systems except in isolated areas. However, the Regional Board is only able to enforce discontinuation of this practice in instances where there is documented direct impact to ground and surface water quality. As an example, the Regional Board recently passed a prohibition on on-site wastewater disposal systems in the Malibu Creek Civic Center area. Discharges from septic systems in this area were determined to transport pathogens (that elevate risks of infectious disease for water contact recreation) and nitrogen (that causes nuisance resulting from eutrophication) to ground and surface

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				waters.
35-19	Sierra Club Angeles Chapter		Toxicity. Increase public education on the effects of pesticides, chemical fertilizers and weed killers on ground water and encourage home and landscape related businesses to eliminate all sources of ground water and storm-water pollution and degradation. Throughout the region, a number of rodenticides containing anti-coagulants remain available not only to licensed firms but in the garages and basements of homeowners who purchased them before the new handling rules were set by EPA. Those rodenticides have, according to the staff of the National Park Service in the Santa Monica Mountains, been responsible for the deaths of non-target species such as bobcats and raccoons. The active ingredient is traveling from animal to animal. Has the board looked into whether this is also getting into the domestic water supplies, or contaminating other surface uses? An education program which would present the threat to other species and a collection plan would get these toxic chemicals off the lands.	The biannual water quality assessment conducted throughout the state and in individual regions is a comprehensive evaluation of the ability of the regions waters to support their beneficial uses, and also serves as a means of determining the introduction of new pollutants into surface waters.
35-20	Sierra Club Angeles Chapter		A recent article in the Los Angeles Times covered the discovery of sea turtles moving up the Los Angeles region's rivers, presumably to lay eggs or feed. You need to assess your current list of beneficial uses to see if this use by sea creatures is included.	The estuaries of the Los Angeles Region's Waters have the Spawning Reproduction and/or Early Development (SPWN) beneficial use.

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35-22	Sierra Club Angeles Chapter		The current direction of the City of Los Angeles, as outlined in a recent conference at Sepulveda Basin, is to attempt to re-use much more of the treated water from their facilities. The RWQCB needs to look at standards not just for the re-application of these waters to beneficial uses, but what effect these re-uses will have on salt concentrations which will inevitably result from the re-use. While these accumulations may be flushed during storm periods, contingency plans need to be developed for years without winter storms. How much rainfall would be necessary in order to effectively flush the salts through to the ocean? Where is the minimum flow standard to maintain the remnant aquatic ecosystems?	See response to comment No. 35-13. The issue of minimum flows is usually the purview of the Department of Fish and Game.
35-23	Sierra Club Angeles Chapter		Scientific literature is rife with references to the effects of human endocrine disrupters which have been loosed on the natural environment both via improper disposal and directly through urine into water supplies where they become exceedingly difficult for treatment facilities to handle. Fish are feminized, congenital deformations occur, etc. The staff needs to think creatively about how they might regulate not just today's pharmaceuticals, but those coming in the next round. It is certainly better to prevent the pollution than to try to clean it up later.	<p>The current water quality objective for toxicity in the Basin Plan comprehensively protects beneficial uses of the Regions waters from the potential impacts of emerging contaminants of concern. This narrative objective states that: "<i>all waters shall be maintained free of toxic substances in concentrations that are toxic to or, that produce detrimental physiological responses in human, plant, animal, or aquatic life.</i>"</p> <p>Many of the watersheds in the Los Angeles Region are dominated by effluent from major wastewater</p>

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				<p>treatment facilities. Effluent from these facilities has been shown to contain myriad ECCs that pose risks to human health and aquatic life. As a result, the Regional Board has been proactive in requiring the semi-annual monitoring of certain emerging contaminants with approved EPA test methods as part of renewed municipal permit requirements. These contaminants include 1,4-dioxane, perchlorate, 1,2,3-trichloropropane, and methyl tert-butyl ether. The new provisions also require bi-annual monitoring of endocrine disrupting chemicals and pharmaceuticals, as USEPA-approved analytical methods for these chemicals become available</p> <p>As little is known about the occurrence and fate of emerging chemicals of concern in the Los Angeles Region, in 2009, Board staff developed a proposal to support a targeted regional survey of emerging chemicals of concern in priority watersheds, including Malibu Creek, Calleguas Creek, and the San Gabriel River. This project will assist in providing a baseline for the occurrence of some of highest priority ECCs in these water bodies as well as an assessment of their fate in downstream sensitive coastal ecosystems and</p>

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				<p>important groundwater recharge areas. Identifying where these ECCs are occurring is a necessary first step to addressing existing impacts due to ECCs through 303(d) listing and TMDL development, as well as protecting sensitive ecosystems and groundwater recharge areas from further impacts.</p> <p>Funding for this project is yet to be secured. However, Regional Board staff will continue to remain active in workgroups addressing this issue and keep up to date with the evolving science.</p>
35-24	Sierra Club Angeles Chapter		<p>We do not retain archives of water issues, and with the explosion of this issue in the media and academia, their libraries would be more appropriate sources, so our supporting data and “evidence” is normally not original. However, Angeles Chapter Sierra Club has begun a program of funding testing of the ground water around closed landfills. The data is not yet available, but as soon as it is, we will provide you with a copy of the report(s) and further recommendations as appropriate.</p>	Comment noted
36-1	Signal Hill Petroleum	Nov 10, 2008	<p>We are concerned that the beneficial uses called out by the RWQCB are not realistic, and will lead to expensive solutions for nonexistent problems. Of particular note is the identification of Reach One as having an existing Ground Water Recharge</p>	See Response to Comment(s) No(s). 18-5.

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			Beneficial Use. We understand that were this the case, storm water would need to be regulated to a drinking water standard for Total Daily Maximum Loads ("TMDLs"). The reality is that any discharges coming from our land would travel from concrete storm drains or channels to "Reach One" of the Los Angeles River. We understand that Reach One from the point of discharge of the above referenced storm drains is concrete lined to the point where it is tidally influenced and the water is too brackish to be used for ground water recharge. No water discharged into Reach One from any of our properties would recharge ground water for drinking. The regulation of our properties and those in our community to such a standard would be a substantial cost with no return to anyone in the community.	
37-1	The Boeing Company	Nov 10, 2008	The requirement to establish reasonable standards To be effective in improving and maintaining the Los Angeles Region's water quality, the Basin Plan must include water quality objectives and standards that are founded on a solid scientific and technical basis and are, above all, reasonable. This fundamental "reasonableness" concept is enshrined in the California Porter-Cologne Water Quality Control Act. See Cal. Water Code § 13000 ("The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable...."); id. § 13241 ("Each regional board shall establish such water quality	See General Response(s) 1

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			<p>objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance; however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses." ). Section 13241 also outlines factors to be considered in developing reasonable and scientifically sound water quality standards. Pursuant to these factors, water quality standards should, among other things, account for natural background conditions; specify the water quality conditions that can reasonably be achieved through the coordinated control of all factors; consider economic, housing, and social factors; and establish clear priorities for implementing water quality management measures. We trust that the Regional Board will take these factors into account during the 2008 Triennial Review.</p>	
37-2	The Boeing Company	Nov 10, 2008	<p>Information relevant to establishing reasonable standards  As the Regional Board is aware, Boeing has substantial experience and data that are relevant to the requirements discussed above. Boeing has submitted much of this information in the context of SSFL's NPDES permitting proceedings. Boeing is submitting the following information to the Regional Board now so that it will be part of the administrative record for the 2008 Triennial Review.</p>	Comment noted.
37-3	The Boeing	Nov 10, 2008	Potential Background Constituent Levels in Storm	See Response to Comment 2-14.

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	Company		<p>Water at Boeing's Santa Susana Field Laboratory (June 2007) (Attachment 1)</p> <p>This report and its appendices were prepared by Flow Science Incorporated and submitted to the Regional Board in draft form on February 23, 2006 and in final form on July 23, 2007. The report evaluates the impacts of atmospheric deposition, erosion of native soils, and forest fires on storm water concentrations of metals and dioxin. In particular, the report compares concentrations of metals, dioxin, and other regulated constituents in storm water runoff from SSFL to concentrations of those constituents in storm water flows and in receiving waters throughout the Los Angeles region. Among other things, the report concludes that: A substantial portion of the metals concentrations and loads in storm water from SSFL may derive from atmospheric deposition unrelated to site activities. The mass loading of these constituents deposited on land via dry deposition is large, and studies have shown that significant fractions of this mass can be transmitted to receiving waters during storm events. Two studies performed by Sabin et al. (2004 and 2005) are particularly relevant. Sabin et al. (2004) demonstrated that dry deposition metals loads to the Los Angeles Region far exceeded mass loadings of metals in storm flows between October 2003 and April 2004 (storm flow mass loadings of metals were 9-43% of the annual atmospheric deposition load). Sabin et al. (2005) found that atmospheric deposition in one small, urbanized catchment accounted for as much as 57-100% of the annual trace metals load in storm water. Thus, a</p>	

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			<p>substantial portion of the metals concentrations and loads in storm water from the SSFL may derive from atmospheric deposition unrelated to site activities. Estimated concentrations of dioxin in precipitation have been measured in excess of SSFL permit limits for storm flows, and estimated concentrations of mercury in precipitation have been measured at or near SSFL limits.</p> <p>Fires result in increased atmospheric deposition of metals and dioxins and cause significant hydrologic changes in watersheds, including higher runoff volumes, higher flow rates, and higher concentrations of total suspended solids ("TSS"), all of which carry regulated constituents. These results are significant given the 2005 Topanga Fire, which burned 70% of the SSFL site and devastated much of the site's vegetative cover and BMPs. Regional fires also contribute to increased atmospheric deposition of metals and other constituents in non-burned areas, thereby affecting the water quality of subsequent storm water runoff indirectly.</p> <p>Concentrations of regulated constituents in off site soils are similar in magnitude and variability to those in soils on SSFL property. Calculations show that erosion of unimpacted soils will contribute concentrations of regulated constituents to storm flows, often at levels that could approach or exceed SSFL permit limits.</p> <p>Concentrations of metals in storm water runoff from the SSFL are similar to (and-often lower than)</p>	

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			<p>concentrations in storm water runoff from other open space, natural areas. These concentrations are also similar (and often lower than) those detected in storm water runoff from certain major land use types (light industry, transportation, and commercial) and in the Los Angeles River during storm events. Average concentrations of dioxin in storm water runoff from the SSFL are lower than average dioxin concentrations in wet weather samples collected in the Santa Monica Basin. They are also lower than the average dioxin concentrations in industrial process water discharges, storm water discharges, and in the Los Angeles River receiving water samples as shown by NPDES discharged monitoring data gathered by the Regional Board.</p> <p>The Regional Board should carefully consider these background constituent findings and their underlying data in evaluating the Basin Plan's water quality standards, particularly for Bell Creek, Dayton Canyon Creek, Arroyo Simi, Calleguas Creek, and the Los Angeles River. Water quality standards that require strict compliance with numeric limits for these and similar reaches should take into consideration background conditions so that they are feasible to achieve.</p>	
37-4	The Boeing Company	Nov 10, 2008	<p>Post Fire Vegetation Recovery Assessment Report - Phase 1 (March 2007) (Attachment 2) and Phase 2 (May 2007) (Attachment 3)</p> <p>These reports were prepared by Geosyntec and were part of a comprehensive study of erosion</p>	Comment noted. See also Response to Comment 2-14.

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			<p>control recovery at SSFL after the September 2005 Topanga Fire. The Fire burned 70% of the 2800-acre SSFL site and destroyed much of the site's vegetative cover, thereby increasing storm flows and erosion and making it more difficult for Boeing to comply with the limits in its NPDES permit. Phase 1 of the study, which was provided to the Regional Board on March 12, 2007, provided an initial semi-quantitative assessment of vegetative recovery based on literature review and reconnaissance-level survey of conditions at SSFL. Phase 2, which was provided to the Regional Board on May 21, 2007, quantitatively assessed the state of vegetation regrowth at the SSFL 18 months after the Fire in an attempt to estimate the amount of time required following fires for the vegetation to be considered to be recovered (in an erosion control context) relative to pre-fire conditions.</p>	
37-11	The Boeing Company	Nov 10, 2008	<p>The Phase 1 Report concluded that vegetative recovery occurs most rapidly during the first six years of regrowth and less rapidly thereafter. Assuming normal weather patterns over the next 20-30 years, and in the absence of any catastrophic events on existing burned areas, burned chaparral at SSFL should follow the growth patterns described in literature for recovery of chaparral and coastal sage scrub communities. The Phase II Report concludes that vegetation at SSFL likely will recover within five to ten years following the Fire, or between 2010 and 2015. In the meantime, there will be increased erosion and storm water flows from the</p>	Comment noted. See Response to Comment 2-14.

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			site.	
37-12	The Boeing Company	Nov 10, 2008	These reports indicate that naturally occurring, unpredictable events, like the 2005 Topanga Fire, may have a significant impact on erosion, sediment transport, and other factors that in turn make continuous compliance with NPDES permit limits infeasible. The Regional Board should amend the Basin Plan's beneficial uses and water quality objectives to allow for flexible goals and limits in the face of such events.	See Response to Comment 2-14.
37-13	The Boeing Company	Nov 10, 2008	<p>Best Management Practices Effectiveness Sampling Workplan (May 2006). (Attachment 4) and R2-A Pond Filtration Pilot Test Report (October 2006) (Attachment 5)</p> <p>The BMPs Effectiveness report, prepared by MWH and previously submitted to the Regional Board on October 2, 2006, evaluates the effectiveness of existing structural BMPs at SSFL's storm water outfalls and establishes a pilot testing plan to examine the efficacy of possible future BMPs. Subsequent field work, described in the Pilot Test Report, also prepared by MWH-H and submitted to the Regional Board on October 24, 2006, implements the pilot plan by evaluating the constituent removal capabilities of eight different filtration media as part of a possible best management practices ("BMPs") approach to water quality management at SSFL. The report concludes that concentrations of various metals, including total copper, total iron, total lead and total manganese,</p>	Comment noted.

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			were significantly reduced by various types of filtration media.	
37-14	The Boeing Company	Nov 10, 2008	The significance of these reports for the Regional Board's Triennial Review is twofold. First, the reports should provide the Regional Board with an understanding of the level of effort involved in attempting to find and implement methodologies to meet discharge standards on a continuous basis. Second, the reports show that while BMPs are highly effective in reducing the concentrations of regulated constituents in storm water discharges, there still will be exceedances of stringent numeric limits if governing water quality standards do not account for background conditions, seasonality, flow, and similar factors. Accordingly, numeric limits designed to achieve compliance with those standards may not be achievable under all conditions, and measures to ensure such compliance may yield only marginal improvements at disproportionate cost.	The Regional Board understands and appreciates the amount of effort that is involved in developing and implementing methodologies to meet discharge limitations. The Board is also aware of the challenges associated with compliance with water quality objectives during storm events, hence its support of the design storm project. See Response to Comments 2-14 and 2-16.
37-15	The Boeing Company	Nov 10, 2008	Bioassessment Sampling and Analysis Plan for the Boeing Company, Santa Susana Field Laboratory (2008) (Attachment 6) and DFG SWAMP Bioassessment Procedure (2007) (Attachment 7) The 2008 Bioassessment Sampling and Analysis Plan was prepared by Aquatic Bioassay & Consulting Laboratories to satisfy the requirement in SSFL's NPDES permit that instream bioassessment sampling be conducted once per year at two sites on the SSFL property. The report assesses physical	Comment noted. See Response to Comment 37-18 below.

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			habitat conditions and integrity of the benthic macroinvertebrate community at each sampling site. The report indicates that there are no perennial streams at SSFL and that "only under the best rainfall conditions would any of [the creeks on the SSFL property] meet the base criteria of four weeks of continuous flow" (page 3). Nonetheless, the report suggests two future sampling locations, one near a future groundwater extraction treatment system and one near Outfall 006.	
37-16	The Boeing Company	Nov 10, 2008	The results of sampling at these sites will provide useful information about the presence or lack thereof of aquatic life in drainages on and near the SSFL property, which will be relevant to the Regional Board's assessment of beneficial uses and water quality standards for those drainages. We also are submitting a companion document entitled "Standard Operating Procedure for Bioassessments Sampling & Laboratory Analysis" (January 2008) (Attachment 8), which sets forth the procedures Aquatic Bioassay & Consulting Laboratories will use in sampling.	Comment noted. See Response to Comment 37-18 below.
37-17	The Boeing Company	Nov 10, 2008	In order to assess the health of aquatic life and aquatic habitat in a stream, the California Department of Fish and Game ("DFG") uses the "SWAMP Bioassessment Procedure" (Attachment 6; also available at <a href="http://www.swrcb.ca.gov/swamp/docs/phab_sopr6.pdf">http://www.swrcb.ca.gov/swamp/docs/phab_sopr6.pdf</a> ). This protocol requires a "wadeable" stream for a bioassessment. Similarly, the Southern California	Comment noted. See Response to Comment 37-18 below.

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			<p>Coastal Water Research Projected ("SCCWRP") requires for monitoring purposes that a stream be flowing for at least 4-6 weeks. See Southern California Coastal Water Research Project, Stormwater Monitoring Coalition Bioassessment Working Group, "Technical Report 539: Regional Monitoring of Southern California's Coastal Watersheds," at 5 (Dec. 2007) (Attachment 9). These procedures are consistent with the findings of the 2008 Bioassessment Sampling and Analysis Plan discussed above.</p>	
37-18	The Boeing Company	Nov 10, 2008	<p>As the Regional Board is aware, certain designated beneficial uses are established to protect aquatic life and their habitat. Following the procedures identified above, any such uses must be for streams that are wadeable or free flowing for a period of at least 4-6 weeks. Yet many streams, including those on the SSFL property, are "ephemeral," a term the U.S. Army Corps of Engineers defines as a "stream [that] has flowing water only during and for a short duration after precipitation events in a typical year." See <a href="http://www.usace.army.mil/cw/cecwo/reg/2002nwps_def.pdf">http://www.usace.army.mil/cw/cecwo/reg/2002nwps_def.pdf</a>. Accordingly, there is insufficient evidence to designate these ephemeral streams with certain beneficial uses and to impose upon Boeing and other permittees limits designed to protect those uses.</p>	<p>Beneficial use designations are not limited to streams that are wadeable or free flowing for a period of at least 4-6 weeks. Within the Los Angeles Region there are many waterbodies that are intermittent or ephemeral; these waterbodies provide wildlife and aquatic life habitat for a variety of species. Beneficial uses are appropriately designated for these waters in the Basin Plan and must be protected with water quality objectives and associated discharge limitations.</p>
37-19	The Boeing Company	Nov 10, 2008	<p>In particular, we recommend that the Regional Board carefully consider the beneficial use designations of ephemeral reaches of streams between SSFL and</p>	<p>Staff disagrees with the commenter's conclusion that flow is insufficient in the channels to support aquatic life uses. In</p>

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			the Los Angeles River, including Bell Creek, Dayton Canyon Creek, and other tributaries to the Los Angeles River, and between SSFL and Calleguas Creek, including tributaries to Calleguas Creek such as Arroyo Simi and Arroyo Las Posas. All of these reaches are currently designated WILD and/or WARM even though they have water flowing in them only after significant storm events. When flows are present, they typically last for a short period of time.	general the beneficial use definitions for aquatic life state, “uses of water that support ecosystems, including but not limited to preservation or enhancement of aquatic habitats, vegetation, fish or wildlife, including invertebrates.” Even intermittent flow is adequate in many cases to support aquatic habitat. See also Response to Comment 37-18.
37-20	The Boeing Company	Nov 10, 2008	These reaches do not support aquatic invertebrate or fish habitat or waterfowl habitat dependent on aquatic invertebrates or fish. (Even in periods of unusual rainfall and high flow, these flows are highly variable and do not support aquatic habitat or life.) Indeed, in the second quarter of 2008 we attempted to perform the bioassessment sampling and habitat surveys called for in the 2008 Bioassessment Sampling Plan but could not because of inadequate flows. See SSFL Second Quarter 2008 Self-Monitoring Report (Attachment 10) at 2. To highlight these low and highly variable flow conditions, we have attached relevant stream flow data for Outfalls 1 and 2, which account for 60% of flow leaving SSFL, between October 2004 and February 2008. See Attachment 11. The Regional Board should recognize that low and variable flows are typical for the Region, and take these conditions into account when determining beneficial uses and water quality objectives.	See Response to Comment 37-19.
37-21	The Boeing	Nov 10, 2008	Finally, lower reaches of these streams may	See Response to Comment 13-3.

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	Company		currently support WILD and/or WARM beneficial uses. By employing a tiered aquatic life use ("TALU") structure, more suitable beneficial use designations can be applied to protect upper reaches of streams that are hydrologically connected to lower reaches that support fish and aquatic invertebrates.	
37-22	The Boeing Company	Nov 10, 2008	SSFL is composed of 2850 acres, of which approximately 1,325 acres are undeveloped (1,143 acres along the southern border and 182 along the northern border). The NPDES permit in effect requires that storm water from both the developed and undeveloped portions of SSFL be monitored, with enforceable effluent limitations in place on rainfall leaving the facility irrespective of its point of origin. These limits are based on both Basin Plan objectives and CTR values. The permit also requires an extensive monitoring program that includes chemical, radiological and toxicity testing at 15 outfalls.	Comment noted. See General Response 3.
37-23	The Boeing Company	Nov 10, 2008	Complying with these stringent numeric limits has required an extensive investigation, monitoring, construction and maintenance program. Elements of this program include installation of flow meters, construction of multimedia filtration beds, placement of straw waddles, hydromulching of barren terrain, and establishment and operation of an extensive monitoring and analyses program, including Level 4 validation audits of analytical data. When calculated on a per-acre basis, Boeing has	See General Response(s) 2

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			<p>spent over \$10,700 per acre in its attempts to achieve compliance with its NPDES permit. When limited to just those developed acres for which Boeing has been implementing the above measures, the expended cost is over \$19,600 per acre. Please note that significant additional expenditures are planned for the remainder of 2008 and 2009.</p>	
37-24	The Boeing Company	Nov 10, 2008	<p>Post-Topanga Fire compliance costs            Compliance costs following the 2005 Topanga Fire are exceptionally high. As noted, the Fire destroyed over 70% of SSFL's vegetation and most of the treatment system used to achieve compliance. The Fire resulted in the rebuilding of more elaborate treatment structures using multimedia filter beds supplemented by an extensive cleanup program. The cleanup program involved the removal of over 2,200 tons of ash, the placement of 7 miles of straw wattles, and aerial hydromulching over 800 acres. These efforts sought to ensure that ash and sediment would not enter the drainages and cause exceedances of applicable permit limits. Compliance costs associated with this post-Fire effort have been highly variable due to the uniqueness of each watershed. The costs on a per watershed basis have ranged from a low of \$72,000 to address rain run-off near an engine test stand that was not damaged by the Fire (less than .1 acres), to a high of \$1,700,000 to address storm water runoff from a 539-acre watershed that experienced</p>	<p>Comment Noted. See General Response(s) 3</p>

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			extensive fire damage.	
37-25	The Boeing Company	Nov 10, 2008	<p>Toxicity Data</p> <p>Over the course of the years SSFL has been required to monitor for numerous chemical and radiological constituents in the storm water discharged from SSFL. These data show that toxicity objectives have not been impacted even when numeric limits have not been met. See Attachment 12 (toxicity data); Attachment 13 (annual NPDES discharge monitoring reports; these and quarterly monitoring reports are available at <a href="http://www.boeing.com/aboutus/environment/santa_susana/ents/monitoring_reports.html">http://www.boeing.com/aboutus/environment/santa_susana/ents/monitoring_reports.html</a>). There have been only three exceptions to this record, and for each the reason was immediately identified as either operator error (for two exceptions in 2005 relating to on-site sewage treatment systems that have since been removed from service) or a mudslide (for an exception in 2007). See Attachment 13 (2005 and 2007 annual monitoring reports).</p> <p>Thus, save for <u>three</u> inconsequential exceptions, the toxicity parameters in SSFL's discharges have been in compliance (thereby protecting water quality) even though SSFL has sometimes exceeded its effluent limits. We urge the Regional Board to consider this information in assessing the relationship between stringent numeric limits and water quality standards, as well as the reasonableness of stringent numeric limits themselves.</p>	See General Response 3.

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37-26	The Boeing Company	Nov 10, 2008	<p>We understand that, during the 2004 Triennial Review process, the Regional Board held four public workshops and solicited public comments over a period of six months as part of an initial scoping process. The Regional Board's staff then prepared a prioritized list of candidate Basin Plan issues and a comprehensive report for which the Regional Board subsequently provided a 30-day public comment period and two public hearings. We urge the Regional Board to adopt the same or greater procedures for public involvement during the 2008 Triennial Review. Indeed, recent decisions in the <u>Arcadia</u> litigation, <u>Cities of Arcadia v. State Water Resources Control Bd.</u> (Super. Ct. Orange County, 2007, No. 06CCO2974), would seem to warrant more extensive consideration and public involvement because the Regional Board did not previously consider Water Code § 13241 factors in establishing water quality standards, particularly for storm water. At a minimum, we would expect that the Regional Board's public participation process will include more than the Board's September 25, 2008 information solicitation letter, such that all concerned parties have assurance that the Regional Board will properly evaluate the Section 13241 factors and Section 13242 implementation requirements as part of the 2008 Triennial Review.</p>	Comment noted. See General Response(s) 1.
37-27	The Boeing Company	Nov 10, 2008	<p>In addition, we urge the Regional Board to adopt a sensible and transparent process for obtaining and handling the information it receives regarding the</p>	Comment noted.

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			Triennial Review. That process should include focused and publicly noticed requests for data on particular topics, appropriate public hearings, and a timeline for moving forward with the Triennial Review and with particular candidate issues.	
38-1	Ventura County Watershed Protection District	Nov 10, 2008	Assess the appropriateness of recreational (REC-1 and REC-2) beneficial use designations in artificial or improved drainage channels, especially channels where public access is restricted.	See Response to Comment 2-3.
38-2	Ventura County Watershed Protection District	Nov 10, 2008	Consider whether certain beneficial use designations should reflect wet and dry weather period variability, particularly during storm flow conditions. Additionally, consider the use attainment potential or ability to comply with water quality objectives during storm flows.	See Response to Comments 2-3 and 2-16.
38-3	Ventura County Watershed Protection District	Nov 10, 2008	Consider whether bacteria water quality objectives should be revised to account for non-human ambient loads, to reflect wet and dry period variability, and to optimize health and ecological risk attenuation using both risk based and cost benefit approaches.	See Response to Comments 2-3, 25-10 and 38-2.
38-4	Ventura County Watershed Protection District	Nov 10, 2008	Consider whether water quality objectives should be defined in terms of frequency, duration and magnitude, and should expressly account for natural and ambient conditions including seasonality and flow. Short term or acute water quality standards may be more appropriate for storm flow conditions, especially larger storms that would add	See Response to Comment 2-16.

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			exponentially to the cost of controlling pollutants.	
38-5	Ventura County Watershed Protection District	Nov 10, 2008	Consider revising the narrative Basin Plan sediment standards to reflect ambient and natural sediment loads, and the beneficial role that transported sediment has in beach nourishment and erosion control.	The narrative objective states that waters shall not contain solid, suspended or settleable materials that cause nuisance or adversely affect beneficial uses. In determining whether sediment is causing a nuisance or adversely affecting beneficial uses, staff considers natural sediment loads.
38-6	Ventura County Watershed Protection District	Nov 10, 2008	Provide guidance on how California Toxics Rule (CTR) standards and data extrapolations should be applied to stormwater flows or other seasonably variable factors.	See Response to Comment 11-8.
38-7	Ventura County Watershed Protection District	Nov 10, 2008	Re-evaluate Ventura County's groundwater and surface water objectives (Basin Plan Tables 3-8 and 3-10) using available data generated since 1994.	The commenter needs to provide a rationale for the re-evaluation of the ground and surface water objectives for Ventura County.
38-8	Ventura County Watershed Protection District	Nov 10, 2008	Consider revisions and updates to Basin Plan tables listing federal and state maximum contamination levels using the most current available data and information.	The Basin Plan incorporates by reference some of the provisions of Title 22, which include the MCLs for inorganic chemicals, fluoride, organic chemicals, and radioactivity. These MCLs serve as water quality objectives for waters designated as MUN. An administrative update of the Basin Plan will include any necessary and applicable updates to these objectives.
39-1	Construction industry Coalition on	Nov 10, 2008	CICWQ is encouraged that the Regional Board is beginning a new triennial review process, and	Comment noted. See General Responses 1 and 2.

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	Water Quality		believe that all of the issues that we raised previously in our comment letters continue to be relevant. Therefore, generally, the pending review of the Basin Plan should ensure that (i) the water quality standards for the Region are reasonably feasible to attain, (ii) natural background conditions are fully assessed, and (iii) our Region's ability to develop and use local water supplies is maximized. Especially given the overall current economic situation, we also believe that it is imperative to consider the economic, housing, and social impacts of the Basin Planning and TMDL programs and to establish clear priorities for implementation of water quality management measures.	
39-2	Construction industry Coalition on Water Quality	Nov 10, 2008	CICWQ is concerned that the recent data solicitation by the Regional Board does not expressly request information relevant to many key individual considerations. We trust, however, that the current data solicitation is intended to support only scoping the proposed next triennial review process, not to provide all the data necessary to complete a triennial review.	<p>The data and information solicited for the current Triennial Review was directed to stakeholder identification of their issues of concern with respect to Basin Planning and, in particular, the efficacy of the water quality standards contained in the Basin Plan. Stakeholders were not limited in the scope of information to be provided to support their concerns in this area.</p> <p>Upon direction from the Regional Board as to what specific issues should be addressed during the current review period given available resources, further solicitation for data and information relevant to the selected projects may be</p>

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				undertaken, where necessary, and public input on the scope and content of specific proposals will be solicited.
39-3	Construction industry Coalition on Water Quality	Nov 10, 2008	1. Explicit protocols should be developed to ensure that Basin Plan designated uses and water quality standards are assessed in accordance with CWC 13000 and 13241 factors.	See General Response(s) 1
39-4	Construction industry Coalition on Water Quality	Nov 10, 2008	Guidelines should be developed to create a program of implementation, consistent with the requirements of CWC 13242, for existing and future Basin Plan water quality standards.	See General Response(s) 1 and 2
39-5	Construction industry Coalition on Water Quality	Nov 10, 2008	Clear, rational criteria should be developed for creating and applying beneficial use designations, including the revision of current Basin Plan "potential" use designations. These criteria should direct the completion of use attainability analyses as necessary to support seasonal and/or tiered use designations.	The Basin Plan clearly defines and identifies all of the beneficial uses designated for surface and ground waters within the Los Angeles Region in Chapter 2. In addition, existing uses are defined by federal regulation as "those beneficial uses that have been attained on a waterbody on, or after November 28, 1975"; this was the basis for the designation of existing uses in the Basin Plan. Staff considers additional criteria unnecessary for identifying existing beneficial uses, since any additional criteria established by the Regional Board could not substitute for the requirements set forth in federal regulation. As for any future considerations of new or revised

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				<p>beneficial uses, as required for all potential Basin Plan amendments, the public would receive timely notice of these, and be given an opportunity to provide input.</p> <p>With regard to the re-evaluation of beneficial uses via a use attainability analysis (UAA), federal regulations restrict States from removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if:</p> <ol style="list-style-type: none"> <li>1. They are existing uses, as defined in 40 CFR § 131.3, unless a use requiring more stringent criteria is added; or</li> <li>2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices.</li> </ol> <p>Furthermore, 40 CFR § 131.10 (i) states that where existing water quality standards specify designated uses less than those which are presently being attained, the State shall revise its standards to reflect the uses actually being attained (i.e. existing uses).</p> <p>States may remove a designated use which is not an existing use, as defined in 40 CFR § 131.3, or establish sub-</p>

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				<p>categories of a use, if the State can demonstrate that attaining the designated use is not feasible because of factors set forth in 40 CFR § 131.10 (g). Staff has identified re-evaluating the REC beneficial uses in certain waterbodies as an issue that may be considered by the Board during this triennial review.</p> <p>Given the intensive volume of resources this task would require, coupled with the fact that the goals of the federal Clean Water Act and Porter-Cologne Act favor protection of waterbodies (not decreasing protection), a wholesale reassessment of the attainability of every designated use in the Basin Plan (and concomitant consideration of use removals or modifications) cannot feasibly be considered except where specific information about the specific attainability of a particular use in a particular waterbody or reach is presented that demonstrates that the designated use may be inappropriate.</p>
39-6	Construction industry Coalition on Water Quality	Nov 10, 2008	Beneficial uses and water quality objectives should be defined in light of the natural variability of storm frequency, duration, and magnitude, and should expressly account for natural or ambient conditions, including seasonality, flow, and natural loads. Clear	Beneficial use designations are based on what uses are present or are goals for a waterbody regardless of the natural variability of storm frequency, duration, and magnitude. However,

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			translators should be developed for narrative standards to indicate how these criteria will be interpreted for use in permits and other regulatory processes.	consideration may be given to these factors in establishing, applying and determining compliance with water quality objectives that protect such uses. See also Response to Comments 2-14 and 10-3.
39-7	Construction industry Coalition on Water Quality	Nov 10, 2008	CICWQ wants to work collaboratively with the Regional Board to ensure that existing and future Basin Plan water quality standards are properly assessed during this triennial review process in accordance with California Water Code § 13000, 13241, and 13242 factors. The process should include subsequent, focused requests for data and information on particular topics to allow a more complete examination of existing information and to ensure that a complete standards review occurs. We trust that the current data solicitation is but the first of many opportunities for comment on and revision of the Basin Plan.	Comment noted. See also Response to Comment 39-2.
39-8	Construction industry Coalition on Water Quality	Nov 10, 2008	The Basin Plan has never been addressed with a view toward serious consideration of the unique nature of storm water, or consideration of the interplay of factors with southern California watershed characteristics, or to incorporate the requirements of California Water Code § 13241 (specifically the six balancing factors) and the implementation requirements of § 13242. Accordingly, very substantial work lies ahead for all stakeholders. CICWQ and the building industry request that the Regional Board focus on the following areas to begin the Basin Plan update	See General Response(s) 1

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			process:	
39-9	Construction industry Coalition on Water Quality	Nov 10, 2008	<p>Explicitly recognize the physical characteristics of southern California watersheds, including climate, meteorology, geology and soils, and river and stream hydrologic patterns</p> <p>Foremost among the California Water Code § 13241 balancing factors is the one set forth in subsection (b), which requires consideration of the "environmental characteristics" of any given "hydrographic unit under consideration, including the quality of water available thereto." Close attention to this balancing factor would lead to several unavoidable conclusions.</p> <p>First, the "environmental characteristics" of any given hydrographic unit will vary naturally over a range of different storm events. No two storms are exactly alike. Storms are each unique and variable in terms of their spatial dispersions, durations, relative intensities, and temporal dynamics. Nearly all stream systems in southern California will show far higher turbidity and suspended sediment measurements during and following an intense and prolonged storm than they will during and following a moderate or mild rain (Paulsen et al., 2008; Stein and Yoon, 2007). Indeed, all hydrographic units (whether pristine or having some human influence) have environmental characteristics that are naturally highly variable. This same condition applies to any ephemeral stream, to any creek, to any flood control channel, to any river, and to any ocean outfall.</p> <p>Consequently, proper attention to the California</p>	See General Response(s) 1.

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			<p>Water Code § 13241(b) "environmental characteristics" factor should result in reasonably flexible regulation and some reasonable accommodation of the natural variability of any water course.</p> <p>Second, not only is each hydrographic unit itself highly variable in its own internal natural characteristics (i.e., temporally), but environmental characteristics will vary widely from one hydrographic unit to another spatially (based on vegetation differences, soil characteristics, parent material and geology, and topography). Consequently, attention to the subsection 13241(b) "environmental characteristics" balancing factor should result in the flexible accommodation of immediate local conditions and circumstances as well when establishing beneficial uses and water quality standards.</p> <p>Water Code § 13241(c), also, is compelling in light of both the natural variability of storm water and natural loadings into receiving waters from non-anthropogenic (natural) sources. Subsection (c) requires the Board to take into account "[w]ater quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area." Close attention to this factor indicates that - given the extreme variability of nature itself - some water quality conditions during storms are not reasonably amenable to "coordinated control."</p>	

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			<p>Finally, in recognizing the importance of better defining the characteristics of southern California hydrologic units and climatic variability, we encourage the Regional Board to develop a discrete Storm Water Policy chapter within the Basin Plan. In such a chapter, we encourage the Regional Board to expand the "climate" section to include a comprehensive description of the rainfall generation and runoff patterns.</p> <p>This section would include text, graphics, and maps to explain thoroughly the highly variable and episodic nature of rainfall in the coastal watersheds. Furthermore, we urge the Regional Board to include graphical display of rainfall distribution by storm size and rainfall intensity by probability of occurrence for rain gauges across the region and isohyetal maps for the watersheds of LA and Ventura Counties. For possible sources of climate and hydrological information, please see the EAC Comment Letter to the Regional Board, November 10, 2008, Appendix C, No. 16.</p>	
39-10	Construction industry Coalition on Water Quality	Nov 10, 2008	<p>Consider natural background loads and concentrations of sediment, metals, and bacteria when establishing beneficial uses and water quality standards</p> <p>Since its inception in 2001, CICWQ has advanced and advocated for a more thorough and robust data gathering and analysis effort regarding the contribution of natural sources, loads, and concentrations of sediment to streams and rivers</p>	See Response to Comment 2-14.

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			<p>within the Region. It is widely recognized that southern California and California in general contain some of the most erosive landscapes in the United States and worldwide (Mount, 1995). Controlling sediment from construction and development project sites is the principal regulatory mandate facing CICWQ members.</p> <p>Our membership's goal is to secure the scientifically-based, reasoned, and balanced establishment of beneficial uses and derivative sediment water quality standards. Accordingly, we respectfully ask the Regional Board to consider evidence that demonstrates the extreme variability in sediment loads that can naturally result during different types of rainfall events in southern California. This topic is vitally important to the construction industry given regulatory developments over the recent past that attempt to impose hard numeric effluent limits on construction site storm water discharges. In our opinion, to date there is a lack of appreciation for the natural sources and concentrations of sediment in southern California streams and rivers. The scientific evidence discussed below should be considered, and should help lead to more realistic beneficial uses and water quality standards for the range of climatological and meteorological conditions that we encounter in the region.</p> <p>Ample evidence indicates that highly variable loads and concentrations of suspended sediment are a natural part of the sediment delivery cycle in</p>	

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			<p>southern California (Stein and Yoon, 2007; Inman and Jenkins, 1999; Paulsen et al. 2008). This extreme variability is the result of several factors, including topography, geology and soil parent material formations, rainfall amount and intensity, and land use. In fact, during the winter of 1969, when storms were especially heavy, Inman and Jenkins (1999) estimated that 100 million tons of suspended sediment flux flowed from the creeks, channels and rivers of into the Santa Barbara Channel (i.e., largely from Ventura County). This mass in one "wet" season was greater than the combined total mass during the preceding 25-yr dry period. Remarkably, the estimated amount of sediment flux generated in 1969 would fill up the inside of Pasadena's Rose Bowl Stadium to the top about 100 times.</p> <p>Data from Stein and Yoon (2007) show that sediment delivery (both the concentration of total suspended solids and total suspended solids loads) can range over several orders of magnitude within any given storm event (and theoretically across a range of rainfall intensities) and that storm event characteristics are the major driver of moving sediment and delivering it to the ocean. Their work also shows extreme variability in sediment concentrations and loadings comparing one receiving water to another (each a distinct hydrologic unit), again suggesting that water quality standards and objectives must account for natural loadings on a per reach basis, and that ambient and storm data needs to be compiled to accurately</p>	

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			<p>reflect the wild variability encountered. The Stein and Yoon (2007) findings are also very instructive regarding naturally occurring metals as well, suggesting that for some metals, like copper and zinc, natural time, in excess of California Toxics Rule (CTR) acute or chronic standards.</p> <p>The regulatory difficulty is that nature alone, during substantial storms, routinely violates the Basin Plan objectives for sediment and metals. Moreover, the overall variability of storm water characteristics presents profound questions of degree on many continuums. Given the complex variability of storms and their actions, and given enough time, nature will eventually violate any arbitrary standards that the Regional Board might settle upon (for example, any numerical turbidity standard). Importantly, even storm water runoff flowing from undeveloped lands (lands that are completely free of any anthropogenic influences) will violate CTR and other fixed regulatory standards concerning concentrations of bacteria, turbidity, and naturally occurring metals and minerals.</p> <p>The Regional Board should address these issues by designating beneficial uses for waters which recognize and reflect the high variability of storm actions and the natural consequences of storms within various hydrological units. Doing so, the Regional Board could then establish water quality standards that unlike CTR-would both accommodate natural loads and not result in undue regulatory burdens.</p>	

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39-11	Construction industry Coalition on Water Quality	Nov 10, 2008	<p>Consider Atmospheric Deposition when Establishing Beneficial Uses and Water Quality Standards</p> <p>For several reasons, we recommend accounting for atmospheric deposition when properly establishing beneficial uses with storm water in mind. Specifically, we urge the Regional Board to work with its companion state and regional agencies such as the California Air Resources Control Board and South Coast Air Quality Management District when these agencies propose and adopt rules that have a clear connection to water quality protection. Furthermore, we urge the Regional Board to continue to work cooperatively with these agencies to ensure that the directive provided to the Regional Board in State Water Resources Control Board Resolution No. 2008-0046 is followed.</p> <p>Both construction sites and completed facilities are affected by atmospheric deposition far beyond the control of the property owner or site manager. Moreover, the concentrations of atmospheric deposition on construction sites, from time to time, and their fate in storm events are often linked to factors (such as wildfire or drought) beyond the control of the site owner or manager. Our industry's experience indicates that the costs of addressing storm water laden with airborne deposition is drastically high in relation to environmental benefit. Accordingly, CICWQ recommends that the beneficial uses and resulting water quality</p>	<p>While atmospheric deposition may contribute to background levels of certain pollutants, it cannot be viewed as a natural source to be factored into the development of water quality objectives and/or the consideration of beneficial uses. The Regional Board is aware of the contribution of atmospheric deposition to impairments in different waterbodies. In developing TMDLs, contributions from atmospheric deposition may in some circumstances be subtracted from pollutant loads before allocations are assigned to responsible jurisdictions to prevent responsible agencies under the TMDL from being unfairly assigned responsibility for pollutants beyond their control. However federal law requires that the total load of each pollutant in each water body be accounted for in one manner or another.</p> <p>UCLA researchers and SCCWRP are currently working to quantify atmospheric deposition in southern California for a number of constituents, some of which are pollutants. These include trace metals (copper, zinc, lead), hydrophobic organic compounds (DDT, PCB, PAH) and macro- and</p>

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			standards and objectives should be established taking into account particularly California Water Code § 13241(c), which requires consideration of the "[w]ater quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area".	micro-nutrients (iron, nitrogen, phosphorus). These data can help provide better estimates of the atmospheric contribution to pollution loadings in aquatic systems. See also Response to Comment 29-15.
39-12	Construction industry Coalition on Water Quality	Nov 10, 2008	<p>Consider Economic Impacts of Basin Planning and Resulting Impact on Housing and Housing Affordability</p> <p>California's commercial and residential development industry is a proven, major economic engine and provider of jobs. The home building industry alone in 2007 accounted for more than \$40 billion to the California economy, of which approximately one-half the direct result of new housing construction and the other half generated by those sectors which supply goods and services (Sharp et al, 2008). Recent events have shown, however, how threatened the industry can be. When the economic viability of this business sector is threatened by any combination of factors, the overall economy suffers.</p> <p>Certainly, one factor that threatens the economic viability of the homebuilding industry is the imposition of uncritically established water quality standards. At CICWQ, we have seen ever rising compliance and monitoring costs at our job sites and for the required engineering and technical analysis that must be performed to comply with ever stricter post-construction storm water quality requirements. Our membership predicts that we</p>	See General Response(s) 1, 2, and 3

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			<p>may be compelled to spend tens of thousands of dollars per housing unit to address potential hydromodification as well. Cumulatively, these costs become prohibitive. We therefore are concerned that such regulatory requirements are imposed with little or no consideration for the nature of the receiving water (which is, in many places, an engineered, lined, flood control channel). The impact of regulatory burdens on the affordability of housing has rarely been seriously examined, and must be by the Regional Board moving forward in revising the Basin Plan.</p> <p>California Water Code § 13241(d) is relevant here, and it requires consideration of economics in the context of naturally variable storm water generation and runoff patterns. Reasonable persons could probably disagree about how much money MS4 operators (and those discharging to these systems) should be required to spend to minimize anthropogenic pollution within their MS4s. That said, it will be essential moving forward to distinguish between anthropogenic pollution and natural sources of contamination, such as sediment or metals attached to sediment, during large rainstorms. The former should be reasonably controlled, whereas the latter should be excused.</p> <p>CICWQ members are certainly concerned about the inattention to date concerning natural loads. Current regulatory proposals seek to impose numeric effluent limits for turbidity, suspended solids, metals, or other naturally occurring contaminants - while</p>	

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			<p>nature may be concurrently discharging tens of millions -- or hundreds of millions -- of tons of sediment into the Pacific Ocean. Similarly, society must balance how much resources to expend to maintain a beneficial use such as full body contact (REC-1) when rainstorms create conditions in water bodies that are clearly unswimable or dangerous.</p> <p>Balancing for such concerns while taking into account economics is within reach of all stakeholders. Certainly the Regional Board and regulated community have available the analysis tools and capabilities needed for the task. One of CICWQ' s principal concerns is that the Regional Board has never meaningfully considered the cost of complying with its Basin Plan water quality standards using integrated, modern economic analysis tools and techniques.</p> <p>Specifically, a number of basic questions have never been considered by the Regional Board:</p> <ul style="list-style-type: none"> <li>• Who will bear the costs of complying with a given regulation as a result of enacting a particular water quality standard or objective?</li> <li>• What are the potential regional economic implications of the action?</li> <li>• What are the potential employment impacts of the proposed regulation?</li> <li>• What are the effects on business competitiveness?</li> <li>• What are the effects on housing availability</li> </ul>	

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			<p>and affordability?</p> <ul style="list-style-type: none"> <li>• What is the cost of enacting the standard/regulation in relation to the benefit being achieved?</li> </ul> <p>The best example of an analytical approach to the economics of storm water management comes from the University of California, Berkeley and the work of Dr. David Sunding. Working through various organizations and entities, Dr. Sunding has established a clear set of peer reviewed and tested methodological procedures that the State and Regional Boards should employ when both establishing water quality standards and objectives and in incorporating those standards and objectives into storm water permits (Sunding and Zilberman, 2005; Sunding 2007a; Sunding 2007b; Sunding 2008). In writings on this topic, Dr. Sunding has established a number of areas where the State and Regional boards should focus, including some of the most basic fundamentals of economic analysis. For example, some of the basic threshold level steps that must be followed in a meaningful economic analysis include:</p> <ul style="list-style-type: none"> <li>• Identify a baseline</li> <li>• List the benefits to be achieved</li> <li>• Identify alternative strategies to achieve the benefits</li> <li>• Estimate costs for each alternative</li> <li>• Assess uncertainty</li> <li>• Compare the cost effectiveness of each</li> </ul>	

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			<p>alternative</p> <ul style="list-style-type: none"> <li>• Compare costs to the benefits likely to be produced</li> </ul> <p>Finally we bring to the Regional Boards attention the pressing need to consider the effects of implementing Basin Plan water quality standards and the permits incorporating those standards on the creation of housing and housing affordability in particular. For example, we know that detailed analysis of the economic impact of implementing metals TMDLs on housing has not been performed in the past and a number of questions remain to be answered. By most estimates, complying with metals TMDLs will take an unprecedented financial effort to retrofit existing storm drain systems and install an array of different BMP systems to control urban pollutants. Extending this analogy, CICWQ also believes the Regional Board has been remiss in examining the economic impacts of specific MS4 permit provisions, such as the imposition of municipal action levels or sweeping changes in planning and land development requirements such as hydromodification control. We incorporate into our comments by reference a report prepared by Mr. Jack Humphries for the Gateway Cities Council of Government that examined the impacts on housing of the metals TMDL for the Los Angeles River.</p> <p>In his report, Mr. Humphries found that the Regional Board did not address the economic effects of implementing TMDL requirements on housing. We</p>	

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			<p>urge the Regional Board to perform this type of analysis when revising the Basin Plan:</p> <ul style="list-style-type: none"> <li>• Perform an assessment of housing needs and the impact of regulations on the creation of affordable housing</li> <li>• Determine the impact of a reduction in housing units as a consequence of TMDL implementation (for example, home and property condemnation required to install necessary storm water capture and treatment BMPs and appropriate compensation and relocation assistance for those displaced)</li> <li>• Determine the legal costs of property condemnation and acquisition and the potential environmental justice impacts</li> </ul>	
39-13	Construction industry Coalition on Water Quality	Nov 10, 2008	<p>Establishing a Storm Water Policy Chapter in the Basin Plan-Design Storm            CICWQ previously introduced above the recommendation to establish a Storm Water Policy Chapter in the Basin Plan to address more properly the climatic variables and the hydrologic unit characteristics that combined shape the extent of natural variability in stream response to storm events.</p> <p>We also strongly urge the Regional Board to consider and adopt "design storm" standards (both rainfall amount and intensity) for use in establishing water quality standards for wet weather events (in permits) and when considering appropriate high-</p>	See Response to Comments 2-16 and 12-6.

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			flow exemptions during wet weather storm conditions.	
39-14	Construction industry Coalition on Water Quality	Nov 10, 2008	Beneficial Use Designations CICWQ has previously provided to the Regional Board comments on the process to establish Beneficial Uses and suggested protocol and topical areas for revisions, notably in earlier correspondence to the Regional Board dated February 11, 2005. We maintain our view that the present beneficial use categories are not sufficiently refined to differentiate between different types of water bodies (ex: concrete lined v. soft bottom) and - most importantly - conform to different types of storm conditions. Moreover, there is no beneficial use category for flood protection, despite the fact many of the regions waterways have been engineered solely for this exact purpose.	See Response to Comments 1-4, 1-6 and 23-3.
39-15	Construction industry Coalition on Water Quality	Nov 10, 2008	Conclusion CICWQ trusts that the concepts set forth above, and the references cited above and listed again below, will assist the Regional Board in its current scoping effort for the pending Basin Plan review. Indeed, the Basin Plan needs more than a mere review; it needs and deserves a major overhaul. We look forward to working with the Regional Board and its staff as the difficult work is undertaken in the months and years ahead. If the Regional Board or its staff wishes to contact CICWQ, please use the following contact information: Dr. Mark Grey, CICWQ, 1330 S. Valley Vista Drive, Diamond Bar,	Comment noted.

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			CA 91765; 909-396-9993; <a href="mailto:mgrey@biasec.org">mgrey@biasec.org</a> .	
40-1	HTB, NRDC, SMBK	Nov 10, 2008	<p>The Basin Plan appropriately states that "...excess nitrogen in surface waters also leads to excess aquatic growth..." However, notably absent from this discussion and the WQO section of the Basin Plan is phosphorus. The chemical pollutants that most stimulate excessive aquatic vegetative growth and stimulate eutrophication are nitrogen and phosphorus. Both nutrients contribute to these conditions which impair beneficial uses. It is well established in the scientific literature that the impacts of nitrogen and phosphorus on algal growth are complex, involve numerous factors, and are often waterbody specific. Often, the importance of nitrogen and phosphorus will change with fluctuating conditions in the waterbody, so it is incorrect to make the broad generalization that one nutrient is limiting. Thus, the Regional Board should include a WQO for total phosphorus. Although not listed on the State's 303(d) List as impaired by phosphorus, the Regional Board appropriately includes a numeric target for total phosphorus in the adopted Machado Lake Nutrient TMDL.</p>	<p>Nutrient-related pollution significantly affects drinking water supplies, aquatic life, and recreational water quality. These impacts occur in all types of waterbodies – rivers, streams, lakes, estuaries, and coastal areas. Nutrient pollution is manifested in waterbodies as eutrophication. Eutrophication is defined by increased nutrient loading to a waterbody resulting in increased growth of phytoplankton and other aquatic plants. Additionally, other parameters such as decreased dissolved oxygen and water clarity can also indicate eutrophic conditions. Phosphorus and nitrogen are recognized as key nutrients for the growth of phytoplankton, algae, and aquatic plants and are responsible for the eutrophication of surface waters.</p> <p>A waterbody's biological response to nutrient loading is often what actually impairs the waterbody's beneficial uses. For example, increased nitrogen and phosphorus loading can lead to harmful algal blooms, which impair the beneficial uses of the waterbody. It is most useful to evaluate nutrient-related pollution in terms of both nutrient concentrations</p>

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				<p>and biological response indicators. Therefore, efforts to develop nutrient objectives have focused on both nutrient concentrations and biological response indicators.</p> <p>To date, through the combined work of the EPA Regional Technical Advisory Group (RTAG) and the State Board's State and Regional Technical Advisory Group (STRTAG), the <i>Technical Approach to Develop Nutrient Numeric Endpoints (NNE) for California</i> (July 2006) has been completed. This document provides technical information and NNE tools linking nutrient concentrations and biological response indicators for freshwater lakes and streams. The NNE framework and tools for lakes and streams are being evaluated in case studies and TMDLs throughout California. For example, an assessment of Malibu Creek was completed as one of four statewide NNE case studies, and Regional Board staff applied the NNE approach as part of the Machado Lake Nutrient TMDL. Additionally, there is a current STRTAG team developing an NNE framework and tools for California estuaries; Regional Board staff is part of this effort.</p> <p>The development of a NNE framework</p>

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				and tools for waterbodies in California is a critical step in developing nutrient water quality objectives. The State Board, with cooperation from the STRTAG, has assumed responsibility for the development of both the NNE and nutrient objectives for the State of California. Staff will continue to actively participate in the STRTAG in support of nutrient objectives as required by US EPA.
40-2	HTB, NRDC, SMBK	Nov 10, 2008	"Staff also reviewed the EPA Nutrient Criteria Technical Guidance Manual Lakes and Reservoirs (2000), which does not recommend setting a numeric target for total phosphorus greater than 0.1 mg/L. This guidance was relied upon for setting the numeric phosphorus and nitrogen numeric targets for Machado Lake. The phosphorus target is established as 0.1 mg/L as a monthly average concentration in the water column. To maintain a balance of nutrients for biomass growth and prevent limitation by one nutrient or another, a ratio of total nitrogen to total phosphorus of 10 is used to derive the total nitrogen numeric target of 1.0 mg/L as a monthly average concentration (Thomann, Mueller, 1987)." (Staff Report at 35, emphasis added).	Comment noted. See response to comment No. 40-1.
40-3	HTB, NRDC, SMBK	Nov 10, 2008	Acknowledging the risks posed by nutrients in the environment, states and local governments around the nation have taken action to decrease the discharge of phosphorous into waterways. In	Comment noted. See response to comment No. 40-1.

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			Washington, for example, House Bill 2322 was passed in 2006, prohibiting the sale of dishwasher detergent containing 0.5% of phosphorous or more statewide by 2010, a drastic decrease from the 9% limit previously established. <sup>2</sup> Washington passed a similar law for laundry detergents in 1993. <sup>3</sup> Other local governments have also looked towards similar legislation.	
40-4	HTB, NRDC, SMBK	Nov 10, 2008	Long-standing studies have recognized a causal relationship between nutrient inputs and eutrophication. A 1982 Organization for Economic Cooperation and Development (OECD) study determined that both nitrogen and phosphorus contribute to freshwater eutrophication <sup>4</sup> . A subsequent study performed in 2002 showed that significant breakpoint concentrations of N and P resulted in increased biomass of benthic stream algae. <sup>5</sup> The studies demonstrate that both nitrogen and phosphorous nutrient enrichment seriously impacts aquatic ecosystems and impairs beneficial uses.	Comment noted. See response to comment No. 40-1.
40-5	HTB, NRDC, SMBK	Nov 10, 2008	Eutrophication created by nitrogen and phosphorus inputs into waterways is the most common impairment of surface waters in the United States <sup>6</sup> . Although phosphorous is not considered directly toxic to humans and animals, it causes indirect toxic effects by stimulating toxic algal blooms or anoxic conditions. Anoxic conditions present a huge threat to marine life. Those aerobic organisms incapable of leaving the affected area die from lack of oxygen,	Comment noted. See response to comment No. 40-1.

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			<p>including mussels, coral, crustaceans, zooplankton, and even fish that swim too deep into anoxic zones. In addition, toxic algal blooms such as red tide can be fatal to humans that come in contact with the affected marine water. Additionally, Carpenter, et al. mention that blooms of cyanobacteria (blue-green algae) contribute to a wide range of problems, including summer fish kills, foul odors, unpalatability of drinking water, formation of trihalomethane (THM) disinfection byproducts, and release water-soluble neuro- and hepatoxins that can kill live-stock and may cause serious health hazards to humans if ingested<sup>8</sup>. Aesthetic impacts of eutrophication also impact recreation. Odors resulting from decaying algae make recreational areas undesirable to visitors. Waters impaired by nutrients are also unsuitable for drinking and use in industrial processes.</p>	
40-6	HTB, NRDC, SMBK	Nov 10, 2008	<p>Clearly, phosphorus on its own can contribute to the impairment of beneficial uses in Region 4. Thus in addition to a nitrogen WQO, the Regional Board should develop a WQO for total phosphorus. As staff mentions in the Machado Nutrient TMDL, the EPA Nutrient Criteria Technical Guidance Manual Lakes and Reservoirs (2000) does not recommend setting a numeric target for total phosphorus greater than 0.1 mg/L. Thus, this is a good starting point for the development of an appropriate WQO.</p>	<p>Comment noted. See Response to Comment 40-1.</p>
40-7	HTB, NRDC, SMBK	Nov 10, 2008	<p>While algae is an important component of the aquatic ecosystem, in excess amounts, algae can</p>	<p>Comment noted. See response to comment No. 40-1.</p>

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			<p>cause problems ranging from low oxygen levels to serious health concerns to mammals, including sea otters, dogs, and humans. Thus, excess algae is a pollutant that impairs beneficial uses. Currently there is no Basin Plan WQO that reasonably protects the beneficial uses of waterbodies in Region 4 from impairments caused by excess algal growth. Several narrative WQOs (e.g. Floating Material and Solid, Suspended, or Settleable Materials) can be related to algal growth but do not comprehensively cover the issue and protect beneficial uses. While a numeric nitrogen WQO exists and nutrients are known to be a factor in excess algal growth, nitrogen is not the sole contributor and its control may not reduce algal growth (see discussion in sections II.A. and III.C.). Thus, we urge the Regional Board to prioritize the development of a WQO for excess algal growth during the Triennial Review.</p>	
40-8	HTB, NRDC, SMBK	Nov 10, 2008	<p>Excessive plant biomass in a waterbody can greatly impact beneficial uses. For instance, "excess periphyton growth can lead to low dissolved oxygen levels and increased turbidity in the water column, which are harmful to fish and other aquatic life."<sup>9</sup> A recent study found extremely low night-time DO concentrations in areas of Malibu Creek with excess algae: "All sites with flowing water and &gt;30% algal cover had DO concentrations below reference condition values."<sup>10</sup> In addition, "benthic macroinvertebrates may be affected when periphyton grows on stream substrates and covers</p>	<p>Comment noted. See response to comment No. 40-1.</p>

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			important habitat." <sup>11</sup> Excess algae can also block sunlight, which in turn affects aquatic organisms. In addition, excess algae impairs other beneficial uses such as fishing, wading, boating, and aesthetic appreciation. <sup>12</sup> In some instances, outbreaks of toxic blue-green algae have even caused serious human health impacts.	
40-9	HTB, NRDC, SMBK	Nov 10, 2008	In the Machado Lake TMDL staff report, staff notes that excess algal growth may cause increased turbidity, altered planktonic food chains, reduced dissolved oxygen concentrations, increased pH levels and increased nutrient recycling. These changes can lead to numerous biological responses that ultimately impair beneficial uses such as Warm Freshwater Habitat (WARM), Water Contact Recreation (REC 1), and Non-contact Water Recreation (REC 2). <sup>14</sup> As an example the staff report states, "...elevated pH creates a harmful environment for organisms and can increase the concentration of ammonia potentially leading to direct toxicity of fish and other organisms. In addition, as these large phytoplankton populations and macrophytes die or break apart the decomposition process will consume oxygen and dramatically reduce the oxygen levels found in the lake. Low dissolved oxygen levels can become very stressful for fish and other organisms and may in fact lead to fish kills. Moreover, as the plant material is decomposed the nutrients are released and will recycle through the system.	Comment noted. See response to comment No. 40-1.

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40-10	HTB, NRDC, SMBK	Nov 10, 2008	<p>The impacts of nutrients such as nitrogen and phosphorus on algal growth are complex and involve numerous factors. Excessive nutrient loading is a major factor in excessive algal growth. However many factors, such as sunlight, phosphate levels, pH, flow and others, can contribute to algal growth. Thus, addressing nitrogen or phosphorus alone is not likely to solve the algae problem. In fact, the Technical Support Document prepared for the Calleguas Creek Nitrogen TMDL evaluates nitrogen and phosphorus data and concludes that "initial N:P calculations based on the CCCS data indicate phosphorus would be limiting over nitrogen in most of the watershed, if nutrients were the limiting factor."<sup>16</sup> The Report also notes that "nutrients may not be the limiting factor in much of the watershed."<sup>17</sup> This was demonstrated in Region 4 in a recent UCLA study which found that "the relationships between nutrients and algal or diatom cover differed in sunny versus shady sites. In shaded sites, algal cover was not significantly related to nutrient concentrations (i.e., light appeared to be the limiting factor for algal growth), while diatom cover was positively associated with total phosphorus and negatively associated with total nitrogen. In contrast, in unshaded sites algal cover was significantly related to nutrient concentrations (positively with nitrogen, negatively with phosphorus), while diatoms were negatively associated with nitrogen only. Other variables associated with the abundance of algae or diatoms include nitrogen, temperature, pH, and conductivity.</p>	Comment noted. See response to comment No. 40-1.

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40-11	HTB, NRDC, SMBK	Nov 10, 2008	<p>In short, the impacts of nutrients on algal growth are complex and involve numerous factors. In addition, the factors are often waterbody or even reach specific. Thus by solely addressing total nitrogen and nutrients, the Basin Plan fails to protect beneficial uses from excess algal growth impairments.</p> <p>Further, algal growth is often a better indicator of adverse effects on a waterbody than nitrogen concentrations, and is used as such by numerous environmental managers precisely because algal growth is sensitive to many environmental variables. For instance, the United States Geological Survey uses algae as an indicator in various studies due to the fact that "...as primary producers with rapid reproduction rates (days), attached algae would be expected to respond to physical and chemical changes in streams before macroinvertebrates or other fauna. Periphyton respond directly to many aspects of the stream environment that might be expected to change with land management practices including nutrients."<sup>19</sup> USEPA also recognizes algae as a biological indicator of watershed health. By using algal data in association with macroinvertebrate and fish data, the strength of biological assessments is optimized.</p>	Comment noted. See response to comment No. 40-1.
40-12	HTB, NRDC, SMBK	Nov 10, 2008	<p>A peer-reviewed study conducted in 2000 developed algae cover guidelines for environmental managers to use in water quality assessments.<sup>21</sup> This study determined that 30% is the maximum</p>	Comment noted. See response to comment No. 40-1.

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			cover of visible filamentous algae that will support recreation and habitat. <sup>22</sup> Although this Biggs guideline was developed for the New Zealand Ministry for the Environment, the study's findings have been applied by water quality managers in the United States. During the development of the Malibu Creek Nutrient TMDL, for instance, the LA Regional Board recommended that waters with algae cover exceeding 30% in at least 10% of samples be considered impaired by algae. <sup>23</sup> USEPA agreed, stating, "We believe it was appropriate to apply the Biggs guidelines in the screening-level exercise entailed by the Section 303(d) listing process.	
40-13	HTB, NRDC, SMBK	Nov 10, 2008	Excess Algae is a Pollutant that Impairs Beneficial Uses. CWA Section 502(6) expressly defines "pollutant" to include "biological materials." <sup>25</sup> Courts also have held that biological materials, such as algae, can be considered a pollutant if they impair beneficial uses. <sup>26</sup> Indeed, the definition of pollutant is meant to leave out very little.	Comment noted. See response to comment No. 40-1.
40-14	HTB, NRDC, SMBK	Nov 10, 2008	The "status quo" of having no specific WQO for excess algal growth in the Basin Plan will allow for further degradation of beneficial uses. Thus, it is important for the Regional Board to develop a WQO for excess algal growth during the Triennial Review process. In developing an appropriate WQO, the Regional Board should use the New Zealand quantitative methods as a starting point. In addition, the Regional Board should consider Harmful Algal	Comment noted. See response to comment No. 40-1.

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			Blooms (HAB5) occurring in nearshore ocean waters in Region 4 while developing these WQOs.	
40-15	HTB, NRDC, SMBK	Nov 10, 2008	In the last few years, it has become clear that emerging contaminants can cause potentially enormous water quality impacts. The Basin Plan includes several narrative WQOs that could relate to emerging contaminants, but there are no numeric limits explicitly for any individual emerging contaminants, and no WQO that comprehensively protects beneficial uses from emerging contaminants. In order to fully protect the beneficial uses of Los Angeles' waters, the Basin Plan must include at a minimum, a narrative Water Quality Objective for emerging contaminants, and where available science or monitoring data allows, numeric WQOs for individual emerging contaminants.	<p>The current water quality objective for toxicity in the Basin Plan comprehensively protects beneficial uses of the Region's waters from the potential impacts of emerging contaminants of concern. This narrative objective states that, "<i>all waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life.</i>"</p> <p>Many of the watersheds in the Los Angeles Region are dominated by effluent from major wastewater treatment facilities. Effluent from these facilities has been shown to contain myriad ECCs that pose risks to human health and aquatic life. As a result, the Regional Board has been proactive in requiring the semi-annual monitoring of certain emerging contaminants with approved EPA test methods as part of renewed municipal permit requirements. These contaminants include 1,4-dioxane, perchlorate, 1,2,3-trichloropropane, and methyl tert-butyl ether. The new provisions also require</p>

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				<p>bi-annual monitoring of endocrine disrupting chemicals and pharmaceuticals, as USEPA-approved analytical methods for these chemicals become available.</p> <p>As little is known about the occurrence and fate of emerging chemicals of concern in the Los Angeles Region, in 2009, Board staff developed a proposal to support a targeted regional survey of emerging chemicals of concern in priority watersheds, including Malibu Creek, Calleguas Creek, and the San Gabriel River. This project will assist in providing a baseline for the occurrence of some of the highest priority ECCs in these water bodies as well as an assessment of their fate in downstream sensitive coastal ecosystems and important groundwater recharge areas. Identifying where these ECCs are occurring is a necessary first step to addressing existing impacts due to ECCs through 303(d) listing and TMDL development, as well as protecting sensitive ecosystems and groundwater recharge areas from further impacts.</p> <p>Funding for this project is yet to be secured. However, Regional Board staff will continue to remain active in workgroups addressing this issue and</p>

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				keep up to date with the evolving science.
40-16	HTB, NRDC, SMBK	Nov 10, 2008	<p>Emerging contaminants-also known as contaminants of emerging concern (CECs), emerging pollutants, or non-regulated water contaminants-are newly recognized substances that are not yet fully regulated, but are increasingly found in the environment. According to the U.S. Geological Survey (USGS) "Emerging contaminants' can be broadly defined as any synthetic or naturally occurring chemical or any microorganism that is not commonly monitored in the environment but has the potential to enter the environment and cause known or suspected adverse ecological and(or) human health effects."<sup>28</sup> Two national-scale reconnaissance studies recently conducted by the USGS collected baseline information on the occurrence of pharmaceuticals and personal-care products (PPCPs), detergents, flame retardants, naturally occurring sterols, and other organic contaminants in ground water and untreated sources of drinking water in the United States. The results of these studies show the presence of these contaminants in 80% of the 139 streams tested across 30 states.<sup>29</sup> These contaminants are commonly derived from municipal, agricultural, and industrial wastewater sources and pathways<sup>30</sup>. Therefore, the Board must adopt objectives for these contaminants.</p>	See Response to Comment 40-15.
40-17	HTB, NRDC,	Nov 10, 2008	Emerging contaminants exist in the environment in	Comment noted see response to

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	SMBK		small amounts, but even these small amounts, alone or via the synergistic effects of multiple contaminants, can have significant effects on beneficial uses. Studies demonstrate that a number of these substances pose a threat to human health, marine ecosystems, and other wildlife.	comment No. 40-15
40-18	HTB, NRDC, SMBK	Nov 10, 2008	Research demonstrates that pharmaceuticals and personal care products (PPCPs) are very important contributors to toxicity in wastewater <sup>3</sup> . Significant amounts of PPCPs enter the environment from various inputs, including animal feedlots, land application of organic materials, and wastewater treatment plants that treat residential, commercial, and/or industrial wastewater <sup>32</sup> . Numerous studies have shown detrimental impacts of PPCPs on wildlife. For example, studies have shown that certain synthetic musks found in fragrances (commonly found in perfumes, shampoos, and lotions) have been found to cause mutation in lab rats <sup>33</sup> , and to inhibit the toxin defense system of certain marine mussels <sup>34</sup> . In addition, N-nitrosodimethylamine (NDMA), an emerging disinfection byproduct from the use of chloramines as disinfectant, has been linked to the occurrence of gastric cancer.	Comment noted see response to comment No. 40-15
40-19	HTB, NRDC, SMBK	Nov 10, 2008	As for pharmaceuticals, the state of California has already taken action to reduce the incidence of them in the environment by passing Senate Bill 966, a bill aimed to prevent the flushing of unused medical prescriptions down the toilet. These constituents are	Comment noted see response to comment No. 40-15

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			<p>often found in treated wastewater because they are continually input, are sometimes recalcitrant, and require high level treatment methods for removal.<sup>36</sup> The State's action demonstrates the recognition by California that regulatory actions are appropriate at this time to protect public health, and thus the Water Board's duties under the Clean Water Act are clearly triggered.</p>	
40-20	HTB, NRDC, SMBK	Nov 10, 2008	<p>Studies performed in California have demonstrated evidence of exposure and effects of emerging contaminants on marine life on a local basis. According to study performed by the Pacific Estuarine Ecosystem Indicator Research Consortium (PEEIR), reproductive abnormalities and endocrine disruption is evident in long jawed mudsucker (<i>Gillichthys mirabilis</i>), a salt marsh fish considered a sentinel species, at five wetland sites along California's coast where runoff and sewage treatment effluent are discharged<sup>37</sup>. In addition studies in southern California have revealed hormone alterations, and reproductive abnormalities in coastal flatfish near treatment plant outfalls due to exposure to emerging contaminants. Gender ratios of the hornyhead turbot (<i>Pleuronichthys verticalis</i>) showed a trend toward masculinization at the Orange County Sanitation District outfall.<sup>38</sup> Furthermore, endocrine disruption was potentially evident at this site as male fish were shown to have equivalent concentrations of blood egg yolk protein as those observed in female fish<sup>39</sup>. These are merely a few examples of the studied impacts of</p>	Comment noted see response to comment No. 40-15

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			<p>emerging contaminants on the environment. There are a multitude of concerns, given existing research demonstrates how marine life is already being impacted by these contaminants. Human health may be at risk as we directly consume affected species, irrigate crops with water containing harmful levels of PPCPs, perpetuate environmental bacteria developing a resistance to antibiotics that make their way into waterways, or even drink water containing traces of these constituents.</p>	
40-21	HTB, NRDC, SMBK	Nov 10, 2008	<p>Recognizing the dangers that emerging contaminants pose to aquatic life in the Los Angeles region, the Regional Board has already begun to insert effluent monitoring requirements for emerging contaminants in recently renewed NPDES permits. For example, the permit for Ventura Water Reclamation Facility<sup>40</sup> included biannual monitoring for a suite of emerging contaminants with approved EPA test methods including: 1,4-dioxane (USEPA 8270c test method), perchlorate (USEPA 314 test method), 1,2,3-trichloropropane (USEPA 504.1 or 8260B test method), and methyl tert-butyl ether (USEPA 8260B test method). In addition, the permit requires biannual monitoring for a suite of known endocrine disrupters including: ethinyl estradiol, 17-B estradiol, estrone, bisphenol A, nonylphenol and nonylphenol polyethoxylate, octylphenol and octylphenol polyethoxylate, and polybrominated diphenyl ethers.</p>	<p>Comment noted see response to comment No. 40-15</p>
40-22	HTB, NRDC,	Nov 10, 2008	<p>Also the State Board's blue ribbon advisory panel</p>	<p>The Regional Board intends to fully</p>

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	SMBK		on the Water Reuse Policy acknowledges the importance of contaminants of emerging concern. A provision of the draft State Recycled Water Policy states, "specific CECs [contaminants of emerging concern] for which reliable analytical methods are available that should be monitored annually in recycled water." <sup>41</sup> This Policy is scheduled to come before the State Board in January 2009.	implement the directives of the Recycled Water Policy in the Los Angeles Region, including any monitoring requirements for CECs.
40-23	HTB, NRDC, SMBK	Nov 10, 2008	Both the State Board and Regional Board agree on significance of these emerging threats to aquatic life and human health. Where available science or monitoring data allows, the Regional Board should therefore include numeric WQOs for individual emerging contaminants. It is crucial that the Basin Plan provide at a minimum a narrative WQO to ensure beneficial uses are protected. A water quality objective for emerging contaminants is necessary considering the continuously growing body of literature demonstrating the acute and chronic adverse effects of emerging contaminants and endocrine disrupting chemicals. Aquatic organisms may be the first life forms exposed to such contaminants, but it is important to remember that humans can also be exposed to such chemicals. Accounting for these chemicals is critical to protect aquatic life and human health, and creating a water quality objective will make this a priority in the Los Angeles Region. We offer the following narrative WQO as a starting point for the WQO:	Comment noted see response to comments Nos. 40-15 and 40-22

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			<p>"Surface waters shall not contain concentrations of emerging contaminants or endocrine disrupting chemicals in concentrations which independently or in combination pose any adverse impacts to any beneficial use."</p>	
40-24	HTB, NRDC, SMBK	Nov 10, 2008	<p>Currently, there is no WQO in the Basin Plan to comprehensively protect the biological integrity in the surface water environment. The diversity and sensitivity of the various species within a stream environment are important indicators of stream health. For instance, healthy communities tend to have a diverse set of invertebrate species, while degraded communities often have fewer sensitive species and a higher proportion of hardy species. Based on these principles, an index of biological integrity ("IBI") focuses on specific metrics to provide a comprehensive measure of stream health. The IBI scores provide a quantitative measure of impairment. The California Water Code defines a water quality objective as, "the allowable limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses...".<sup>42</sup> Therefore, a WQO based on biocriteria is appropriate, and we urge the Regional Board to develop a WQO based on biocriteria during the Triennial Review.</p>	<p>Individual water quality objectives do not always fully protect beneficial uses from multiple stressors or the cumulative effects of multiple pollutants. Furthermore, new chemicals are constantly emerging in the environment, and it is not always possible to immediately identify the cause of biological impairment. The Regional Board agrees that biocriteria are effective regulatory tools for assessing the overall health of the aquatic community and for identifying possible impairments or degradation caused by cumulative impacts or emerging chemicals that might not otherwise be identified using physical and chemical measures alone.</p> <p>The Los Angeles Regional Board and others in California have begun to include biological condition monitoring in water quality assessments, however, there are currently no biological objectives to protect against impaired conditions. State Board is in the process</p>

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				<p>of developing the technical tools and infrastructure needed to directly measure biological endpoints, and will eventually establish a regulatory framework for using these tools. Recently, State Board received grant funding (ARRA 604(b), i.e. federal stimulus funding) to be applied towards further developing these objectives. Work to be conducted under this grant includes the compilation and generation of statewide GIS data on natural attributes (such as hydrology, geology and climate) and anthropogenic stressors (such as land use, hydromodification, and population density) that influence biological conditions. Based on this information, potential reference sites will be identified and grouped to determine how many natural classes of streams are needed to support statewide bio-objectives. Grouping will be based on similarities in biological conditions, which will be determined from existing biological data. Finally the information collected will be used to describe the relationship(s) between human development stressors and biological response. The projected is scheduled to commence in early 2010.</p> <p>Regional Board staff will provide</p>

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				support, as necessary, in developing a statewide narrative objective for biological integrity, and the development of numeric objectives for biological integrity.
40-25	HTB, NRDC, SMBK	Nov 10, 2008	The California Department of Fish and Game ("CDFG") developed the Index of Biological Integrity ("IBI") in 2002 for the San Diego Region and adapted the methodology to all of southern California in 2005. <sup>43</sup> The IBI provides a quantitative means of evaluating the biotic conditions of a waterbody by analyzing seven metrics (EPT Taxa, Predator Taxa, % Individuals, % Intolerant, % Non-Insect, % Tolerant). <sup>44</sup> The metrics are evaluated at a specific site and then converted to a score between 0 and 100 (zero being the worst case scenario). The study's authors chose two standard deviations below the mean reference site score to develop the impairment threshold. An IBI score of 39 is established as the boundary between "fair" and "poor" biological conditions, and a score of 20 is the division between "poor" and "very poor" biological conditions.	Comment noted. See response to comment No. 40-24
40-26	HTB, NRDC, SMBK	Nov 10, 2008	Readily available IBI score data indicate biological community impairment in numerous stream reaches located in Region 4. IBI scores compiled in the CDFG study show that 22 monitored reaches in Region 4 have IBI scores within the poor and very poor ranges, indicating biological impairment (see Attachment B, Table 1). <sup>46</sup> In addition, Los Angeles	Comment noted. See response to comment No. 40-24

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			<p>County and the Ventura County Watershed Protection District have calculated IBI scores for various water segments in Region 4.<sup>47</sup> These scores are shown in Attachment B, Tables 2 and 3. As seen in the highlighted sections, there are sixteen sites of the twenty-seven sites with flow with scores at or below 39 (59%). In addition, monitoring efforts by Heal the Bay in the Malibu Creek Watershed indicate seven sites with low IBI scores (see Attachment B, Table 4).<sup>48</sup> These extremely low IBI scores indicate a beneficial use impairment. Beneficial uses are not being protected in waterbodies with an IBI score less than 39.</p>	
40-27	HTB, NRDC, SMBK	Nov 10, 2008	<p>In the recent report released by the National Research Council, Urban Stormwater Management in the United States, the authors discuss the need for biological criteria and suggest the triennial review process as an appropriate forum for the development of such criteria. 4</p> <p>"Whenever beneficial uses pertain to living organisms (aquatic life or humans), representing the vast majority of all cases, objectives should be largely in biological terms. That is not to say that supplementary objectives cannot be stated otherwise (e.g., in terms of flow characteristics, chemical water quality constituents, or habitat attributes), but the ultimate direct thrust of the program should be toward the biota... Where the beneficial use is fish protection and propagation, biological criteria might include... maintenance of a numerical index (e.g.,</p>	Comment noted. See response to comment No. 40-24

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			<p>benthic index of biotic integrity) when a fish species of ultimate interest cannot be assessed so conveniently but is known or reasonably hypothesized to be associated with the index..."</p> <p>"... living organisms consuming or living in water are subject to a vast multitude of simultaneous physical and chemical agents having the potential to harm them individually and interactively. There are no realistic prospects for research to determine the levels of these numerous agents that must be maintained to support beneficial uses. Therefore, their integrative effects must be determined using measures of biological populations or communities of interest... An opportunity to do so exists through the triennial review already required for each state's water quality standards."</p> <p>The status quo of failing to comprehensively address biological community health in the Basin Plan is unacceptable and does not move the Region in the direction of protecting beneficial uses. Thus, a water quality objective is needed to address biological community integrity. The biocriteria developed by CDFG is a good place to start the WQO development process.</p>	
40-28	HTB, NRDC, SMBK	Nov 10, 2008	The Basin Plan includes a narrative WQO for exotic vegetation: "Exotic vegetation shall not be introduced around stream courses to the extent that such growth causes nuisance or adversely affects beneficial uses." This WQO is appropriate as exotic	The SWRCB's mission is to preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future

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			<p>vegetation can out-compete native vegetation and lead to severe water quality impairments. However, a comparable WQO addressing exotic species is notably absent from the Basin Plan. Thus, the Regional Board should prioritize the development of an exotic species WQO during the Triennial Review process. Another alternative is for the Regional Board to modify the existing exotic vegetation WQO-to an encompassing WQO designated "exotic species".</p>	<p>generations. The SWRCB and Regional Boards have been working in support of, and in an advisory capacity to, other state agencies on various aquatic invasive species (AIS) activities, such as hull fouling and ballast water management. Invasives come under the State and Regional Boards' purview as part of the state's efforts to implement and enforce the Clean Water Act.</p> <p>A 2005 federal court ruling defined non-indigenous species as "pollutants" present in discharges from vessels and found that such discharges are not exempt from permitting requirements. In terms of AIS management activities, some of the Regional Boards have also sought to place specific water bodies within their regions on the CWA section 303(d) list, as impaired by exotics. San Francisco Bay was listed in 1998. In 2006, the State Board placed the Delta, the Cosumnes River and a portion of the San Joaquin River on the 303 (d) list. Once on the 303(d) list, the Regional Boards are required to develop discharger/source based programs for managing pollutants, including the determination of "total maximum daily loads" (TMDLs), which in the case of exotics have proved somewhat difficult to develop. Trying to</p>

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				<p>allocate loads or goals for zero loads, among dischargers, water users and municipalities is challenging when most of the water bodies in question are already heavily invaded. Despite the implementation challenges, the San Francisco Bay Regional Board's work on the state's first exotics TMDL did, however, widely publicize the problem and led to other successful AIS management and legislative programs. Other regional boards have become involved in AIS-related water quality issues through watershed management projects, non-point source pollution management programs and wetland mitigation and restoration programs (raising issues about the use of non-native aquatic plant species for these programs, and the control of invasives, for example). The State Board has also participated in AIS management activities concerning the use of aquatic pesticides. The Regional Board may consider in the future expanding the current narrative objective for exotic vegetation to cover exotic species generally – both flora and fauna.</p>
40-29	HTB, NRDC, SMBK	Nov 10, 2008	There are numerous data sets and studies documenting both the numbers of native and non-native invasive species in the Santa Monica Bay Watershed. The studies include peer reviewed;	Comment noted. See response to comment No. 40-28.

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			<p>articles, detailed mapping surveys, snorkel survey results, and electro fishing results conducted in coastal watersheds that drain into Santa Monica Bay. Summaries of several of these studies are included in Attachment A. Substantial data also exists regarding dramatic declines in native species abundance in these drainages. The species decline is so severe that all the native fish species are either federally endangered, or on the State list of species of special concern. Numerous research projects and studies have documented how the existing populations of exotic invasive predator species that occupy the Santa Monica Bay Watershed directly reduce the population numbers of the protected native species.</p>	
40-30	HTB, NRDC, SMBK	Nov 10, 2008	<p>Exotic species are clearly impacting beneficial uses in many reaches in Region 4, which contain populations of sensitive and federally endangered species such as the California red-legged frog that are particularly sensitive to the addition of invasive species into the ecosystems. Attachment A presents ample data as to the distribution of exotic invasive predator species and their impacts on the dwindling population of native aquatic species in the Santa Monica Mountains and Simi Hills. There is an urgent need to protect the remaining populations of native aquatic species whose abundance have declined so drastically that all are currently protected by the State of California, the Federal government or both. Thus, we urge the Regional Board to develop a WQO for exotic species during</p>	<p>Comment noted. See response to comment No. 40-28.</p>

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			the Triennial Review.	
40-31	HTB, NRDC, SMBK	Nov 10, 2008	<p>The bacteriological water quality criteria recommended in the Ambient Water Quality Criteria for Bacteria developed by EPA in 1986 are based on an estimate of bacterial indicator counts and gastrointestinal illness rates. Using a conservative measure of 75% confidence, health officials at EPA adopted, among others, the following risk levels for swimmers at freshwater beaches:</p> <p><u>Fresh Water</u></p> <ul style="list-style-type: none"> <li>• Geometric Mean <ul style="list-style-type: none"> <li>o Enterococcus---33 per 100 ml of sample water</li> </ul> </li> <li>• Single Sample <ul style="list-style-type: none"> <li>o Enterococcus---61 per 100 ml of sample water</li> </ul> </li> </ul> <p>It is important that the Basin Plan be updated to state that bacteria standards can be met via either existing E. coli density levels or the above Enterococcus standards. These Enterococcus standards were included in the 1986 Ambient Water Quality Criteria due to the correlations that were found between the density of Enterococcus and E. coli and human health. While historically E. coli has been used as the indicator of choice, Enterococci is equally acceptable as a freshwater standard. The EPA believes the use of either of E. coli and/or Enterococci as indicators can help prevent acute gastrointestinal illness caused by ingestion of water from fecally contaminated waterbodies.</p>	<p>As the commenter states, EPA recommended either the use of E. coli or enterococcus criteria in fresh waters in its 1986 document, "Ambient Water Quality Criteria for Bacteria". Most states that updated their water quality criteria on the basis of EPA's 1986 recommendations chose to use E. coli as their fresh water criteria. In 2001, the Los Angeles Regional Board updated its Basin Plan and also chose to use E. coli as the water quality objective for fresh waters.</p> <p>The Regional Board acknowledges that the state of the science is evolving. There is on-going research on new criteria, including local epidemiological studies and methodological developments in the fields of rapid indicators and microbial source tracking. The Board will continue to follow the progress of the science and will make changes to the bacteria objectives based on EPA's recommendations.</p>

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			<p>While these studies took place at beaches impacted by wastewater sources, multiple research studies since this time have continued to show a positive correlation between these bacteria and swimmer health (Wade et. al, 2003). Since the initial standards were developed, scientists have learned new information pertaining to microbiology and virology that have allowed federal entities to reexamine their water quality standards. New studies are now underway to "develop up-to-date, scientifically defensible criteria to protect people from exposure to contaminated recreational waters". These studies are the basis for a revised criterion that will be published in 2012. Preliminary results are continuing to show a strong correlation between Enterococcus and human health. It is of the utmost importance that these federal standards remain unchanged in the Basin Plan until these new, stronger criteria are released.</p>	
40-32	HTB, NRDC, SMBK	Nov 10, 2008	<p>Toxicity WQOs are critical in protecting beneficial uses. This WQO acts as a type of "safety net" for protecting beneficial uses from synergistic chemical impacts and chemicals that are not individually monitored or limited in effluent, such as the CTR. However in order to fully protect beneficial uses, a numeric toxicity limit must be included for chronic toxicity and mixing zones should be removed from the WQO. Thus, we urge the Regional Board to prioritize the toxicity WQO and include these recommended revisions.</p>	<p>The US EPA Region IX and X Guidance for Implementing Whole Effluent Toxicity (WET) Testing Programs document provides guidance to permit writers and States on how to best implement EPA's National Pollutant Elimination System (NPDES) regulations regarding appropriate WET limitations and monitoring requirements in NPDES permits. The guidance incorporates information on whole effluent toxicity</p>

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			<p>The Los Angeles Basin Plan includes a narrative water quality objective for toxicity: "All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life." Acute and chronic aquatic bioassay tests, also called whole effluent toxicity tests ("WET"), are used to determine compliance with this water quality objective. When mortality is the result of an organism's exposure to a sample of water, this is called acute toxicity. Specifically, the Basin Plan states:</p> <p>"There shall be no acute toxicity in ambient waters, including mixing zones. The acute toxicity objective for discharges dictates that the average survival in undiluted effluent for any three consecutive 96-hour static or continuous flow bioassay tests shall be at least 90%, with no single test having less than 70% survival when using an established USEPA, State Board, or other protocol authorized by the Regional Board. " (Basin Plan)</p> <p>When the detrimental physiological effects are less acute than mortality-effects on growth, reproduction, and development, for example-chronic toxicity is present, and the Basin Plan specifically states:</p> <p>"There shall be no chronic toxicity in ambient waters outside mixing zones. To determine compliance with this objective, critical life stage tests for at least three species with approved testing protocols shall be used</p>	<p>requirements from supporting EPA documents such as the Technical Support Document for Water Quality-based Toxics Control [EPA/505/2-90-001, March 1991], commonly referred to as the TSD. The US EPA Region IX and X Guidance for Implementing Whole Effluent Toxicity Testing Programs document is designed to implement national policy on the issues, however, it is not intended to supersede any established State program. In the State Implementation Policy (SIP) the State Board provided some guidance for California regarding toxicity, however, the SIP lacked specificity.</p> <p>NPDES permit writers in Region 4 used US EPA Region IX and X Guidance for Implementing Whole Effluent Toxicity Testing Programs, the TSD, and the SIP as the basis for including numeric final effluent limitations for chronic toxicity in NPDES permits for Publicly Owned Treatment Works (POTWs). US EPA, environmental groups and other Regional Boards supported that approach. However, the permits were petitioned to the State Board [SWRCB/OCC Files A-1496 &amp; A-1496(a) Los Coyotes/Long Beach Petitions]. The State Board reviewed the circumstances warranting a numeric</p>

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			<p>to screen for the most sensitive species. The test species used for screening shall include a vertebrate, an invertebrate, and an aquatic plant. The most sensitive species shall then be used for routine monitoring. "(Basin Plan)</p> <p>The Basin Plan's narrative toxicity water quality objectives are absolutely critical for protecting many of the beneficial uses in the region's waters, and we strongly suggest they be strengthened to reflect current scientific understanding by adding a numeric chronic toxicity objective, as follows.</p>	<p>chronic toxicity effluent limitation when there is reasonable potential. On September 16, 2003, at a public hearing, the State Board adopted Order No. WQO 2003-0012, deferring the issue of numeric chronic toxicity effluent limitations until Phase II of the SIP is adopted. In the meantime, the State Board replaced the numeric chronic toxicity limit with a narrative effluent limitation and a 1 TUC trigger, in the Long Beach and Los Coyotes WRP NPDES permits. This issue is presently under review, but national litigation on the WET program (now resolved) postponed this issue such that it could not be addressed as part of the Phase II revisions to the SIP.</p> <p>NPDES permit writers in Region 4 are currently using 1 TUC as a trigger for accelerated monitoring, based on the State Board's precedential Order No. WQO 2003-0012. The permits also contain a reopener to allow the Regional Board to modify the permit, if necessary, consistent with any new policy, law, or regulation. State Board is currently developing a statewide toxicity policy. Future Regional Board permits and TMDLs will be consistent with and implement the statewide policy.</p>

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40-33	HTB, NRDC, SMBK	Nov 10, 2008	<p>WET testing is the only type of testing under the NPDES program which can assess the aggregate effects of pollutants as well as the effects of unknown pollutants like emerging contaminants. Effluent limitations included in Regional Board permits are developed for individual constituents. WET testing is the only test conducted for NPDES discharges which attempts to estimate the biological effects of the melting-pot of effluent constituents, and it is the only test which would detect toxic effects of chemicals which are not monitored, like emerging contaminants. In its Technical Support Document for Water Quality-based Toxics Control, the EPA states: "Whole effluent toxicity is a useful parameter for assessing and protecting against impacts upon water quality and designated uses caused by the aggregate toxic effect of the discharge of pollutants."<sup>53</sup> It is estimated that almost 100,000 chemicals are used commercially. Approximately 2,300 new chemicals are submitted to the U. S. Environmental Protection Agency Office of Pollution Prevention and Toxics each year, and only about 5% of those have eco-toxicity data.<sup>4</sup> Even the U.S. EPA has confirmed the unique and critical nature of WET testing.</p> <p>While the numerical restrictions comprise the backbone of the permitting system, EPA has found that, standing alone, these limits are not sufficient. Effluents may contain many different pollutants. Even if no single pollutant were present in a harmful amount, the mix of different pollutants still might have negative effects upon aquatic organisms.<sup>55</sup></p>	See Response to Comment 40-32

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40-34	HTB, NRDC, SMBK	Nov 10, 2008	<p data-bbox="821 310 1503 711">Numeric limits for acute and chronic toxicity, as recommended by EPA, are the only way to ensure the protection of beneficial uses in the Region and, therefore, a numeric WQO should be included in the Basin Plan for chronic toxicity. Although the Basin Plan includes numeric limits for acute toxicity, it lacks the necessary numeric limits for chronic toxicity. Guidance for the implementation of toxicity tests in the NPDES program is provided by EPA in the Technical Support Document for Water Quality-based Toxics Control, and it calls for acute and chronic toxicity numeric toxicity limits.</p> <p data-bbox="821 748 1503 1045">EPA 's recommended criteria for whole effluent toxicity are as follows: to protect aquatic life against chronic effects, the ambient toxicity should not exceed 1.0 chronic toxic unit (TUc) to the most sensitive of at least three different test species. For protection against acute effects, the ambient toxicity should not exceed 0.3 acute toxic units (TUc) to the most sensitive of at least three different test species.<sup>56</sup></p> <p data-bbox="821 1083 1503 1341">The Basin Plan follows the recommendations of the EPA only in part, by having a numeric limit for acute toxicity. However, the Basin Plan is less protective than the EPA Guidance by not having a numeric limit of 1.0 TUc. Similar to acute toxicity, chronic toxicity is measured by chronic toxicity units, or TUc<sup>57</sup>. However, chronic toxicity units are calculated slightly differently. 1.0 TUc means 100% of the</p>	See Response to Comment 40-32

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			<p>water sample gives no observable effect of toxicity for the biological endpoint; a TUc value over 1.0 means that the water being tested had to be diluted in order to reach a concentration at which no toxic effects were observable. In other words, a TUc value over 1.0 indicates that there is some toxicity present in the water sample that may impact beneficial uses, and hence why the EPA recommended it as a limit.</p> <p>Recently in August 2008, the EPA sent a letter to the Los Angeles Regional Board in response to three draft NPDES permit renewals (Hill Canyon Water Reclamation Plant, the Simi Valley Water Quality Control Plant, and the Camarillo Water Reclamation Plant) which were drafted without numeric limits and simply with chronic toxicity triggers of 1.0 TUc. All three plants are subject to the waste load allocation of 1.0 TUc which was established by the Los Angeles Regional Board in the 2005 Calleguas Creek Watershed Toxicity TMDL. In this recent letter, the EPA states that it "does not believe that a whole effluent toxicity trigger alone is fully effective because it does not by itself restrict the quantity, rate, or concentrations of pollutants in an effluent."<sup>58</sup> The letter goes on to say that "without WET limits, permitting authorities cannot assure that water quality standards for chronic toxicity will be attained."<sup>59</sup></p> <p>Thus, in the same way that the acute toxicity water quality objective specifies numeric limits, the chronic toxicity water quality objective should as well. A</p>	

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			<p>numeric limit of 1.0 TUc is critical to adequately protect aquatic life.</p>	
40-35	HTB, NRDC, SMBK	Nov 10, 2008	<p>Mixing zones should not be included in the toxicity WQOs. Mixing zones are currently allowed for in the acute toxicity WQO. However, they do not promote an accurate portrayal of the toxicity at initial discharge and therefore are not adequately protective of aquatic life and beneficial uses. Allowing a mixing zone near an outfall will mean that test results show a greatly diluted sample. This will not give an accurate measurement of toxicity originating from the pipe and more importantly, will not be protective of aquatic life inhabiting the mixing zone and surrounding areas.</p> <p>Thus, in order to fully protect beneficial uses, a numeric toxicity limit must be included for chronic toxicity and mixing zones should be removed from the WQO. Thus, we urge the Regional Board to prioritize the toxicity WQO and include these recommended revisions.</p>	<p>See response to comment No.40-32.</p> <p>Also, the Basin Plan stipulates that, on a case-by-case basis, although rare in inland waters, the Regional Board may allow a <i>mixing zone</i> for compliance with receiving water objectives. In rivers and streams, an approved mixing zone may not extend more than 250 feet from the point of discharge or be located less than 500 feet from an adjacent mixing zone. In lakes or reservoirs, it may not extend more than 25 feet in any direction from the discharge point, and the sum of mixing zones may not be more than 5% of the volume of the water body.</p> <p>Mixing zones are also addressed for priority toxic pollutants (but not conventional pollutants) in the State Implementation Policy. As detailed in the State's Ocean Plan, ocean dilution zones are determined using standard models. Since many of the streams in the Region have minimal upstream flows and therefore minimal dilution of effluent, mixing zones are usually not appropriate.</p>

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40-36	HTB, NRDC, SMBK	Nov 10, 2008	<p>The Basin Plan currently includes the following water quality objective for nitrogen: "Waters shall not exceed 10 mg/l nitrogen as nitrate-nitrogen plus nitrite-nitrogen, 45 mg/l as nitrate, 10 mg/l as nitrate-nitrogen, or 1 mg/l as nitrite-nitrogen or as otherwise designated in Table 3-8." The total nitrogen water quality objective of 10 mg/l is based on drinking water standards and is not protective of aquatic life beneficial uses. Thus, the Regional Board must prioritize the Nitrogen (Nitrate, Nitrite) water quality objective for revision in the Triennial Review process.</p> <p>The water quality objective of 10 mg/l is based on a Department of Health Services drinking water standard. Drinking water standards account for human health, not aquatic health. These levels are intended to address the drinking water standard of 8-10 mg/l nitrate plus nitrite, which is necessary to prevent toxicity to human infants (methemoglobinemia, also known as blue baby syndrome). They are not adequate to address aquatic life uses. Aquatic life is much more sensitive to increases in total nitrogen concentrations and the potential impacts resulting from nutrient increases in waterbodies such as algal growth. Thus, the current water quality objective is not sufficiently protective of all beneficial uses. In fact, the Regional Board acknowledges this fact in their 2008 Staff Report for the Machado Lake Eutrophic, Algae, Ammonia, and Odors (Nutrient) TMDL:</p>	See response to comment No. 40-1

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			<p>"Regional Board staff interpreted the narrative biostimulatory substances water quality objective in the Basin Plan and concluded that the existing numeric nitrogen objective is not supportive of the narrative biostimulatory substance water quality objective. The nitrogen objective (10 mg/L) in the Basin Plan is based on criteria acceptable for drinking water and not appropriate to address eutrophic conditions in the lake. A review of available data and scientific literature demonstrates that the numeric objective of 10 mg/L for nitrogen is not sufficiently protective for controlling excessive algal/macrophyte growth and the symptoms of eutrophication in the lake. Therefore, the numeric target for total nitrogen will be more stringent than the existing numeric nitrogen objective in the Basin Plan to ensure attainment of the narrative biostimulatory substances water quality objective. The TMDL and its numeric targets must be developed to ensure protection of all the beneficial uses and attainment of nutrient related water quality objectives specified in the Basin Plan." (Staff Report at 32, emphasis added).</p> <p>As a result of this assessment, the Machado Lake Nutrient TMDL includes a total nitrogen numeric target of 1.0 mg/L as a monthly average concentration. In addition the current Nutrient TMDL for Malibu Creek, adopted by USEPA in 2003, provides summer season water quality objectives of 1.0 mg/1 total nitrogen and 0.1 mg/1 total phosphorous. However data show that even a total</p>	

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			<p>nitrogen limit of 1.0 mg/1 may not be sufficiently protective of aquatic beneficial uses. As seen in Table 3, data collected by Heal the Bay from Malibu Creek show that there are reaches with total N and total P concentrations below these targets that produce algal growth in excess of the nuisance limit of 30% coverage. 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."<sup>60</sup> Thus, even the low targets for nitrogen in the TMDLs are inadequate to protect aquatic life. Other established nitrogen criteria for protection of aquatic life also are significantly lower. For instance, USEPA established a guidance value for CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) of 0.38 mg/1 total nitrogen and 0.022 mg/1 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). Clearly, the current water quality objective of 10 mg/1 is not sufficiently protective of all beneficial uses and should be appropriately revised.</p>	
40-37	HTB, NRDC, SMBK	Nov 10, 2008	We believe that section 13241 of the Water Code permits the Regional Board to designate beneficial uses as "potential" uses. However, to the extent that	See GR-1

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			<p>the Regional Board may be barred in the future from doing so, the Regional Board should use this opportunity to determine which beneficial uses that are currently designated "potential" would instead fall into the category of "probable future" uses, to the extent there is, in fact, any distinction between the two. (See Wat. Code § 13241.)</p> <p>For instance, in 1988 the State Board recognized the importance of protecting all surface and ground waters as suitable, or potentially suitable, for municipal or domestic water supply. Arid southern California is particularly vulnerable to water supply shortages. And in the past 20 years, drought, population increases, and climate change make it clear that in southern California, protecting as many water bodies as possible as future drinking water supplies to be used when the need arises is an increasingly relevant and urgent matter. Thus, water bodies currently designated as potentially suitable for water supply should be re-examined as to whether they actually fall into the category of probable future uses, to the extent there is a distinction between the two.</p>	
40-38	HTB, NRDC, SMBK	Nov 10, 2008	One of Congress' five national policies in enacting the Clean Water Act, enunciated in the Act's first section, is the elimination of the discharge of toxic pollutants in toxic amounts. (33 U.S.C. § 1251(a)(3).) To achieve this goal, EPA set toxics criteria for the State called the California Toxics Rule ("CTR"). The CTR regulates 126 pollutants,	Comment noted.

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			<p>including arsenic, copper, lead, mercury, nickel, cyanide, asbestos, benzene, dioxin, and PCBs. (40 C.F.R. § 131.38.) Aside from some specified differences, the CTR applies "without exception" to "[a]ll waters assigned any aquatic life or human health use classifications" in the Basin Plan. (40 C.F.R. § 131.38(d)(1).) Every one of the 402 inland surface waters and coastal feature waters listed in the Los Angeles Basin Plan contains either an aquatic life or human health classification.<sup>61</sup> Thus, as to each one of those water bodies, the CTR establishes federally-required minimum standards. (See also 57 Fed.Reg. 60848, 60874 ("[T]he criteria promulgated today are `... applicable water quality standard(s) established pursuant to this [Clean Water] Act.") (quoting 33 U.S.C. § 1311(b)(1)(C).)</p> <p>"States may not remove designated uses if . . . [t]hey are existing uses, as defined in Section 131.3, unless a use requiring more stringent criteria is added." (40 C.F.R. § 131.10(h)(1).) "Existing uses are those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards." (40 C.F.R. § 131.3(e).) Of the 78 coastal feature waters listed in the Basin Plan, all 78 have at least one, and often numerous, existing beneficial uses for aquatic life or human health. Of the 324 inland surface waters, 308 have at least one, and often numerous, existing beneficial uses for aquatic life or human health. As to each one of those water bodies, the CTR establishes federally-required minimum Standards that the Los Angeles Regional Board has</p>	

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			<p>no authority to weaken.                      As stated in the Regional Board's staff report for the Ballona Creek Metals TMDL, the Los Angeles Regional Board's narrative toxicity objective reflects and implements national policy set by Congress.<sup>62</sup>                      As the Regional Board staff explained,</p> <p>"The numeric criteria established in CTR are at levels that reflect when toxic pollutants are present in toxic amounts. If the concentration of a toxic pollutant in a water body exceeds the CTR criterion, the discharge is deemed toxic. The federal water quality criteria established by the CTR are equivalent to state water quality objectives and they serve the same purpose. For the Los Angeles region, numeric objectives for toxics can be found in the CTR."<sup>63</sup></p>	
40-39	HTB, NRDC, SMBK	Nov 10, 2008	<p>The Clean Water Act requires a set of baseline pathogen criteria and standards in coastal recreation waters. (33 U.S.C. § 1313(i)(l)(A) ("each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for the coastal recreation waters of the State for those pathogens and pathogen indicators for which the Administrator has published criteria under section 1314(a)").) EPA made clear that the federally-promulgated criteria were baseline requirements that states could not fall below. (See 40 C.F.R. § 131.41(d)(1) ("The criteria in paragraph (c) of this section apply to the coastal recreation waters of the States. . . ."); 33 U.S.C. §</p>	<p>The Regional Board is not considering weakening the REC-1 bacteria standards for marine waters. Any re-evaluation of the bacteria objectives will be consistent with EPA's recommended criteria as set forth in "Ambient Water Quality Criteria for Bacteria" (1986) and will primarily focus on their implementation with respect to compliance determination.</p>

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			<p>1313(c)(4)(B).) The Los Angeles Basin Plan limits for marine waters and freshwater recreation waters match the federally-required criteria.</p> <p>Like with the CTR, the pathogen criteria cannot be weakened when applied to existing designated uses. (40 C.F.R. §§ 131.6(c); 131.10(h)(1).) Of 78 coastal feature water bodies, 67 have existing water contact recreation designated uses for which standards could not be weakened pursuant to state law.<sup>64</sup></p> <p>In addition, the Santa Monica Bay Restoration Project's epidemiological study conducted in 1996 and published in 1999 (Hail et al. 1999)<sup>4</sup> upheld the EPA's findings by reporting the strong correlation between total coliform, fecal coliform and Enterococcus and the health of swimmers who swam directly in front of a flowing storm drain. These results were the driving force behind the development of the state standards as published in the California Department of Public Health Beaches and Recreational Waters: Regulations and Guidance. These standards were adopted by the California Department of Health Services under section 115880 of the California Health and Safety Code (known as Assembly Bill 411) which mandated establishment of "minimum standards for the sanitation of public beaches" including "total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate." (Health &amp; Safety Code § 115880(a)(1).)</p>	

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			<p>Thus, since the marine waters REC-1 bacteria standards were developed by the Department of Health Services, the Regional Board has no authority to weaken them.</p>	
40-40	HTB, NRDC, SMBK	Nov 10, 2008	<p>The Basin Plan provides two narrative WQOs that directly relate to trash pollution: Floating Material and Solid, Suspended, or Settleable Materials. These WQOs appropriately characterize the conditions necessary to protect beneficial uses from floating, suspended and settleable materials such as trash as even small amounts of trash can maim or kill wildlife that becomes entangled in, or ingests, the debris. Further, the numeric target in the Los Angeles River Trash TMDL that is directly derived from these WQOs was upheld in court. (See City of Arcadia v. State Water Resources Control Board (2006) 135 Cal.App.4<sup>th</sup> 1392.) For these reasons, the Regional Board should not weaken these standards.</p> <p>Many waterbodies in the Los Angeles Region are severely impaired by trash. As the Los Angeles County Coastal Clean-up Day Coordinator for 19 years, Heal the Bay has routinely documented excessive trash in the Region's waterbodies during the annual event. For instance on Coastal Cleanup Day 2008, over 185,000 pounds of trash were collected at clean-up sites throughout Los Angeles County including City of Downey (2,400 lbs); Dominguez Channel (2,020 lbs trash); Ballona</p>	Comment noted.

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			<p>Creek (13,000 lbs); MacArthur Park (90,000 lbs); and Sun Valley (43,520 lbs). In fact, Coastal Clean-up Day 2008 marked the one-millionth pound of trash collected from watersheds throughout Los Angeles County.</p> <p>Other Heal the Bay sponsored clean-ups have yielded similarly excessive amounts of trash. On September 20, 2008, volunteers collected 1,251 lbs of trash at two cleanup sites on the Los Angeles River at Elysian Park and Sepulveda Basin. At Compton Creek, arguably the most trash-impaired tributary of the Los Angeles River, 3,600 lbs of trash was collected in a period of three hours.<sup>65</sup> Large amounts of trash have been collected and removed from Compton Creek through various cleanup efforts over the years. The Los Angeles County Department of Public Works ("LACDPW") has documented a total of 62.6 tons of trash that were collected in the uppermost 2.12 miles of Compton Creek from September 2002 to September 2003. This equates to an average of 5.2 tons per month from routine cleanup programs for the channelized portion of the creek. <sup>66</sup> Moreover, LACDPW estimates that over 644 tons of litter was collected from storm drain catch basins during the 2005-2006 rain year.<sup>67</sup> The City of Los Angeles Bureau of Sanitation reports that 3,000 tons of litter is collected annually from catch basins. The majority of items found during trash cleanups consist of plastic debris, which includes polystyrene food packaging, plastic beverage bottles and bottle caps, straws, plastic bags, and other plastic solids.<sup>69</sup> For</p>	

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			<p>example, 2005 data from the Adopt-A-Beach program at Santa Monica beaches showed that an overwhelming majority of the items primarily consisted of Styrofoam pieces and cigarette butts, followed by small, miscellaneous plastic pieces, wrappers and bottle caps.<sup>70</sup> The City of Los Angeles in June 2004, plastic bags made up 25% by weight and 19% by volume of all litter collected in storm drain catch basins.</p>	
40-41	HTB, NRDC, SMBK	Nov 10, 2008	<p>Trash significantly impairs beneficial uses of waterbodies in the Los Angeles County Region. Runoff from urban storm drains is the number one source of surface water pollution and is a continuing threat to aquatic life and human health in Los Angeles and Ventura counties. Urban runoff carries trash and other pollutants directly to local streams and eventually to the ocean unfiltered and untreated. Roughly 80% of marine debris originates from land-based sources, and plastics make up 90% of floating marine debris.<sup>72</sup> In the North Pacific Gyre, researchers have documented the amount of plastic debris to be six times as much plastic debris as zooplankton and is twice the size of Texas.<sup>73</sup> The time required for plastic litter to break down in aquatic systems is unknown, and these items may never fully decompose. According to the Ocean Conservancy, some items, such as plastic beverage containers, may take up to 450 years to degrade in the ocean.</p>	Comment noted.
40-42	HTB, NRDC,	Nov 10, 2008	Trash has major impacts on aquatic wildlife, as it	Comment noted.

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	SMBK		can cause injury or death through ingestion or entanglement. <sup>75</sup> Ingestion of trash such as plastics can reduce the appetite of seabirds and marine life and inhibit nutrient absorption, causing possible death by starvation. <sup>76</sup> Ingestion of plastic debris by zooplankton, bottom filter feeders, fish, sea turtles, and seabirds has all been documented. <sup>77</sup> Over 267 species of marine life have been impacted by marine debris.	
40-43	HTB, NRDC, SMBK	Nov 10, 2008	Plastic resin pellets and other plastics may have the potential to transport toxic substances and invasive species, thereby further impacting beneficial uses. For example, there is evidence documenting the phenomenon of plastics absorbing hydrophobic pollutants such as polychlorinated biphenyls (PCBs) and certain classes of persistent organic pollutants (POPs) and phthalates. <sup>79</sup> There is also research suggesting that these plastics may be important agents in the transport of these contaminants to sediment-dwelling organisms. <sup>80</sup> Trash and other debris, especially other suspended plastic solids, have also been known to transport invasive species to the aquatic environment.	Comment noted.
40-44	HTB, NRDC, SMBK	Nov 10, 2008	With respect to those beneficial uses involving water contact, trash in waterbodies in the Los Angeles Region poses a significant health risk to people. Items such as glass, metal objects, medical waste, or other dangerous items may enter waterbodies via storm drains. Fishermen and	Comment noted.

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			<p>recreational boaters have documented damage to their vessels caused by marine debris and other trash obstructing propellers and clogging cooling intakes.<sup>82</sup></p> <p>From an aesthetic standpoint, trash of any quantity diminishes the use and enjoyment of waterbodies in the Los Angeles Region. As discussed further below, this type of aesthetic harm has been recognized by numerous courts as a real and significant injury, one which provides a basis for legal suit under the Constitution of the United States. See Friends of the Earth v. Laidlaw Environmental Services, Inc., 120 S.Ct. 693 (2000). Indeed, numerous municipalities throughout Region 4 have recognized the real aesthetic and other harm caused by trash in parks and other public settings by adopting municipal ordinances which absolutely prohibit littering and impose strict fines.</p>	
40-45	HTB, NRDC, SMBK	Nov 10, 2008	<p>In sum for all of the reasons set forth above, we urge the Regional Board to prioritize the following during the Triennial Review process:</p> <ol style="list-style-type: none"> <li>1) Adopt WQOs for Total Phosphorus, Excess Algal Growth, Emerging Contaminants, Biocriteria, and Exotic Species; and</li> <li>2) Revise the existing WQOs for Pathogens, Chronic Toxicity and Total Nitrogen.</li> </ol> <p>In addition, the Regional Board may not weaken</p>	Comment noted. See responses above.

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			<p>WQOs related to federal and state standards and upheld by the courts such as Trash, Pathogen Standards and objectives based on CTR criteria.</p> <p>The inclusion and/or revision of these WQOs are necessary to protect beneficial uses in Region 4. Further, certain standards cannot be weakened during the Triennial Review process. While the WQOs discussed above are our current priorities for modifying the Basin Plan, we may submit additional information to the Regional Board as the Triennial Review process progresses.</p>	
41-1	Las Virgenes Municipal Water District	Nov 6, 2008	<p>Malibu Creek and its tributaries are cleaner, in general, than other Region 4 waters, yet at the same time they are more impaired by earlier land uses (e.g. derelict dams and impoundments) and naturally high minerals. The mineral content of local waters in particular has produced a situation that is nearly unique for California streams, most of which are heavily diverted for water supplies. In contrast, Malibu Creek and all but one of its tributary streams are so brackish they cannot be used for potable water without prohibitively expensive treatment. As a result, the area is 100 percent dependent on State Water Project imports, and has been since the early 1960's. This extra non-native water, coupled with the lack of stream diversions, has resulted in unnaturally higher stream flows. The JPA has tried to minimize this problem by award-winning water conservation and recycling efforts to help restore lower flows in the creek. Yet by law we are required</p>	Comment noted.

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			to protect endangered fish habitat that would otherwise be dry under natural conditions <sup>1</sup> .	
41-2	Las Virgenes Municipal Water District	Nov 6, 2008	<p>The current Basin Plan reflects some of these unique or unusual attributes (Tables 1 and 2, below):</p> <ul style="list-style-type: none"> <li>■ Seven beneficial uses designated in the Basin Plan are currently unsupported in the Malibu Creek watershed, primarily industrial uses (e.g. PROC, IND, COMM), municipal water supplies (MUNI, GWR) and shellfish harvesting (SHELL). The absence of the MUNI and GWR uses reflects the area's naturally high levels of minerals in both surface and ground water, especially in areas underlain by marine sediments (Monterey Formation) and volcanic intrusions (Conejo volcanics).</li> <li>■ The three most common beneficial uses - REC 1, WARM, WILD – reflect the Malibu Creek watershed's unique character as one of the Basin's few relatively undisturbed watersheds of large areas of undeveloped open space and a virtual absence of heavy industry.</li> <li>■ The three most common listed impairments –</li> </ul>	Comment noted. See also Response to Comments 2-10, 2-14 and 40-28.

<sup>2</sup> Total and fecal coliform indicators were originally developed to detect the presence of raw sewage spills and leaks, a use for which they are well-suited due to the ten- to hundred-fold difference between background coliform levels and sewage-impacted levels. But they have very limited utility as indicators of the presence of chronic, low-level human pathogens, despite small but statistically significant correlations with some symptoms of waterborne illness in some studies (e.g. Haile et al., 1997).

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			<p>bacteria, algae and sedimentation – reflect the extremely low levels of other pollutants usually associated with heavy industry (e.g. metals, toxic organic chemicals), and may be due primarily to natural conditions (see text).</p> <p>These comments are not meant to imply that our local waters are pristine; on the contrary one of the District’s most difficult challenges is providing potable water and sanitation service to over 80,000 residents while maintaining the relatively high quality of water and habitat in our local creeks and streams. Our goal is to minimize the human “footprint” on local waters, but the responsibility for success in this endeavor cannot rest solely on our efforts or the Basin Plan. We have reached a point where further regulation of our facilities is a textbook example of diminishing returns; it is time to work together cooperatively to fashion creative “out of the box” remedies to water quality problems that also lie outside the box. The introduced New Zealand mudsnail, for example, dramatically altered the aquatic insect community within two years of their arrival, making our still-required bioassessments meaningless as indicators of chemical water quality. We have over 20 years of permit-required data on coliform bacterial levels in our creeks, and we long ago reached the point of diminishing returns on what they tell us as indicators of health risk<sup>2</sup>. Recent genetic studies using modern techniques show little correlation between coliform bacteria and actual human pathogens, yet local cities are being issued violation notices for non-compliance with</p>	

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			<p>Total Maximum Daily Load requirements for this outdated bacterial water quality objective. There is a real need to bring the Basin Plan up to date, and we applaud the Regional Board for proactively soliciting new data and information to achieve it.</p> <p>To this end, the remainder of this document is a compilation of key findings, data and information we feel are pertinent – indeed essential - to a better Basin Plan. We have tried to provide this information in as brief and concise a form as possible, and in most cases we suggest specific language for updating the Basin Plan to better represent actual conditions in our local receiving waters. The approach is constructive, and we welcome feedback from all interested parties.</p>	
41-3	Las Virgenes Municipal Water District	Nov 6, 2008	<p><b>Biostimulatory Substances</b>            To date the Basin Plan and most environmental groups have treated excess algal growth in the Malibu Creek watershed as an unnatural phenomenon related to nutrient enrichment from human sources, and in 2002 the US EPA completed a nutrient TMDL on the premise that reducing nutrient levels from human sources would also reduce excess algal growth in the Malibu Creek watershed. Our review of the data (both recent and historical) and scientific literature leads us to a different conclusion: That algal growth in the watershed is primarily a consequence of the extremely high natural conductivity of Malibu Creek and most of its tributaries. The conductivity of local</p>	<p>See Response to Comments 2-14 and 40-1. The Regional Board also recognizes the need to facilitate the consistent translation of narrative objectives in the Basin Plan - such as that for biostimulatory substances. A policy or new language may be developed in the future to outline what considerations should be taken into account when the need for such translations arises. These considerations may include: correlation between beneficial use impacts and levels of the pollutant/stressor; all relevant information submitted by the</p>

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			<p>waters, in turn, is related to local geology, specifically the presence of marine and volcanic sediments throughout the upper watershed (Monterey formation and Conejo volcanics, respectively).</p> <p>Our review also finds that phosphorus levels are also associated with local geology, and exceed both the TMDL summer objective (0.1 mg/L) and the limiting concentration of phosphorus for both surface and bottom mat-forming algal species throughout the watershed, with the exception of Cold Creek.</p> <p>These are recent findings, and while they may likely prove controversial <u>we strongly urge</u> their consideration by the Regional Board prior to adopting new nutrient water quality objectives or TMDL implementation plans. We cannot assume the efficacy of reducing algal growth by ever-more stringent nutrient limits, particularly for the algal species that form floating mats. At a minimum, the board should consider convening a special workshop to take input on this issue in advance of formally incorporating the US EPA nutrient TMDL into the Basin Plan.</p> <p>The current Biostimulatory Substances water quality objective (WQO) for the Basin need not be modified, being a fairly general narrative objective. However, the Basin Plan should explicitly recognize the impact of geology on biostimulation due to high conductivity and high phosphorus levels in certain</p>	<p>discharger and interested parties; and relevant numerical criteria and guidelines developed and/or published by other state agencies (such as the Department of Fish and Game or the Office of Environmental Health Hazard Assessment), federal agencies (such as the US EPA or US Fish and Wildlife Service), foreign government agencies, international agencies, or from the scientific literature. A policy or implementation provisions could outline a decision process for interpreting narratives using appropriate numeric limits.</p>

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			geologic formations (e.g. Monterey / Modelo formation and Conejo volcanics).	
41-4	Las Virgenes Municipal Water District	Nov 6, 2008	<p>Site Specific Objectives needed            Closely related to the previous issue, the naturally-high mineral content of both surface and groundwater in the Malibu Creek watershed impacts several WQOs in the Basin Plan, including objectives for TDS, sulfate, phosphate, and Specific Conductivity, all of which are set lower in the current Basin Plan than levels found naturally in most tributaries the watershed<sup>3</sup>. Our attached data summaries provide additional detail on the specific hydro units and WQOs impacted by local geology.</p> <p>Two types of SSO are needed: (1) Tributary and reach specific SSOs to address geographic differences in geology-dependent water quality impacts and (2) Seasonal objectives to address the substantial seasonal component to natural conductivity and phosphorus levels. To date the Basin Plan has only indirectly incorporated seasonal phenomena (i.e. the "intermittent" beneficial use designations found in the Basin Plan's Table 2-1). Natural phosphorus levels even in upper watershed reference locations exceed the EPA guidance-based TMDL objective year-round, and neither national nor subregional nutrient guidelines are adequate given the watershed's unique geology.</p>	See response to comment 2-14.
41-5	Las Virgenes	Nov 6, 2008	Use Attainability Analysis (UAA) needed	Federal regulations restrict States from

<sup>3</sup> Cold Creek is an important exception, being fed by lower conductivity waters derived from the Topanga and Sespe formations.

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	Municipal Water District		<p>If SSO's protective of the current beneficial uses cannot be developed, then the Regional Board should consider delisting or otherwise reclassifying those uses that depend on meeting the current WQO's for minerals (e.g. specific conductivity, TDS, sulfate) and biostimulatory substances. Currently the beneficial uses assumed to be impacted by biostimulatory substances include both body contact and non-body contact recreational uses (REC 1, REC 2), with potential secondary impacts to aquatic organisms due to low dissolved oxygen (DO) and pH exceedances from excess algal growth and decay.</p> <p>Our review finds little evidence of such secondary impacts, despite substantial, site-specific research on the issue<sup>4</sup>. There are significant gaps in our understanding of how algal biomass observed in the watershed affects Basin Plan beneficial uses such as WARM, RARE, MIGR, and SPWN. Some effects have been suggested- usually highly qualified- but in our view the science connecting nutrient levels to algae levels to secondary effects to beneficial use impairment is weak. In short, existing data do not support the premise that the natural levels of algae observed in the watershed, while seasonally high, are significantly impacting the full attainment of the existing beneficial uses.</p>	<p>removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if:</p> <ol style="list-style-type: none"> <li>1. They are existing uses, as defined in 40 CFR § 131.3, unless a use requiring more stringent criteria is added; or</li> <li>2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices. Potential beneficial uses may only be revised if it is demonstrated through a UAA that one or more of the factors identified in 40 CFR 131.10(g) is met.</li> </ol> <p>See also response to comments 2-12 and 2-14.</p>
41-6	Las Virgenes Municipal Water	Nov 6, 2008	Hydromodification and Effluent Dependent Waterbodies	Comment noted. The development of a hydromodification policy will be open to

<sup>4</sup> Local studies include research by the Southern California Coastal Water Research Project (SCCWRP,

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	District		<p>During the current Triennial Review, the Regional Board may further develop its hydromodification policy for the region. If so, we ask that it consider two issues:</p> <ul style="list-style-type: none"> <li>■ The extent of excess flow from water imports has been overstated in the record for the Malibu Creek watershed. Briefly, the finding of substantially higher baseline flows was derived from an earlier comparison of creek flows in the decade prior to water imports (1950's) versus post-import flows. But the 1950's were not natural in any way, and do not reflect a natural hydrograph. This period saw abnormally low creek flows due to local drought and substantial harvesting of both ground water and surface water resources. The effect of water imports on baseline flows has been grossly overstated.</li> <li>■ Dischargers must be allowed some relief from receiving water limits if they are legally required to discharge water to support endangered species critical habitat. All parties should be able to agree that the absence of water for such species is a more severe impact than the presence of minimally substandard water.</li> </ul>	input from all stakeholders. Any and all pertinent information provided will be considered.
41-7	Las Virgenes Municipal Water District	Nov 6, 2008	<p>Indicators of Impairment - Total &amp; Fecal Coliform Bacteria</p> <p>A number of recent scientific studies have brought into serious question the validity of current bacteriological indicators as Water Quality</p>	See Response to Comment 2-10.

<sup>5</sup> SCCWRP presentation to Technical Advisory Committee, Malibu Creek Watershed Advisory Council.

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			Objectives for protecting the public from waterborne pathogens <sup>5</sup> . As stewards of both public health and public funds we feel compelled to acknowledge these studies that strongly suggest that that current bacteria indicators used in the Basin Plan are scientifically flawed. We currently meet the existing indicator-based WQO's for bacteria; nonetheless this is an extremely important issue for our local cities and county facilities, who are responsible for meeting the current indicator-based objectives.	
41-8	Las Virgenes Municipal Water District	Nov 6, 2008	Bioassessments – Mudsnaills, crayfish and other invasive species In recent years the Regional Board has favored the use of bioassessments as proxies for more direct measurements of water quality. While promising in theory, in practice the data obtained from bioassessments are virtually useless for this purpose due to the skewing of the results by the presence of large densities of non-native species. In Malibu Creek such indices since 2007 reflect little more than the arrival of the invasive New Zealand mudsnail. Prior to that, non-native crayfish were (and still are) abundant in high densities. Furthermore, in reaches unimpacted by non-native aquatic species, the densities of species used in bioassessments are affected primarily by physical	See Response to Comment 40-24. Regional Board staff will raise this implementation issue as the state moves toward biological objectives (i.e. biocriteria).

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			factors such as stream embeddedness and sediment deposition (Luce, 2003 <sup>6</sup> ). The Basin Plan needs to acknowledge these issues.	
41-9	Las Virgenes Municipal Water District	Nov 6, 2008	<p>Economic Impacts of Meeting Unsound Water Quality Objectives</p> <p>The evaluation of the economic impacts of the Basin Plan objectives are woefully outdated. While beyond the scope of this submission, we ask the Regional Board to convene a dedicated workshop during the current Triennial Review to update its compliance with this statutory requirement. We have detailed empirical information on the costs of complying with several recent Basin Plan numerical objectives and numerical translators for narrative objectives, and other data detailing the effectiveness of the relevant objectives.</p> <p>In closing, we wish to state again that in no way should our comments be taken to imply that our local waters are pristine. All parties acknowledge that much work remains to be done to improve water quality in virtually every creek and lake within our service area. What we wish to bring to this cycle of the Basin Plan Triennial Review is a greater insistence on being genuinely effective. We do not believe the current Basin Plan's objectives for biostimulatory substances are obtainable in the Malibu Creek watershed exclusive of Cold Creek due to the extremely high natural mineral content of</p>	See General Response(s) 1 and 4

<sup>6</sup> Luce, S. 2003. Urbanization and Aquatic Ecosystem Health in Malibu Creek, California: Impacts on Periphyton, Benthic Macroinvertebrates, and Environmental Policy. Doctoral dissertation, UCLA.

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			<p>its surface and ground waters. We do not believe the current Basin Plan's objectives for bacteria are scientifically sound, regardless of where they are applied. In both cases, some discussion of these issues now may save hundreds of millions of public dollars misspent on ineffectual solutions. In both cases, our request is not an indictment of the current Basin Plan or the many people who have contributed to it. It is solely a matter of new data and new findings. We look forward to working with Regional Board staff and other parties in this cycle of the Triennial Review.</p>	
41-10	Las Virgenes Municipal Water District	Nov 6, 2008	<p>Concise summary of data:                      The 0.1 mg/L summer WQO for Total Phosphorus (EPA nutrient TMDL) is exceeded throughout the MC watershed, <u>including undeveloped upstream reference sites that presumably reflect natural conditions (see figure below)</u>. As for TDS and conductivity, this condition is a consequence of the naturally high levels of minerals in surface and groundwaters underlain by marine sediments (Monterey formation)</p> <p>Concise summary of suggested revisions                      Two options: (1) Revise Table 2-1 (Beneficial Uses) to reflect natural non-attainment of beneficial uses affected or potentially affected by exceedances of phosphorus objective. (2) No changes to Table 2-1, but include footnote indicating that beneficial uses are not impaired by observed phosphorus levels: Option 2 is</p>	See Response to Comment 2-14.

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			<p>recommended, as the evidence of significant, P-related impairment is inconclusive, as is the evidence for algal-related secondary impairments (e.g. low DO, high pH) is also very weak. See discussion.</p>	
41-11	Las Virgenes Municipal Water District	Nov 6, 2008	<p>DISCUSSION: The US EPA TMDL adopted a literature-derived value of 0.1 mg/L (Mackenthun, 1973) for the summer phosphorus WQO in the MC watershed. Watershed-wide monitoring data show the WQO is exceeded not only in human-impacted areas, but also in upstream areas minimally impacted by human activities. It is unlikely that the WQO can be met even in the absence of human sources, due to natural phosphorus sources derived from marine sediments (Monterey formation) and volcanic rock (Conejo volcanics).</p> <p>However, there is little solid evidence linking these levels of phosphorus with beneficial use impairments such as excess algae in this watershed. Ambrose et al. (2003) attempted to link high algal and nutrient levels with landuse, but did not consider conductivity as a confounding factor despite its better correlation with diatoms and macroalgae (Biggs, 2000 and Ambrose et. al. 2003, Table 7). Sutula et al. (2002) attempted to link algal growth to nutrient enrichment by direct, in situ experiments, but could not demonstrate a conclusive relationship. Luce (2003) attempted to link nutrient and algal</p>	<p>With sufficient justification, waterbodies in the Malibu Creek Watershed may be considered for the development of Site Specific Objectives; however, given the constraints on resources, this issue is not likely to be considered during the current review period. See also Response to Comment 2-14.</p>

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			<p>growth to macroinvertebrate composition, finding no clear relationship (but a good relationship with substrate embeddedness). A District study also failed to find clear relationships between nutrients and excess algal growth (CH2MHill, 2002). Also see our discussion of the DO &amp; pH objectives (this submittal).</p> <p>Concise summary of data            Specific conductivity and TDS are high throughout the MC watershed (see Fig 1), particularly in areas underlain by marine sediments (Monterey Formation), volcanic base rock (Conejo Formation), or alluvium derived from them. It is clearly a natural condition.</p> <p>Concise summary of suggested revisions            Revise Table 2-1 (Beneficial Uses) to reflect natural non-attainment of GWR beneficial use in affected waterbodies. Delist Lake Sherwood as impaired by specific conductivity on finding of natural condition.</p> <p>Both EC and TDS data show both surface and groundwaters in the MC watershed are brackish (&gt;1,300 umhos/cm &amp; &gt; 1,000 mg/L) except for upper reaches of Cold Creek. Cross referencing data site locations against geologic maps shows a strong association with marine and volcanic sediments, and is clearly a natural condition. This is consistent with absence of both point and non-point sources of water with total dissolved solids above 600 mg/L (surface waters are well in excess of 2000 mg/L), and direct measurements of mineral content</p>	

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			in early wells predating urban development (Stahl & Garner, 1990). The naturally high mineral content of local waters is well-known to area "old timers" (pers. comm. Mr. Macneill "Mac" Stelle).	
41-12			<p>Concise summary of data            Data show creek is not impaired by low DO</p> <p>Concise summary of suggested revisions            Delist hydro unit for DO impairment</p>	Comment noted. See General Response 3
41-13	Las Virgenes Municipal Water District	Nov 6, 2008	<p>Data show creek is not impaired by low DO. Delist hydro unit for DO impairment</p> <p>DO data collected during both daylight and pre-dawn hours show creek consistently meets Basin Plan Objective for dissolved oxygen. Data below. Winter DO values are substantially higher than the WQO, plus aquatic organisms need about half the DO in winter as in summer due to metabolism dependence on temperature (generally metabolic rates for cold-blooded organisms double for every 10 C increase). Taken together, it is highly unlikely that DO levels in the creek in winter are impaired. Isolated, short-term exceedances are potentially possible in summer, although the data do not demonstrate it.</p>	Delisting of pollutant impaired waterbodies is outside the purview of the basin planning process. This issue should be addressed through the State's 303(d) Listing Process. See General Response 3.
41-14	Las Virgenes Municipal Water District	Nov 6, 2008	Concise summary of data: Summer algal impairments are the result of natural conditions.	See Response to Comments 41-11 and 2-14.

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			<p>Concise summary of suggested revisions            Option 1: Delist affected water bodies for algal impairment (recommended). Option 2: Conduct a Use Attainability Analysis to determine if uses can be attained or are not significantly impaired by natural conditions.</p>	
41-15	Las Virgenes Municipal Water District	Nov 6, 2008	<p>Concise summary of data            Natural sulfate levels exceed WQO in both surface (table below) and groundwater (Fig. 1)</p> <p>Concise summary of revision            Revise Table 3-8 (WQO for selected surface waters.)            Increase WQO to 2300 (TDS) and 1110 (sulfate)</p> <p>The data show (1) exceedance of the existing WQO for TDS and Sulfate in both surface and groundwater and (2) a strong negative correlation with rainfall (dilution). Options include (1) Revise the WQO as suggested in (7) above if affected uses (MUNI, WARM, COLD) are supported (recommended) or (2) If affected uses are not supported, remove them from the Basin Plan for the affected waterbodies (Malibu Creek &amp; tributaries EXCEPT Cold Creek, which meets existing WQOs), or (3) If data info are insufficient to support Option (1) or (2), then schedule a Use Attainability Analysis for affected uses.</p>	See response to comment No. 41-11 and 2-14.
42-1	City of Calabasas	Nov 7, 2008	We offer this report as an indication of our	Comment noted.

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			<p>continuing commitment and desire to work collaboratively with the Regional Board, its staff, the regulated community and other interested parties to address and remedy the flaws contained in the Basin Plan. We believe this is necessary in order for the Plan to provide the best possible foundation for ongoing efforts to improve regional water quality.</p> <p>The City of Calabasas shares the Regional Board's dedication to maintaining and improving water quality in the Region. By working together, we believe we can continue the current successes in improving local water quality and build on these successes to strengthen the environmental, human and economic health of both the Malibu Creek and Upper Los Angeles River Watersheds.</p>	
42-2	City of Calabasas	Nov 7, 2008	<p>For the 2009 Triennial Review or Basin Plan Revision, Board staff should incorporate a water quality and/or storm sizing criteria and the (re)development circumstances under which the criteria are to apply. Both Porter Cologne and several recent studies (e.g. 2007 SCWRRP Technical Report 0520, 2002 Gordon et al. An Economic Impact Evaluation...) noted the challenge of balancing the cost of water quality protection against other factors. When Basin Plan amendments ignore sizing criteria, then it becomes impossible to size structural Best Management Practices and balance various economic and societal factors as required by Porter Cologne. Sizing should be determined from the Los Angeles</p>	See Response to Comment 2-16.

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			and Ventura County Hydrology Manual and their respective conveyance and detention design criteria. This analysis is also necessitated by recent regulatory efforts to incorporate hydromodification criteria into local policy and permits.	
42-3	City of Calabasas	Nov 7, 2008	<p>Implementation plans for the various TMDLs are required under state law, as a required component of basin plans. "Under state law, the Regional Board must adopt an implementation plan concurrently with the other TMDL components, if practicable or within a short time frame thereafter. The TMDL is not effective until the implementation plan is adopted."<sup>2</sup> "The fact that the Regional Water Boards can include compliance schedules in individual waste discharge requirements, or in limited circumstances in NPDES permits, would not obviate the need for an implementation program with a time schedule to achieve compliance with the applicable standard.<sup>13</sup></p> <p>"Although determination of the exact means of compliance is the role of the responsible agency, the plan must still provide a discussion of the anticipated and/or possible means of compliance.<sup>14</sup> The implementation program must include a description of actions that are necessary to achieve the objectives, a time schedule for these actions, and a description of surveillance to determine compliance with the objectives.<sup>5</sup> "The program of implementation must describe the nature of actions that are</p>	See Response to Comment 12-7.

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			necessary to meet the objectives, including recommendations for action by both private and public entities. <sup>i6</sup>	
42-4	City of Calabasas	Nov 7, 2008	"CEQA compliance, in the absence of a defined implementation plan, could potentially be more difficult than it would be with one. Under CEQA, the Regional Water Board would have to identify the reasonably foreseeable methods of compliance with any TMDL provisions that established performance standards or treatment requirements. The numeric targets and load allocations would probably fall into the category of performance standards. After identifying the reasonably foreseeable compliance methods, the Regional Water Board would have to analyze their reasonably foreseeable environmental impacts, taking into account a reasonable range of environmental, economic and technical factors. A defined implementation plan may allow the Regional Water Board to more narrowly focus its CEQA analysis. Without one, the CEQA analysis could potentially be broader and more burdensome." <sup>7</sup>	TMDLs and their accompanying Supplemental Environmental Documents do offer a range of implementation options that could be applied towards achieving compliance with TMDL requirements. The potential environmental impacts of these options are clearly analyzed. However, it is left to each responsible jurisdiction to determine the specific manner in which compliance with the TMDL requirements will be attained within their jurisdiction.
42-5	City of Calabasas	Nov 7, 2008	"If a TMDL or other regulatory action is being adopted without sufficient information to develop a complete implementation plan, the implementation plan can be developed consistent with an adaptive approach that outlines the various stages of implementation that are expected and the process for fully realizing the regulatory actions." "Adaptive	In situations where data and information needed to determine the TMDL and associated allocations are limited, TMDLs allow for collection of additional information needed for the possible revision of TMDL requirements. Provisions to reconsider elements of a

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			<p>implementation is, in fact, the application of the scientific method to decision-making. It is a process of taking actions of limited scope commensurate with available data and information to continuously improve our understanding of the problem and its solutions while at the same time making progress toward attaining the water quality standards.<sup>9</sup></p> <p>In situations where data and information needed to determine the TMDL and associated allocations are limited, USEPA provides for a phased approach to enable States to adopt TMDLs and begin implementation while collecting additional information needed to review and if necessary, revise TMDL elements based on new information.<sup>10</sup> "TMDLs developed under phased approach must identify specific implementation actions, monitoring plans and a schedule for considering revisions to the TMDLs."<sup>11</sup></p>	<p>TMDL are frequently included in implementation schedules. In addition, TMDL implementation schedules are usually longer to allow time to collect additional information and conduct special studies.</p>
42-6	City of Calabasas	Nov 7, 2008	<p>Inappropriately designated beneficial uses siphon off our local agency resources, thereby forestalling any real progress toward obtaining regional water quality objectives. Given the recent court attention spent discussing the "potential" category from the beneficial use designations in the Basin Plan; it follows that providing a thorough update to all beneficial use designations will necessarily become a very high priority for the upcoming basin planning cycle. We request that this priority include the development of clear, rational criteria for creating</p>	<p>See General Response(s) 1, 4. The Basin Plan clearly defines and identifies all of the beneficial uses designated for surface and ground waters within the Los Angeles Region in Chapter 2. In addition, existing uses are defined by federal regulation as "those beneficial uses that have been attained on a waterbody on, or after November 28, 1975"; this was the basis for the designation of existing uses in the Basin</p>

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			<p>and applying beneficial use designations. These criteria should direct the completion of use attainability analyses (UAAs) as necessary to support seasonal and/or tiered use designations. The criteria should be developed and implemented through a collaborative process whereby the local stakeholders and responsible agencies for each water body are essentially involved. Given the limited resources at both the State and Local levels, it is imperative that we successfully pool our resources to accomplish this important objective. The following water body specific commentary for correction of an inappropriately designated beneficial use in the watershed is just one example of an overarching issue that continues to deplete our collective resources unnecessarily.</p>	<p>Plan. Staff considers additional criteria unnecessary for identifying existing beneficial uses, since any additional criteria established by the Regional Board could not substitute for the requirements set forth in federal regulation. As for any future considerations of new or revised beneficial uses, as required for all potential Basin Plan amendments, the public would receive timely notice of these, and be given an opportunity to provide input.</p> <p>With regard to the re-evaluation of beneficial uses via a use attainability analysis (UAA), federal regulations restrict States from removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if:</p> <ol style="list-style-type: none"> <li>1. They are existing uses, as defined in 40 CFR § 131.3, unless a use requiring more stringent criteria is added; or</li> <li>2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices.</li> </ol> <p>Furthermore, 40 CFR § 131.10 (i) states that where existing water quality standards specify designated uses less</p>

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				<p>than those which are presently being attained, the State shall revise its standards to reflect the uses actually being attained (i.e. existing uses).</p> <p>States may remove a designated use which is not an existing use, as defined in 40 CFR § 131.3, or establish sub-categories of a use, if the State can demonstrate that attaining the designated use is not feasible because of factors set forth in 40 CFR § 131.10 (g). Staff has identified re-evaluating the REC beneficial uses in certain waterbodies as an issue that may be considered by the Board during this triennial review.</p> <p>Given the intensive volume of resources this task would require, coupled with the fact that the goals of the federal Clean Water Act and Porter-Cologne Act favor protection of waterbodies (not decreasing protection), a wholesale reassessment of the attainability of every designated use in the Basin Plan (and concomitant consideration of use removals or modifications) cannot feasibly be considered except where specific information about the specific attainability of a particular use in a particular waterbody or reach is presented that demonstrates that the</p>

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				designated use may be inappropriate.
42-7	City of Calabasas	Nov 7, 2008	In the interest of efficiently and effectively protecting public health and the environment, it is imperative that water quality objectives and standards be reestablished to account for new scientific information and to incorporate the results of all of the studies and monitoring activities that have taken place in recent years. Substantial resources are being directed at meeting water quality objectives. Stakeholders have repeatedly expressed lack of confidence in the means with which these objectives were set and scientific research has indicated that the standards should be reevaluated.	Water quality objectives are based upon the best available science at the time of adoption. Most of the water quality objectives in the Basin Plan are based on EPA's national recommended criteria or the CTR, promulgated by the EPA. To the extent that the commenter believes that a specific water quality objective needs to be re-evaluated based on new scientific information, that information should be provided to the Regional Board and the Regional Board will consider it. See also response to comment No. 42-6.
42-8	City of Calabasas	Nov 7, 2008	Furthermore, millions of dollars are being spent to implement projects and programs to eliminate and reduce flows from non-point sources and municipal storm drain systems to water bodies in an attempt to meet these objectives. The results seem to be showing little positive effect on water quality observed in receiving waters while more evidence is showing the cause may be natural sources of contaminants. Historic records including comments and reports submitted as part of the 2004-2005 Triennial review show that a primary concern of stakeholders, including regulated agencies and interested groups is that the regulators may not be fully considering the effects of non-anthropogenic sources of contaminants such as natural conditions and ambient processes. It is greatly appreciated	See Response to Comment 2-14.

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			<p>that the State has begun to consider these factors in establishing or amending some objectives as a result of the last Triennial Review and Basin Plan amendments, and hopefully this effort will persist. In an attempt to aid the State in development and proper application of water quality objectives, stakeholders have completed many studies while others are underway. Continuing and enhancing this collaborative approach to meet the region's goals is imperative. Establishing accurate, scientifically based objectives that stakeholders and regulators have confidence in is an important step to success of meeting these goals. It is requested that the objectives below be further analyzed for appropriateness.</p>	
42-9	City of Calabasas	Nov 7, 2008	<p>Recent years have shown an increase in the number of water quality monitoring programs and studies, including extensive analyses of bacterial indicators in surface waters. These monitoring programs and studies have been taken on collaboratively by a wide range of stakeholders and independently in an attempt to better protect public health, understand indicator bacteria in the environment, and locate sources of bacteria so that effective control strategies may be implemented. As a result, several analyses have indicated that there are issues with the use of indicator bacteria as surrogates for human health risk, as the two do not always correlate. Recent studies have also shown that runoff and surface water in "pristine" reference water bodies (where there is little influence from</p>	<p>The Regional Board addresses the issue of controlling natural sources of bacteria through its reference system/antidegradation and natural sources exclusion approaches that are a part of the implementation provisions for the region's bacteria objectives. Using the reference system approach, exceedances of the objectives are allowed under certain circumstances where the exceedances are no more frequent than those that are observed in a "reference" system (i.e., a largely pristine, undeveloped area). A beach reference system was identified for use in several bacteria TMDLs in the region.</p>

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			<p>human sources) exhibit high concentrations of indicator bacteria, often in excess of water quality standards. Clearly this is an indication that even under summer dry weather conditions natural background occurrences are likely to produce occasional exceedances of the receiving water limitations for indicator bacteria and these may vary substantially from year-to-year. This can greatly affect how agencies are able to meet water quality objectives and standards. These are concerns that have been raised repeatedly, and while recent headway has been made in scientific research for these issues, a significant review of the objectives taking this information into account has not yet occurred.</p>	<p>In addition, the Southern California Coastal Water Research Project (SCCWRP) completed a study of reference inland streams in 2008, the results of which may be used in future bacteria TMDLs for inland surface waters. The natural sources exclusion approach is applicable for situations in which an appropriate reference system cannot be identified for the target waterbody, or in instances where natural sources are the sole source of bacteria contamination (i.e. where anthropogenic sources are not present or have been fully controlled). This approach may be further developed for specific watersheds, where supported by adequate data.</p>
42-10	City of Calabasas	Nov 7, 2008	<p>The availability of new information also suggests that review of the standards set to comply with the bacteria water quality objectives is necessary. The regulation process should be fluid and iterative, whereby regulations and standards need to be adjusted based on new scientific breakthroughs and changing information. That is the only way that responsible agencies can plan for and meet the water quality objectives that are so beneficial. Since bacterial indicators may have more evident and immediate effects on human health, and projects to try and correct any impairments can be very costly, take a lot of time to implement, and may not show immediate or any improvements to water quality, it</p>	<p>See Response to Comment 2-10. However, in the interest of public health, use of the current bacteria indicators will not be suspended.</p>

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			is of utmost importance to stakeholders that the Regional Board initiate a review of these indicators, their water quality objectives, and standards for compliance as a high priority during the current Triennial Review process. Without a thorough, accurate, and scientifically based review, public health and public resources could be jeopardized while efforts are needlessly misdirected.	
42-11	City of Calabasas	Nov 7, 2008	Sediment quality guidelines compiled by National Oceanic and Atmospheric Administration (NOAA) were used by the Regional Board in evaluating waterbodies within the Los Angeles Region for development of the 303(d) list. NOAA's sediment guidelines, specifically the values for Effects Range-Low (ERL), Effects Range-Medium (ERM), Threshold Effects Level (TEL), and probable Effects Level (PEL) were then used as numeric targets in the estuary sediment TMDLs adopted by the Regional Board. These TMDLs include Ballona Creek Estuary Toxics TMDL and Marina Del Rey Harbor Toxics TMDL. Additionally, a TMDL for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters is under development by the Regional Board (draft copy— Sep. 2008) which includes NOAA's values as numeric targets, even though a newly adopted sediment quality guideline is now available. It should be noted the ERL, ERM, TEL, and PEL values based on <u>empirical data</u> compiled from numerous field and laboratory studies, are simply sediment guidelines, and were never intended to be	See Response to Comment 2-15.

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			used as numeric targets for TMDLs.	
42-12	City of Calabasas	Nov 7, 2008	The Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality Objectives (SQO) was adopted by the State Water Board on February 19, 2008. Under this plan, Regional Water Boards would list sediment as exceeding the SQOs if multiple lines of evidence including sediment chemistry, sediment toxicity, and benthic community condition indicate impairment. Under the plan, chemical and biological measures should be integrated to protect human health, and determine if the sediment dependant biota are protected or degraded as a result of exposure to toxic pollutants in sediment. The newly adopted SQO is based on sound scientific studies, multiple lines of evidence, and are protective of the environment and human health. The SQO is a comprehensive policy and unlike NOAA's guidelines doesn't depend only on one line of evidence. Therefore, the Regional Board should use the State adopted narrative SQOs and implementation program specified in SQO- Part 1 instead of NOAA's guidelines at the re-opener of the existing TMDLs and the development of future TMDLs.	See Response to Comment 2-15.
42-13	City of Calabasas	Nov 7, 2008	Add a new source control overview to Chapter 1 to explain the need for true source control Many sources are beyond the direct regulator control of both municipalities and the Water Boards.	Administrative updates to the Basin Plan have been identified by staff as one of the issues that should be addressed during this triennial review period. This will include incorporation of previously adopted amendments,

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			<p>The use of Water Code Section 13247 should be introduced early in the Basin Plan.</p> <p>Revise the "Legal Basis and Authority" section to explain the authority given to the Regional Board by Section 13247 of the State Water Code to require State offices, departments, and Boards, in carrying out activities that may affect water quality, to comply with the Water Quality Control Plan once approved by the State Board unless otherwise directed or authorized by statute.</p> <p>Cite the provisions in the Clean Air Act that can be used for controlling atmospheric pollutants that cause impairments to water quality.</p> <p>Cite secondary (welfare-based) particulate matter component of the National Ambient Air Quality Standards.</p> <p>Cite the definition of welfare effects that includes the effects on water.</p> <p>Provide exclusions or exceptions where natural conditions preclude compliance (e.g., fires, extreme storm events, upset events)</p>	<p>updates to maps and beneficial use tables, and the incorporation by reference of relevant regulations and policy that are already in effect. The addition of information for clarification purposes may also be included. However, any further updates, beyond these administrative updates, that require additional Board action would have to be addressed separately on a case-by-case basis as staff resources allow.</p>
42-14	City of Calabasas	Nov 7, 2008	<p>Revise the "Function of the Basin Plan" section to explain how TMDLs are incorporated into the Basin Plan.</p> <p>- Specify that each TMDL will be accompanied by a Water Quality Attainment Strategy (WQAS).</p>	<p>Regional Board staff recognize the value of developing guidance on incorporation of TMDL requirements into permits and have recommended that such guidance be developed on a</p>

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			<p>- Specify actions that should be taken by State offices, departments, and boards to achieve the numeric targets in the TMDL.</p> <p>- Recommend actions that should be taken by federal agencies and others.</p> <p>Establish that TMDLs and WQASs should be combined.</p> <p>Include in the "Strategic Planning" section the use of WQASs to include as many of the entities as possible to facilitate the achievement of TMDL targets.</p> <p>WQASs for TMDLs incorporated into the LA Basin Plan should be based on the <i>SFRWQCB Water Quality Attainment Strategy and TMDL for Diazinon and Pesticide-Related Toxicity in Urban Creeks</i>.</p>	<p>pollutant (or pollutant group)-specific basis, as the TMDLs are incorporated into MS4 permits.</p>
42-15	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Establish criteria for the designation of REC-1 and REC-2 beneficial uses (i.e., based upon channel type, amount of flow, etc.)</li> <li>• Revise beneficial uses of certain reaches in EDW or flood control channels that are not readily conducive to REC-1 and REC-2 uses based on channel attributes, accessibility, and amount of flow</li> <li>• Establish priorities for implementation based upon level of use/exposure/risk</li> </ul>	<p>See Response to Comment 1-4.</p>

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			<ul style="list-style-type: none"> <li>• Evaluate REC-1 and REC-2 designations for those channel for which a request has been made</li>   <li>• Establish fact sheets laying out available evidence for each water body and clarifying reasons for each designation</li>   <li>• Specific evidence and recommendations will be provided (channel by channel)</li> </ul>	
42-16	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Recognize limitations of current indicator bacteria approach:               <ul style="list-style-type: none"> <li>o Indicator bacteria are surrogates for the pathogens that may pose a human health risk, and are not perfect indicators of risk.</li> <li>o Recognize that indicator bacteria may be present due to wildlife or regrowth in the environment; bacteria from different sources pose different levels of risk</li> <li>o Indicator bacteria from human sources (including sewage) pose the greatest health risk to humans</li> <li>o This is an area of active research, and new science and recommendations from EPA are expected</li> </ul> </li> <li>• Leave current bacteria standards in place, but amend the Implementation Chapter of the Basin Plan to specify required implementation actions, focusing primarily on the reduction of bacteria of known human origin               <ul style="list-style-type: none"> <li>o Use source tracking analyses, where</li> </ul> </li> </ul>	See Response to Comment 2-10.

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			<p>possible and appropriate (e.g., CREST approach, consider alternatives, such as presence of caffeine, synthetic estrogens, etc.)</p> <ul style="list-style-type: none"> <li>o Work to eliminate human sources of bacteria (e.g., eliminate sewer cross-connections, identify and eliminate leaking sewer lines, provide sanitation facilities where needed)</li> </ul>	
42-17	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Use dissolved metal concentrations to develop permit limits, establish TMDL LAs and WLAs, and establish compliance — as dissolved metals are the bioavailable form of metals and pose the greatest risk to aquatic life</li> <li>• Recommend use of hardness-based equations for dissolved numeric targets and WLAs (i.e., use the hardness of an individual sample to assess the compliance of that sample)</li> <li>• Adopt Los Angeles River Water Effect Ratio/Site-Specific Objective (WER/SSO study) as a Basin Plan objective; revise effluent limitations in permits for discharges to the Los Angeles River and tributaries accordingly</li> </ul>	<p>The metals TMDLs address both dissolved and total metals concentrations because of the potential for transformation between the two and in order to address downstream metals impairment of sediment</p> <p>State Board is currently developing a statewide hardness policy for implementation of the hardness-based metals criteria that will address compliance assessment for metals.</p> <p>Regional Board staff has been actively involved in the development of the copper WER to modify copper permit limits for three POTWs that discharge to the Los Angeles River and the Burbank Western Channel, a tributary to the Los Angeles River. Staff has since released for public comment a proposed revision to the Los Angeles River Watershed Metals TMDL on the basis of the WER.</p>

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42-18	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Water quality objectives should be amended to specify that ambient conditions (e.g., atmospheric deposition) or extreme events (e.g., fires, drought) beyond a discharger's control may result in exceedances               <ul style="list-style-type: none"> <li>o Relevant to metals, nutrients, mineral quality objectives, and certain organic pollutants, such as PAHs and dioxin</li> </ul> </li>   <li>• Need for interagency coordination to control pollutants at the source to the extent possible (e.g., CARE and AQMD controls/regulations may be required)</li> </ul>	<p>The Regional Board may eventually consider developing, where appropriate, implementation provisions for water quality objectives where wildfires and natural disasters cause a pollutant to be elevated above the current objective, or to exceed the objective more frequently than currently allowed</p> <p>Atmospheric deposition is a controllable anthropogenic source. However, because it is generated from a different media it is necessary to work in conjunction with regulators of air pollution to come up with a comprehensive approach of dealing with its impacts on water quality. The Regional Board has initiated several discussions with the ARB and South Coast AQMD on this issue.</p>
42-19	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• The implementation section of the Basin Plan should be amended to specify the applicability of water quality objectives and enforcement during a State of Emergency (e.g., in response to earthquakes, acts of terrorism, etc.) when resources may be redirected to acute emergency needs and away from water quality control functions</li> <li>• Incorporate and recognize source control actions to the extent possible in the Implementation section of the Basin Plan</li> </ul>	See response to comment No. 42-13

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			<ul style="list-style-type: none"> <li>• Extreme hydrological events</li> <li>• The source control discussion in the Basin Plan should clearly acknowledge the need to address atmospheric deposition (direct and indirect) as a major non-point source of water quality impairments.               <ul style="list-style-type: none"> <li>o Recognize that direct control of atmospheric deposition is beyond the ability of municipalities and Water Boards.</li> <li>o Specify the need for the California Air Resources Board and the South Coast Air Quality Management District to consider the secondary effects on water in regulatory programs.</li> <li>o Specify that the Regional Water Board will work with the State Water Board to use the authorities of Sections 13146 and 13247 of the California Water Code to require State offices, departments, and boards to take actions to control atmospheric deposition of water pollution</li> </ul> </li> </ul>	
42-20	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Develop a comprehensive plan, policy, or guidance regarding the use of reclaimed water and reuse of storm water               <ul style="list-style-type: none"> <li>o Address conflicts between goal to reuse/recycle more water and existing WQO</li> <li>o Implement provisions to facilitate 'maximum benefit' analyses</li> </ul> </li> <li>• Where appropriate and necessary (e.g., where</li> </ul>	See Response to Comment 20-27.

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			<p>groundwater objectives may preclude reuse), consider establishing groundwater basin salinity management plans</p> <ul style="list-style-type: none"> <li>• Make Basin Plan consistent with any new State policy on recycled/reclaimed water use</li> </ul>	
42-21	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Expand the "Climate" section to include a " comprehensive description of rainfall and runoff patterns in the Region.               <ul style="list-style-type: none"> <li>o Include text, graphs, and maps to thoroughly explain the highly variable and episodic nature of rainfall in the coastal watersheds of the region.</li> <li>o Include graphical display. of rainfall distribution by storm size for rain gauges across the region and isohyetal maps for the coastal watersheds of Los Angeles and Ventura counties.</li> </ul> </li> </ul>	<p>The comprehensive description of rainfall and runoff patterns in the Region that the commenter describes is better suited to the hydrology manuals of Los Angeles and Ventura Counties. However, information pertaining to the episodic and variable nature of rainfall in the Region may be included as part of the administrative updates to the Basin Plan that are recommended by staff.</p>
42-22	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Develop a comprehensive approach to storm water management, to include:            Provisions for a design storm (to be specified using both rainfall amount and rainfall intensity) for design of control measures and for enforcement considerations           <ul style="list-style-type: none"> <li>o Runoff reduction, including Low Impact Development (LID), where appropriate</li> <li>Clarification of the application of objectives intended to protect GWR to storm water (see also Item 5 above)</li> </ul> </li> </ul>	<p>See Response to Comment 2-16.</p>
42-23	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Clarification on the approach to using numeric</li> </ul>	<p>See General Response 3.</p>

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			limits, including (if limits are to be used) development of a methodology for establishing numeric limits for storm water flows	
42-24	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Consolidate the discussion of stormwater and urban runoff, which are currently divided between the discussions of point source and non-point source pollutants.</li> </ul>	See Response to Comment 12-6.
42-25	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Encourage a range of measures to reduce runoff, including low impact development (LID), capture and reuse measures, and basins.</li> </ul>	See General Response 3.
42-26	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Clarification of the approach to establishing dilution factors and assimilative capacity for permitting and/or TMDLs</li> </ul>	<p>The Regional Board acknowledges that further clarification regarding the conditions under which mixing zones may be allowed, and under what conditions they would be prohibited may be useful. Other regions have considered this question in a “Point of Application” policy. For example, two conditions may be required to allow any mixing zone: a) upstream flow of better water quality to create a mixing zone, and b) the waterbody may not be listed as impaired on the CWA section 303(d) list of water quality limited segments. Consideration also might be given to the nature of the pollutant (e.g., discharge of residual chlorine might be allowed a short zone of volatilization). However resource constraints preclude</p>

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				this issue from being addressed during the current review period.
42-27	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Recognize natural or background variability</li> </ul>	The Regional Board does recognize natural or background variability. For example, this is recognized in several water quality objectives including temperature and pH as well as in the Region's implementation provisions for its single sample maximum bacteria objectives set to protect water contact recreation (REC-1).
42-28	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Clarify how CTR objectives are to be applied to storm water</li> </ul>	See Response to Comment 13-9.
42-29	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Consider exclusion of WQO during storm events resulting from either a natural disaster (fire) or natural background loadings that cause the pollutant exceedances</li> </ul>	See Response to Comment 2-14.
42-30	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Revise the tributary rule to account for limited duration storm water flows, and to specify that hydrologic connectivity, co-mingling of non-storm flows, and exchange of aquatic life would be required to apply downstream beneficial use designations to upstream locations.</li> <li>• Clarify that downstream uses must continue to be protected, but that direct translation of beneficial uses is not required (and note that direct translation of beneficial uses may preclude some treatment strategies, such as use of regional treatment before water travels</li> </ul>	See Response to Comment 4-8.

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			downstream to a waterbody with an existing use.	
42-31	City of Calabasas	Nov 7, 2008	<ul style="list-style-type: none"> <li>• Suggest that trash TMDL design storm should be evaluated for use in regulation of other pollutants in storm flows (see also Item 12).</li> <li>• Suggest that compliance strategies should be used for other pollutants as well, as with the certification of full capture devices as constituting compliance with the trash TMDL</li> </ul>	See response to comment 2-16. See also General Response 3.
43-1	City of Paramount, City of San Marino	Nov 7, 2008	The City is pleased to see the recent request for data and information on water quality standards and other Basin Plan issues for the Los Angeles Region. We would like to take this opportunity to inform you that prior to your appointment as the Executive Director letters were sent to Dennis: Dickerson on July 13, 2003, and to Susan Cloke on February 11, 2005, with information that has not been acknowledged to date. In those letters the Board was advised of the initial assessment of the most important basin planning priorities, and an offer was extended to work with the Board to develop a work plan, to identify resources and procedures to address priority issues and to form a Stakeholders Task Force to work with the Board during the plan update. That offer continues to remain.	Comment noted.
43-2	City of Paramount, City of San Marino	Nov 7, 2008	Cities all wish to perform all of their responsibilities in an effective and efficient manner. The ever increasing demand put on cities and the lack of adequate funding make the task even more difficult: This fall, after the State adopted its budget, the State Board faced the same situation and was force	Comment noted.

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			to adopt an emergency 19% increase in NPDES permit fees. While the cities may understand the situation that the State Board faced, its is hoped that the State and Regional Boards recognize that the cities are facing the same difficult financial conditions without the ability to increase fees to cover budget short falls.	
43-3	City of Paramount, City of San Marino	Nov 7, 2008	It is for these reasons that the City asks the Regional Board to undertake the update of the Basin Plan as mandated by Judge Colaw's April decision. This - decision, while it may be viewed by the Regional Board as wrong, has stood with only minor revisions with a final decision pending. The City stands ready to implement a permit that is based on good science and considers the economic impacts of the programs included, as required by the Porter-Cologne Water Quality Act.	See General Response(s) 1
43-4	City of Paramount, City of San Marino	Nov 7, 2008	To achieve this goal the City believes that the Board must comply with the mandate of Porter-Cologne Section 13241. While each and every point is important it must be recognized that cities have limited funds that must be budgeted in an effective manner. Clean water is an important objective, but it is not the only mandate that Local Government faces. We are asked by the AQMD to do our part to reduce air pollution, we are required to provide affordable housing by the state, and we are required to provide accessible communities and public facilities by the Federal and State	See General Response(s) 1, 4.

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			Governments. Every mandate is important, but the limited resources force the cities to decide how those resources are spent. We understand that the Board believes that their mandate is the most important, but the Porter-Cologne Act says that other mandates, faced by stakeholders, must be considered.	
43-5	City of Paramount, City of San Marino	Nov 7, 2008	The City strongly believes that for the Regional Board to comply with Section 13241 it must provide the implementation plan required by Section 13242. Recognizing that the Regional Board cannot tell the Stakeholders what they must do to implement clean water objectives, you cannot determine whether the economic considerations have been met without analyzing specific BMPs. The vague nature of a water quality objective cannot be priced. The Board can identify BMPs and the frequency of their application that will form the basis of compliance. Each BMP can then be priced to determine what the economic impact will be on stakeholders. With that information the Board can determine the reasonable time that will be required for the stakeholders to meet the program. Recognizing that each watershed is facing numerous water quality issues the cumulative affect can also be judged.	See General Response(s) 1 and 2.
43-6	City of Paramount, City of San Marino	Nov 7, 2008	The City supports the implementation of a permit that is based on good science and considers the economic impacts of the programs included as	Comment noted

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			required by the Porter-Cologne Water Quality Act. We look forward to working with the Board to develop a Basin Plan that accomplishes the water quality goals mandated by the Clean Water Act while balancing the needs of the Stakeholders to comply with many and varied community needs.	
44-1	City of Sierra Madre	Nov 6, 2008	The City of Sierra Madre would like to express its gratitude to the Control Board for accepting comments from local jurisdictions regarding the upcoming discussions in regards to Basin Plan updates. We incorporate by reference the correspondence, exhibits and documents submitted on behalf of the Executive Advisory Committee for the Los Angeles County MS4 Permittees (November 10, 2008 EAC letter from Dr. Gerald Greene), as well as the correspondence from Mr. Richard Montevideo (November 10, 2008 letter from Rutan & Tucker).	Comment noted.
44-2	City of Sierra Madre	Nov 6, 2008	The City of Sierra Madre is comprised of only three square miles and is virtually a "bedroom community" with extremely limited revenue. We are a full service city that has a general fund of less than six-million dollars. In order to fund our essential safety services such as police and paramedics, we asked our residents to approve a 12% utility user tax this year. They graciously approved the tax. Our entire fire department is comprised volunteers except for the Chief and Paramedic Coordinator. Were it not for the commitment and financial support our residents have already provided our	Comment noted.

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			<p>city, we would not exist.</p> <p>Therefore, we are very concerned with the financial and economic burdens that may be associated with changes to the Basin Plan.</p>	
44-3	City of Sierra Madre	Nov 6, 2008	<p>We request that the Regional Board staff estimate what they believe are the likely costs of complying with the Basin Plan's regulations on our community. This would include providing the City with a conceptual implementation plan, an assessment of potential factors that could affect the cost estimate, including technological uncertainties and monitoring limitations. We would be pleased to review The Regional Board's cost estimate and the provide feedback to the Regional Board on the financial impacts on our community.</p>	See General Response(s) 2
45-1	City of Signal Hill	Nov 10, 2008	<p>Signal Hill is proud of its efforts in leading and participating in the scientific studies for the Los Angeles River Trash and Metals TMDLs, collecting relevant data and in the installation of significant water quality improvements over the last several years, including the Hamilton Bowl Trash Reduction Project. Signal Hill is committed to working with both the Regional Board and the State Board in improving water quality, in a timely, scientifically sound and cost-effective manner, with a realistic implementation plan, which should be the goal of a comprehensive Triennial Review and Basin Plan update.</p>	Comment noted.

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45-2	City of Signal Hill	Nov 10, 2008	<p>Signal Hill believes that the water quality standards in the Basin Plan need to be reasonably achievable. <i>As one of the smallest Cities in Los Angeles County</i> (2.1 square miles and 11,229 in population), Signal Hill has expended and continues to expend considerable resources in implementing the requirements of the National Pollution Discharge Elimination System permit ("NPDES Permit"), the Los Angeles River Total Daily Maximum Load for Trash ("Trash TMDL") and the Los Angeles River Metals TMDLs ("LA River Metals TMDL"). The City is a regional leader in organizing the monitoring and special scientific studies for the Los Angeles River Metals TMDL ("Metals TMDL") and participates as a member of the CREST Steering Committee, which is examining bacteria issues on the Los Angeles River. The Trash and Metals TMDLs are only two of dozens of Total Daily Maximum Loads ("TMDL's") that our City will be required to implement in the near future for both the Los Angeles River and the Los Cerritos Channel. There is a limit to the financial resources that Signal Hill or any community can devote to water quality improvements, since local governments exist to provide a range of services, including police, fire protection, paramedics, street and park maintenance, libraries and other municipal services. Public resources are strained and our City Council must balance many competing needs, with water quality only one among many.</p>	See General Response(s) 1 and 2.
45-3	City of Signal Hill	Nov 10, 2008	The National Academy of Science recommended	See response to comment No. 18-1.

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			<p>in 2001 that States examine their water quality standards prior to starting the TMDL program. This has not been accomplished in our region, in part since the Boards have not devoted sufficient resources to complete the review. We are concerned that the current Basin Plan and Triennial Review will also be underfunded. We provide the following comments as a starting point for the Boards to begin their evaluation of the Basin Plan as required under the Water Code. We request that the Boards initiate a stakeholder revision process involving local government. We understand that resources are limited and stand ready to assist the Boards in funding the necessary revisions.</p>	
45-4	City of Signal Hill	Nov 10, 2008	<p>We incorporate by reference the correspondence, exhibits and documents submitted on behalf of the Executive Advisory Committee ("EAC") for the Los Angeles County MS4 Permittees (November 10, 2008 EAC Letter from Dr. Gerald Greene), the correspondence from Mr. Richard Montevideo (November 10, 2008 letter from Rutan &amp; Tucker) and the correspondence from the EAC, the Los Angeles County Sanitation Districts, Coalition for Practical Regulation, Gateway Chambers Alliance, Construction Industry Association Coalition on Water Quality, Los Angeles/Orange County Building &amp; Construction Trades Council, the Tri-Counties Building Trades and the Los Angeles Area Chamber of Commerce (November 6, 2008 letter). We wish to clarify that we may be</p>	Comment noted.

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			submitting additional written comments, supporting documents and information as part of the Triennial Review process, since public involvement is an important part of the process.	
45-5	City of Signal Hill	Nov 10, 2008	This Basin Plan evaluation needs to be conducted in light of the Water Code Sections 13000, 13241 and 13242. In order to have successful water quality programs, the revised Basin Plan must address the concerns raised by Signal Hill and other local governments in the region.	See General Response(s) 1 and 2.
45-6	City of Signal Hill	Nov 10, 2008	<p>The current Basin Plan does not identify all of the significant point source dischargers into Reach One of the Los Angeles River or the Los Cerritos Channel. The identification of these dischargers is critical, since several of these facilities may be significant sources of runoff contaminants, including metals. For example, the Long Beach Airport and flight-paths are located in both the Los Angeles River-Reach One and Los Cerritos Channel watersheds. As you know, lead is still a major component of aviation fuels and is deposited in the flight paths in the local watersheds.</p> <p>The Long Beach Boeing manufacturing facilities are also located in these watersheds. Two major petroleum storage and wholesale petroleum dispensing facilities exist in Signal Hill — the Arco and Equillon loading terminals. These facilities are the likely sources of runoff pollution as well. The desired outcome of this request is to have the</p>	<p>The Basin Plan itself does not identify all individual dischargers into the surface waters of the region. However, where a waterbody segment or reach has been determined to be impaired, TMDLs are developed that identify sources of the impairing pollutant to the waterbody of concern. During TMDL development, every effort is made to identify all significant pollutant sources and stakeholders have ample opportunity to contribute to the process.</p> <p>The Regional Board is aware of the contribution of atmospheric deposition to impairments in different waterbodies. In developing TMDLs, contributions from direct atmospheric deposition may, in some circumstances, be subtracted from pollutant loads before allocations</p>

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			Boards develop a policy in the Basin Plan that would assign the proper waste load allocations to the private sector permittees, instead of the current policy of holding local government accountable for all pollutants, regardless of the source.	<p>are assigned to responsible jurisdictions to prevent responsible agencies under the TMDL from being unfairly assigned responsibility for pollutants beyond their control. However, federal law requires that the total load of each pollutant in each water body be accounted for in one manner or another.</p> <p>Atmospheric deposition is a controllable anthropogenic source. However, because it is generated from a different media it is necessary to work in conjunction with regulators of air pollution to come up with a comprehensive approach of dealing with its impacts on water quality. The State and Regional Boards have initiated several discussions with the ARB and South Coast AQMD on this issue.</p>
45-7	City of Signal Hill	Nov 10, 2008	Water Code Section 13241 requires that the Boards consider several factors when setting the Basin Plan's water quality objectives. These include 1) past, present and probable future beneficial uses, 2) environmental characteristics of the watershed, including the quality of the water, 3) water quality conditions that could reasonably be achieved through coordinated control of all factors which affect water quality, 4) economic considerations, 5) the need to develop housing and 6) the need to develop and use recycled water.	See General Response(s) 1

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			<p>Approximately 1.1 square miles of Signal Hill is located in Reach One of the Los Angeles River ("Reach One"), while 1.0 square miles of our community is tributary to the Los Cerritos Channel. This presents a unique set of challenges to Signal Hill, since we must plan water quality programs for multiple watersheds in a very small community context.</p> <p>Signal Hill is requesting that the Boards study the propriety of all the "existing" use designations (<i>for Los Angeles River Reach1 and Los Cerritos Channel</i>) in the Basin Plan, in accordance with applicable federal regulations and State law requirements, and that the Boards further specifically evaluate the following designations.</p>	
45-8	City of Signal Hill	Nov 10, 2008	<p>Ground Water Recharge ("GWR")</p> <p>The Basin Plan currently lists an existing GWR beneficial use for the Los Angeles River — Reach One (Estuary to Carson Street). In particular, we do not believe that the reasonable potential for ground recharge exists for Reach One or the Signal Hill tributaries, based on the extent of drainage improvements, the conditions of the local water aquifer and unique geologic factors of the Signal Hill Oil Field. Reach One of the River is concrete lined and the storm drain conveyance from Signal Hill to the Los Angeles River are storm drain pipes. There is limited ability of runoff from Signal Hill to interact with the ground water table.</p>	<p>Federal regulations restrict States from removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if:</p> <ol style="list-style-type: none"> <li>1. They are existing uses, as defined in 40 CFR § 131.3, unless a use requiring more stringent criteria is added; or</li> <li>2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices.</li> </ol>

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			<p>Signal Hill also has some unique geologic and aquifer factors that mitigate the requirement that our urban runoff meet GWR standards. Signal Hill sits atop one of the oldest and largest operating oil fields in California. The field is fractured by the Newport-Inglewood fault, which crosses on both side of Signal Hill. During peak production, the field consisted of 2,400 wells. Signal Hill's oil reserves remain a strategic resource for the State of California and the continued operation of the oil field presents unique challenges to our community. There are approximately 500 active wells remaining in the City. Conservative estimates by the State Division of Oil and Gas suggest that approximately 2 billion barrels of petroleum remain stored below the City. The local oil companies are beginning exploration of the deeper deposits. We recommend that you contact Mr. David Slater of Signal Hill Petroleum for more detailed information on the operation of the Signal Hill oil field, since Signal Hill Petroleum is the designated operator of all three units.</p> <p>The oil field lost its natural gas pressure in the 1960's. A major investment was made by the petroleum industry in installing a sophisticated water flood system (relying on brine or water), which recovers petroleum and natural gas. Special State legislation was adopted to combine and conserve the oil and gas reserves. This legislation allowed for the unitization of the field into the Signal Hill East, Central and West Unit Agreements</p>	<p>However, with sufficient justification this issue could be addressed in part through a limited discharger-specific variance from the ground water mineral quality objectives.</p>

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			<p>(December 1, 1971). The water flood system also prevents land subsidence, which continues to be major problem in both the Long Beach and Signal Hill oil fields. We have submitted with this letter a copy of the West Unit Agreement. The other agreements are similar.</p> <p>Seawater has historically penetrated into Signal Hill due in part to the historic oil field pumping operations, as well as the lowering of the ground water table adjacent to Signal Hill. This seawater intrusion and lowering of the ground water table, lead the County of Los Angeles to install the seawater intrusion barrier. We believe that the GWR beneficial use for Reach One is not appropriately designated as an "existing use" given all of these unique factors. Ground water recharge is neither a past, present or probable future use of the surface waters from Signal Hill tributaries. We would request that the Boards delete groundwater recharge as a designated use for Reach One, as it is not so properly designated as such in accordance with applicable law.</p>	
45-9	City of Signal Hill	Nov 10, 2008	<p>Industrial Service Supply            Reach One has a potential beneficial use of water listed for industrial service supply. We do not believe that Reach One has any industrial uses relying on the river water nor is this a probable future use. This is especially true with the erosion of the industrial base adjacent to the Los Angeles River since 1990, including the closure of the Oil</p>	<p>See General Response(s) 1 and 2 and Response to Comment 45-8.            The re-evaluation of potential uses that are not existing uses may be addressed on a case-by-case basis with sufficient justification, depending on available staff resources, should the Regional Board direct staff to do so.</p>

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			<p>Operators facility adjacent to the 1-405 Freeway and the river. This former industrial area is now planned for a park. There has been no Water Code 13241/13000 analysis, nor 13242 implementation plans prepared, that would outline whether it is reasonable achievable, and the costs and the plan to have Signal Hill's tributaries to Reach One meet the industrial service supply standard. The use should be deleted from the Basin Plan as well.</p>	
45-10	City of Signal Hill	Nov 10, 2008	<p>Water Contact Recreation (REC-1) &amp; Non-Contact Recreation (REC-2)                      The Basin Plan lists existing beneficial uses of REC-1 and REC-2 for Reach One and potential and intermittent REC-1 and REC-2 beneficial uses for the Los Cerritos Channel. Public access is restricted to the storm drains serving our community. A number of outstanding scientific issues were identified by the City in 2005 (see February 11, 2005 correspondence to Ms. Susan Cloke) on the problems of the REC-1 and REC-2 uses, which remain unresolved. We continue to believe that bacteria are not a suitable indicator of human health risk. There are many sources of natural bacteria in the environment and not all are harmful to human health. The current testing methods do not allow for the accurate measurement of human and non-human sources of bacteria. Recent CREST studies confirm these findings and US EPA is due to revise the measurement based on these issues.</p>	<p>Where requested by stakeholders, staff may re-evaluate, where appropriate, recreational beneficial uses for specific engineered channels with conditions that may not be conducive to fully supporting their REC-1 designation. Any such evaluations would be conducted with the recognition that existing beneficial uses cannot be removed, downstream uses must be protected, and any de-designation must be conducted in conformance with federal regulations at 40 CFR 131.10(g) as well as US EPA's recommendations for conducting use attainability analyses and developing a subcategory of a designated use that is not an existing use.</p>

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			<p>The majority of Signal Hill's urban runoff reaches the Los Angeles River via underground pipes (from the Hamilton Bowl and California Bowl detention areas). The Hamilton Bowl discharges through two pump stations, where public access is restricted through metal grates (see attached photographs). The California Bowl drains to Reach One as well, through gravity flow. Access is restricted (see photos). Another mitigating factor is that these pipes travel underground approximately 2 miles, until they discharge into the Los Angeles River. During this underground path, they pick up other urban runoff from the City of Long Beach, which likely contains natural background bacteria. There is also a high likelihood that the storm drain pipes are a source of bacteria, due to the fact that they are not exposed to sunlight. The REC-1 and REC-2 beneficial uses for Reach One and the Signal Hill tributaries do not exist and are not probable future uses should be deleted.</p> <p>The potential and intermittent REC-1 and REC-2 uses for the Los Cerritos Channel are also impractical and should be deleted. The urban runoff from Signal Hill enters the Los Cerritos Channel from a large underground storm drain pipe. The channel is a boxed, concrete lined, access restricted channel at the Long Beach Airport and bounded by the 1-405 Freeway. Additional national security considerations, including the threat of terrorism after 9-11, resulted in the installation of additional security fencing at the Long Beach Airport. The fencing installed by</p>	

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			<p>the Los Angeles County Flood Control District, along with fencing installed by Caltrans along the 1-405 Freeway, combined with the airport security fencing, effectively prevents public contact with the channel.</p> <p>Both the storm drains leaving Signal Hill and the boxed channel are restricted to the public due to safety reasons. The Los Cerritos Channel then travels to the Los Cerritos wetlands, where natural sources of bacteria are abundant. Signal Hill is concerned that it will be required to treat urban runoff to meet stringent REC-1 and REC-2 standards, while the discharge point of the Los Cerritos Channel is the wetlands, which naturally generates bacteria making it unsuitable for either contact or non-contact recreational standards.</p> <p>We recognize and appreciate that the Boards adopted the "high flow" suspension for engineered channels during and following storm events of a specific size. We appreciate the Board's attempt to exclude natural sources from the scope of bacteria TMDLs implemented within the Region thus far by using a "reference watershed" approach. However, we remain concerned that the costs of complying with the REC-1 and REC-2 uses (and by extension the bacterial standards) on the Los Angeles River and the Los Cerritos Channel, and analysis of the reasonable availability of these waters have never been properly analyzed under Water Codes Sections 13241/13000, and a program of implementation is not included within the Basin</p>	

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			Plan as required under Water Code Section 13242. These designated uses should be deleted as well.	
45-11	City of Signal Hill	Nov 10, 2008	<p>Storm Water Chapter of the Basin Plan</p> <p>Our prior comments on the Triennial Review (see January 27, 2005 correspondence to Ms. Fran Diamond) requested that the Regional Board develop a Storm Water Chapter in the Basin Plan. We continue to believe that storm water and urban runoff deserve this focused consideration by the Boards. This chapter would discuss the Board's policies and goals.</p>	<p>While compiling all relevant information on stormwater in a separate section may be useful, separating out water quality regulations as they pertain to stormwater is misleading. The water quality objectives in the Basin Plan apply to the receiving waters, not to types of discharges. While there may be consideration of the source of the discharge in terms of compliance and enforcement actions, the water quality objectives are applicable to surface waters.</p>
45-12	City of Signal Hill	Nov 10, 2008	<p>However, regardless of whether the revised Basin Plan contains a stormwater chapter, we believe that the major policy discussions are occurring, if at all, on an ad hoc "permit by permit" basis. Recent examples of this include the draft Ventura MS4 Permit, where the Regional Board staff is proposing a 5% effective impervious surface rule for development and the use of Municipal Action Levels for urban runoff. These are major policy considerations, which should be elevated to a discussion in connection with the Basin Plan review. We present below a partial listing of the major policies that should be discussed in the Storm Water Chapter.</p>	<p>See Response to Comment 18-8 and General Response 3.</p>

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			<i>Receiving Waters Limitations Language Enforcement Issues and Alternatives for TMDL Implementation — Memorandum of Understandings (MOUs)</i>	
45-12	City of Signal Hill	Nov 10, 2008	<p>We believe that the Boards are incorrectly citing federal regulatory authority under 40 C.F.R Statutes 122.44(d) (1) (vii) (B), to justify the incorporation of numeric limits from TMDLs into the MS4 Permit. There is no authority or requirement under State or federal law compelling the incorporation of a TMDL's waste load allocation as effluent limits in a municipal permit. To the contrary, as specially set forth in EPA's "Guidance Memorandum for Developing TMDLs California" (November 22, 2002), EPA found that "because storm water discharges are due to storm events that are highly variable in frequency and duration are not easily characterized, only in rare cases will it be feasible or appropriate to establish numeric limits for municipal and small construction storm water discharges."</p> <p>The very real problems created for local government by the proposed approach of incorporating the TMDLs numeric limits into an NPDES permit are seen in the Notice of Violations and the third-party litigation on the Santa Monica Bay Bacteria TMDL. This process has resulted in expensive and unnecessary litigation brought against the County and the Cities by the Regional Board and the environmental community. We fully understand the position of local governments that</p>	See Response to Comment 18-8.

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			<p>they need to vigorously defend themselves.</p> <p>Under federal law, the permitting agency has the "discretion" to decide what practices, techniques, methods and other provisions are appropriate and necessary to implement the TMDLs. This discretion exists, since experts recognize that many of the TMDL waste load allocations for municipal storm water discharges are difficult to achieve, due to the variability of storm flows. Strict compliance with a TMDLs numeric limit may not be technically or economically feasible for any municipality in the region.</p> <p>Load allocations can be implemented through a variety of state and local programs (which may be regulatory, non-regulatory, or incentive based, depending on the program), as well as through voluntary agreements. One of the successful models is the use of Memorandums of Understanding ("MOU"), between the Boards and the Cities. These agreements would be legally binding upon the municipalities and contain performance schedules, capital improvement plans and penalties to ensure compliance with iterative BMPs. These Regional Board — Local Government MOUs could be based on similar MOUs between EPA and federal agencies, or EPA agreements on the Niagara River or Chesapeake Bay. A more direct application of the MOA is EPA's agreement with the Regional Board and the City of Los Angeles for the development of the science on the Los Angeles River Bacteria TMDL (the CREST MOA).</p>	

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			The Boards should fully explain the implications of the current TMDL policy on local government and explore alternative implementation tools for the Basin Plan, like MOUs.	
45-13	City of Signal Hill	Nov 10, 2008	<p>Signal Hill has devoted substantial resources towards complying with the Los Angeles River Trash TMDL ("Trash TMDL"). This includes the administration of the Hamilton Bowl Trash Capture Project, which included funding from the County of Los Angeles, the City of Long Beach, Signal Hill and the State Water Board (see the "Hamilton Bowl Trash Reduction Project report, March 25, 2007"). This successful pilot program resulted in installed costs of \$1,570,000. The amortized per-house hold cost to Signal Hill is \$34.43 per household. Signal Hill must implement additional trash measures in order to ultimately meet the "Zero" standard in the TMDL. Our City costs to date are double the entire "per household" costs invested by all county households for their entire NPDES Permit programs (\$18.00 per household). Signal Hill has also experienced significant vandalism of the trash catching systems, which has required additional repair expenditures. A Trash TMDL is also required on the Los Cerritos Channel. This concerns our City, especially if the lessons learned from the Los Angeles River Trash TMDL are not carried over into the Los Cerritos Channel TMDL and the future TMDL does not address these deficiencies.</p> <p>The Los Angeles River Trash TMDL is a numeric</p>	<p>See General Response(s) 4.</p> <p>Furthermore, in 2009, the State Water Resources Control Board awarded \$10 million in stimulus funding to the sixteen cities in the Los Angeles River Watershed, including the City of Signal Hill, to cover the costs of installing full-capture trash control devices throughout their jurisdictions. This could put these jurisdictions in compliance with the Trash TMDL allocations more than 4 years before full compliance is required.</p>

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			<p>translation of a narrative standard contained in the Basin Plan ("there shall be no floatables"). The TMDL granted "full capture" status to certain trash removal devices and contained a design storm. It is assumed that the Trash TMDL for the Los Cerritos Channel will most likely follow the same standards. However, we continue to be concerned that the Basin Plan's narrative standard and the implementation schedule (10% annually) are impractical and not reasonable achievable. Signal Hill submitted a series of comments on the Los Angeles River Trash TMDL, which call for the implementation of the Trash TMDL based on a prioritization plan. The genesis of this plan was the United States Environmental Protection Agency (EPA) administered "Market-Based Strategies for Reducing Trash Loading to the Los Angeles Watershed, March 2006". This study revealed that 15% of storm drains result in 50% of the trash in flood control channel. Signal Hill suggests that a survey be conducted first of the Los Cerritos Channel and high trash generation storm drains be targeted for devices first. The current Trash TMDL is resulting in all catch basins being protected, whether they are significant generators of trash. This is creating an unnecessary expenditure in local funds for installation and long term maintenance. The Basin Plan should contain an implementation discussion for the future TMDLs, which would provide consistency with the lessons learned in the Los Angeles River Trash TMDL.</p>	

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45-14	City of Signal Hill	Nov 10, 2008	<p>The Los Angeles River Metals TMDL and the Proposed Metals TMDL for the Los Cerritos Channel — TMDL Consent Decree</p> <p>Signal Hill has made extensive comments on the problems confronted by local government in attempting to strictly comply with the California Toxics Rule and the Los Angeles River Metals TMDL (see June 19, 2006 correspondence to Ms. Jenny Newman).</p> <p>Moreover, as the leading member of the Steering Committee for the Los Angeles River Metals TMDL, we have actively encouraged local governments to fund the special scientific studies called for in the TMDL. Organizing the watershed and completing the studies is a major resource commitment and requires additional time in order to complete. The time schedule in the TMDL is overly ambitious, based on the costs of the studies and the logistics of organizing 42 local governments in the watershed (the estimated costs of the site specific objectives study/water effects ration is \$2 million and studies of atmospheric deposition and natural sources of metals are estimated at \$1.7 million). What has made these special studies "affordable" is the large number of participating local government agencies, where the costs can be spread over a large base.</p> <p>It is likely that the strict application of numeric limits developed based on the California Toxics rule to other water bodies, like the Los Cerritos Channel, will significantly impact municipal budgets. Signal</p>	<p>The Los Angeles River Metals TMDL allowed four years after its effective date to complete special studies prior to the scheduled reconsideration of the TMDL. See General Response 4.</p>

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			<p>Hill, the City of Long Beach and the City of Lakewood may have to be the primary funders of any special studies on the Metals TMDL for Los Cerritos Channel, which could be in the range of \$1 million or more (based on the Burbank-Western Wash study). The Basin Plan needs to address the chronic shortage of funding to the Regional Board for completing the necessary science to establish water quality standards.</p>	
45-15			<p>It is likely that the strict application of numeric limits developed based on the California Toxics rule to other water bodies, like the Los Cerritos Channel, will significantly impact municipal budgets. Signal Hill, the City of Long Beach and the City of Lakewood may have to be the primary funders of any special studies on the Metals TMDL for Los Cerritos Channel, which could be in the range of \$1 million or more (based on the Burbank-Western Wash study). The Basin Plan needs to address the chronic shortage of funding to the Regional Board for completing the necessary science to establish water quality standards.</p>	<p>The water quality standards for toxic metals and organic compounds have already been established by the CTR. Any modifications of these criteria are usually stakeholder-led and at the discretion of the Regional Board. Any special studies conducted to support such modifications are voluntary on the part of the jurisdictions. See also General Response 4.</p>
45-16			<p>We recognize that the TMDL Consent Decree is driving the development of many of the TMDLs. Signal Hill believes that the Consent Decree time schedule is seriously flawed, in that it did not include a realistic assessment of the time, logistics and costs of completing sound science and implementation plans for the TMDLs. It did not</p>	<p>This comment is not related to the Triennial Review. The US EPA, Region IX and the plaintiffs developed the Consent Decree and the schedule contained therein. While the Regional Board had input regarding the schedule, the Regional Board does not have the</p>

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			<p>include the input of local governments, who bear many of the implementation costs. The Boards have adopted recent TMDLs that call for "voluntary" scientific studies to be funded by local government. We believe that these studies are far from voluntary, since they are necessary to establish proper water quality standards. The Basin Plan needs to discuss how the Board should consider realistic timelines for organizing, funding and completing the special studies necessary in the various Metals TMDLs, including the Los Cerritos Channel.</p>	<p>authority to change the TMDL schedule or pacing requirements contained in the Consent Decree. These special studies referred to are not necessary to establish proper water quality standards. They are usually a means of streamlining TMDL requirements by providing additional pertinent information. Where special studies may be effective in streamlining TMDL requirements, extended schedules have been provided to accommodate them and provisions have been included in these schedules to incorporate the results of such studies and adjust TMDL requirements where necessary.</p>
45-16	City of Signal Hill	Nov 10, 2008	<p>Flood Protection — Beneficial Use Although not a traditional "beneficial use," the Basin Plan should be used to reconcile the difficulties of using a system of flood control, designed to protect life and property, with the new goal of using the system to improve water quality. The State Board recognizes that certain water bodies have been extensively modified to convey storm water and runoff and beneficial uses can be modified due to these modifications (Resolution No. 88-63, Sources of Drinking Water Policy). The State Board has also recognized that the function of flood control modifications were to move runoff to the ocean as quickly as possible, resulting in no current, or reasonable potential for water</p>	See Response to Comment 1-6.

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			<p>conservation. Also, concrete lining of many of the channels prevents interaction with ground water resources. The modifications to reflect flood control was cited by the State Board in remanding the Use Attainability Analysis for the Ballona Creek back to the Regional Board on the REC-1 beneficial use, as follows:</p> <p><i>"The record indicates that the creek was converted to a concrete lined flood control channel many years ago. Since then, the surrounding area has become highly urbanized. Restoring the full REC-1 uses associated with swimming in the Ballona Creek watershed would require addressing both the creek's existing low flow regime as well as reconciling the creek's function as flood control channel with public access for full body contact recreation. As the Regional Board staff observed, restoring the creek's use for full REC-1 uses associated with swimming would require substantial changes in existing land use patterns. These types of changes require extensive time, planning, funding, and construction. They are likely to occur over a very long period of time."</i>            (SWRCB Order WQO 2005-0004, Pages 11-12)</p> <p>Flood control is beneficial to society and should be discussed in the Basin Plan. Assuming it is even appropriate and feasible to do so, the Boards need to carefully consider that plans and funding resources do not exist to return many of the concrete lined flood control channels to natural water bodies and such planning and funding may</p>	

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			take decades to achieve, if even possible. This is especially true for Reach One of the Los Angeles River and the Los Cerritos Channel.	
45-17	City of Signal Hill	Nov 10, 2008	<p>Low Impact Development Issues</p> <p>The Stormwater Chapter should devote substantial discussion to the newly emerging policy of low impact development. Low impact development encourages the infiltration of urban runoff into local soils. This policy has its limitations. One major limitation is the requirement for additional land to impound water on development sites. This is especially difficult in built-up urban areas. Infiltration also has its limitations with manufactured slopes and in areas subject to land slides. Signal Hill fits into these three categories. Other limitations include cities with high ground water tables, where runoff cannot be infiltrated and cities with high natural levels of selenium in the soils, where ground water contamination may result from LID practices.</p>	See General Response 3.
45-18	City of Signal Hill	Nov 10, 2008	<p>Climate Change and Recycling of Water</p> <p>The Basin Plans needs to take an integrated approach to AB-32 and SB375 climate change legislation passed in the last two years. SB-375 is to address climate change by regulating transportation, housing, CEQA and land use decisions, in an attempt to centralize development. These policies may be in direct conflict with the Low Impact Development policies of the Regional Board, especially where infiltration could result in</p>	See Response to Comment 20-27.

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			<p>additional land requirements. Most climate experts anticipate periods of prolonged drought and water shortages in Southern California. Population growth will place additional demands on water supplies. The Boards should include policies in the Basin Plan that encourage the capture and reuse of urban runoff and storm water, while being consistent with the requirements placed on local government by of SB-375.</p>	
45-20	City of Signal Hill	Nov 10, 2008	<p>The California Toxics Rule  The Basin Plan provides no direction on how Cities are to comply with a strict application of numeric limits derived from the California Toxics Rule (CTR), which was adopted by the EPA in 1999. The major issue is whether Cities will be required to strictly comply with numeric limits or whether an "iterative" best management practices approach will be the Board's implementation policy. The economic impact on local government of this policy decision by the Boards will be a major factor in determining compliance costs.</p> <p>Statewide, over 50 cities and local government agencies commented in the California Toxics Rule (CTR) public record during the rule making phase of their fears that local regulators (EPA Region IX, and the Regional and State Water Boards) would wrongly misapply strict numeric CTR requirements to municipal urban runoff and storm water discharges as part of the CTR adoption process. These local agencies requested that EPA complete</p>	See response to Comment 18-19.

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			<p>the required economic analysis, if numeric limits were to be strictly applied to municipal discharges. EPA responded that the economic analysis was not necessary, since the application of CTR to storm water would not result in the need for substantial investments from local government, beyond the existing storm water programs found in 1996 NPDES Permit.</p> <p>The Board is moving ahead to adopt numeric limits in CTR on a regional basis, without completing the economic analysis (i.e. adoption of numeric limits with the Los Angeles River and San Gabriel River Metals TMDLs, along with the proposed Municipal Action Levels (MALs) found in the draft Ventura MS4 Permit). The Basin Plan needs to include an analysis of the achievability and economics in this decision.</p>	
45-21	City of Signal Hill	Nov 10, 2008	<p>Wet Weather Task Force — Design Storm Confusion</p> <p>We appreciate that the Regional Board initiated a study of wet weather, based on comments provide by Signal Hill and others as part of the 2005 Triennial Review. However, the work completed by the Southern California Coastal Waters Research Project was preliminary and only studied one rain gauge in the City of Culver City. The scope of the study was originally going to study the City of Signal Hill as well, but this scope was reduced by the Regional Board staff. The SCCWRP study contains a series of recommendations, including expanding</p>	See Response to Comment 2-16.

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			the design storm study to cover more geographic areas. We remain concerned that the no consistent design storm exists for the planning and construction of best management practices after nearly three years of study. Our comment letter on the need for the design storm is attached (see correspondence to Ms. Susan Cloke, February 9, 2005)	
45-22	City of Signal Hill	Nov 10, 2008	<p>Water Code Sections 13241/13000</p> <p>The current Basin Plan does not take into account the requirements of Water Code Sections 13241 and 13000 in connection with storm water, including urban runoff. The Basin Plan also does not provide an implementation plan, which can provide a general guideline to Signal Hill and other local governments on achievability and the likely costs of meeting the water quality standards in the Basin Plan. For example, conducting an analysis on whether a standard is reasonable achievable would likely result in finding the most efficient, cost effective and environmentally sound method of implementing a regulation. Also, the Basin Plan's discussion of funding sources is outdated and based on 1970's programs, which are non-existent or have not been funded by the federal government for decades. The Basin Plan needs to fully explore the achievability and funding issues confronted by local government, including whether the programs are reasonable achievable, the costs of the programs, the likely sources of funding and any "short fall" of funding.</p>	Comment noted. See General Response(s) 1.

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			<p>In addition, developing a stable funding source for local governments to finance necessary water quality improvements has been a major stumbling block. Los Angeles County and local Cities are undertaking a multi-year effort to develop this much needed stormwater and urban runoff funding measure. The funding measure will most likely be a parcel assessment, which will require a property owner vote. The exact nature and the timing of the assessment are still under consideration. The success of this effort will depend in a good measure on the Boards working with local government, to develop scientifically and legally sound and achievable cost-effective water quality programs, which can be supported by the public at large. Too large of an assessment may result in the defeat of the measure.</p> <p>The Basin Plan should take into account the reality that raising taxes is difficult, so the increase in cost of complying with water quality regulations may lead local government to reduce expenditures elsewhere, if new revenue sources are not found. These increased expenditures, without new sources of revenues, would lead to real reductions in existing municipal services — such as road and park maintenance, public safety, libraries and other local government services.</p> <p>We outline below a series of resources that the Boards should draw upon in completing the Water Code 13000, 13241 and 13242 reviews for</p>	

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			stormwater and urban runoff.	
45-23	City of Signal Hill	Nov 10, 2008	<p>Opinion Surveys  The Boards should collect existing opinion surveys as part of the Triennial Review and Basin Plan Update, in order to determine the public attitudes toward supporting additional taxes or assessments for water quality. These opinion surveys should be factored into a practical implementation plan (see discussion below). The Boards should solicit survey information from the various entities, since the willingness of the public to fund water quality programs is a key aspect of the "balancing" requirements of Water Code Sections 13000 and 13241.</p> <p>As an example, the Charlton Research Company completed a voter survey in Los Angeles County in October of 2002 to test awareness and voter willingness to pay for storm water clean-up programs. The survey polled 600 likely voters in eight communities — Santa Monica, Palos Verdes Estates, Long Beach, Downey, Diamond Bar, Glendale, Santa Clarita and Glendora. The survey pointed to the general unwillingness of local voters to fund new storm water fees. Twenty-five percent of the respondents were not willing to pay at all, while 24% didn't know. Twenty-five percent were willing to pay \$5 month or less. This survey was taken during a period of economic prosperity and likely does not reflect the current attitudes of residents during an economic recession.</p>	<p>The Board did not limit the nature of information and data to be submitted for consideration of issues to be addressed in the current triennial review cycle. Stakeholders had the liberty of submitting any data they felt was relevant to this particular purpose.</p>

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45-24	City of Signal Hill	Nov 10, 2008	<p data-bbox="821 316 1503 716"><i>USC Report</i> The University of Southern California completed "An Economic Impact Evaluation of Proposed Storm Water Treatment for Los Angeles County" in November of 2002. The study confirmed that the level of treatment required to meet new and emerging storm water regulations will impose very large burdens on the regional economy and local governments in particular. The report looked at three treatment scenarios — Case One (480 sub-basin plants), Case Two (65 regional plants) and Case Three (130 plants — one plant per city).</p> <p data-bbox="821 748 1503 1148">The study also demonstrated that the storm water treatment costs and economic impacts greatly increase with the capacity of the facilities to treat rare, large storm events. The region receives approximately 33 wet days annually, in varying storm sizes. The study evaluated the costs and impacts associated with treatment of storm flows produced by 0-0.5 inches of rain in a one-day event (70% of the rain events per year), 0-1.25 inches of rain in a one-day event (or 90% of the rain events) and 0-2.25 inches of rain in a one-day event (97% of the rain events).</p> <p data-bbox="821 1180 1503 1334">Costs and impacts were found to increase dramatically as storm water treatment capacity approaches the full annual rain event coverage. Using the 65-plant scenario, the region would have to invest \$43.7 billion for new collection and</p>	<p data-bbox="1524 316 2051 737">The 2002 USC Study was based on one potential method of compliance, which is neither required nor supported by the proposed TMDL. Further, a subsequent analysis by professors from USC and UCLA in 2004 determined that a cost-effective mix of BMPs can achieve water quality standards at a significantly lower cost and with substantial environmental and economic benefits. (Devinny, Kamieniecki, and Stenstrom "Alternative Approaches to Storm Water Quality Control" (2004)).</p>

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			<p>treatment capacity to accommodate the smaller storms (0-0.5 inches). The costs increase to \$135.5 billion to accommodate 90% of the storms and to \$283.0 billion to accommodate the 97% of storms.</p> <p>The report identified both the economic stimulus and depressive effects of the regional project. The least capital intensive alternative would require over \$43.7 billion in capital costs and \$127 million in annual operational costs. The report found that annual job losses to the region would be over 22,000 in the first 15 years alone. The average per-capita costs over a twenty-year period would be \$6,670 per household. Cost estimates for Signal Hill to comply ranged between \$27.3 to \$35.9 million (1999 dollars). The Board's staff should provide to Signal Hill a statement of what the Board's believe are the costs of the Basin Plan regulations and how staff reached that conclusion for Signal Hill's and other stakeholder's review and comment.</p>	
45-25	City of Signal Hill	Nov 10, 2008	<p>LA River Metals TMDL Hoffman Study/Los Cerritos Channel Metals TMDL</p> <p>The deficient and "piecemeal" approach of addressing the impacts of applying numeric limits based on CTR is found in the LA River Metals TMDL. The Board's staff estimated in the Metals TMDL that the costs of compliance would be \$1.4 billion for the cities, the County and Caltrans, with an additional \$153 million in maintenance costs annually thereafter, to achieve compliance with only 40% of the TMDL (20% of the watershed served by</p>	See General Response(s) 4.

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			<p>sand-filters and 20% of the watershed served by infiltration trenches). A poorly defined "Integrated Resources Program" was then assumed to meet the remaining 60% of the waste load allocation in the TMDL. The TMDL cost estimate is thus incomplete at best.</p> <p>The TMDL did not include a specific cost breakdown for the Cities, so it was difficult for Cities to understand the impact of the regulation. Signal Hill contracted with consultants to complete a review of the costs of implementing the LA River Metals TMDL in 2005 (See May 11, 2005 letter to Melinda Becker).</p> <p>These costs are substantial, estimated at \$53.64 million (See "TMDL Costs of Compliance, Debt Service Model, August 1, 2006," Stan R. Hoffman Associates.)</p> <p>The TMDL did not discuss the impact of financing improvements, which will be necessary because of the short implementation schedule (25% reduction in metals in wet weather and 50% reduction in dry-weather metals by 2012). Signal Hill would need to finance capital improvements through municipal bonds in order to meet the aggressive compliance deadlines in the TMDLs, since Signal Hill does not have this large amount of funding available in reserves. The study assumed that municipal bonds would have to be issued in three phases (30% of the total costs would be needed by 2007, 40% of the total costs would be needed by 2012 and the</p>	

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			<p>remaining would be needed by 2020).</p> <p>The report estimates that the first bond would require an annual debt service of \$1,189,791. The second bond would require an additional \$2,210,687 in annual debt service, while the third bond would require \$2,534,450. The total annual debt service payments would \$3,400,478 in 2013 and would grow to \$5,934,928 by 2021. Signal Hill voters would need to approve a 13.56% Utility Users Tax in order to fund the annual debt service.</p> <p>The City's Finance Director reviewed the impact of the TMDL costs on the City budget, should the voters reject a Utility Users Tax. This estimate was only performed for the first annual debt service estimate (\$1.189 million) in order to get a sense of the magnitude of the impacts. The costs of implementation would result in a 14% reduction in the City's overall municipal budget. This reduction would translate into the closure of the City Library, childcare, recreation and senior service programs, along with the elimination of all median maintenance and a 50% reduction in municipal facility maintenance. The City completed a second study of the impacts of the San Gabriel River Metals TMDL (see June 19, 2006 letter to Ms. Jenny Newman). The implementation plans are similar and would most likely be similar to the implementation plan for the Los Cerritos Channel.</p>	
45-26	City of Signal Hill	Nov 10, 2008	A Guide to Considering the Economic Impacts	Comment noted. See General

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			<p>Under the Porter-Cologne Act — March 31, 2005            It is clear that the Water Code requires the Boards to take into consideration whether the standards could be reasonably achieved, the economics, housing and other factors when establishing the water quality standards in the Basin Plan. The California Legislature did not make clear what considerations of economics means, or how consideration of economics is intended to influence decisions, albeit the Court's have confirmed that the discharger's costs of compliance must be considered. Drs. David Sunding and David Zilberman, two U.C. Berkeley economists, propose a protocol for this analysis.</p> <p>A major focus of the report was to increase the "transparency" of the Basin Planning process. The study suggests that the increased use of economics will help to avoid the legal and political conflicts that have adversely affected recent water quality protection efforts. Economic reviews often result in shaping cost effective regulations. The case in point is the LA River Trash TMDL, which was first adopted with only one "full capture" certified device, the CDS-vortex unit. These units proved very expensive for local government to install and maintain, which then resulted in engineering studies to find less expensive, but equally as effective alternatives. The Board has now approved several less expensive devices, including nets, inserts and excluders. The economic analysis should have preceded the adoption of the TMDL, since it would have generated discussion of alternatives at the</p>	<p>Response(s) 1.</p>

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			<p>initial stage.</p> <p>The report recommends that the Board staff conduct robust economic data collection. This would include compiling a complete a list of the parties affected by the Basin Plan, including private industry and government agencies, along with a description of the qualitative impacts. The staff would then solicit data from the regulated community regarding the potential compliance and related costs for Basin Plan standards.</p> <p>Dr. Sunding recommends that the Board staff estimate what they believe are the likely costs of the Basin Plan's regulations on each entity. This would include an assessment of the potential factors which could affect the estimate, including technological uncertainties and monitoring limitations, etc. The report suggests that the Board mail a "check list" to the regulated community, for an initial assessment. A sample check list is included in the report. Once the data is received, the Regional Board staff would then focus on the areas of major economic concern raised by the stakeholders.</p> <p>The Boards have a model economic impact analysis that it can rely upon (Sunding, et al) as a template to analyze the economic affects of the Basin Plan Standards on Signal Hill and the Region. The Boards should use the economic review to find the most cost-effective and environmentally beneficial measures to implement measure to reduce the metals and other pollutants in the Los Angeles River</p>	

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			and the Los Cerritos Channel. Many proposed national and state environmental regulations have benefited from this type of review and discussion.	
45-27	City of Signal Hill	Nov 10, 2008	<p>Reassessing California's Water Quality Programs  The California Coalition for Clean Water transmitted a white paper to the State Water Board on February 12, 2004. "Reassessing California's Water Quality Programs, February 2004" called for a series of common sense reforms, including review of the water quality standards prior to costly implementation. The white paper found that in recent years, the federal and state water quality programs have shifted their focus from a best management practices approach to a water quality standards approach (many standards were placed in the Basin Plans in the 1970's without review), irrespective of their risks, costs or practicality. The white paper found that many of the Basin Plan standards were developed at a time when the costs were unseen and without regard for the Water Code requirements. The report concluded that:</p> <p><i>"All water quality standards to be utilized in the development of permit requirements and total maximum daily loads (TMDLs), including beneficial uses and designations and federal and State water quality objectives, must be reassessed, verified and adjusted as necessary, and subject to the reviews mandated in the Water Code Sections 13241 and 13242 prior to implementation. These reviews should occur either in conjunction with triennial</i></p>	Comment noted. See General Response(s) 1.

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			<p><i>reviews or the basin plans or as part of the TMDL process"</i></p> <p>The report recommends that standards that are not technically supportable or were not developed in accordance with the Water Code requirements should be subject to reassessment and, if appropriate, modifications prior to implementation. The Boards should use the White Paper as guidance when revising the Basin Plan.</p>	
45-28	City of Signal Hill	Nov 10, 2008	<p>The League of Cities convened a Water Quality Regulatory Task Force in 2002-2003, which culminated in the "Final Report of the Water Quality Regulatory Task Force — Problems and Suggested Actions — July 18, 2003". The Task Force found that the regional boards do not assess consistently the economic impacts of permits, reporting and water quality standards (Page 3). The Task Force recommended that</p> <p style="text-align: center;"><i>"Because of excessive costs of implementing permits, explore the feasibility of authorizing a phased approach (as opposed to a "do-it-all" at once approach) that would ensure that the most cost effective steps are done first".</i></p> <p>We remain concerned that the Basin Plan does not contain a realistic implementation plan. The Boards should study a phased implementation approach,</p>	Comment noted. See GR-1 and response to comment 18-30.

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			<p>as recommended by the League of Cities. This phased approach would examine the challenges confronting local government when they are required to implement the NPDES Permit programs, the LA River Trash TMDL, the LA River Metals TMDL and other TMDLs at the same time.</p>	
45-29	City of Signal Hill	Nov 10, 2008	<p>Socio-Economic Impacts of the Metals TMDLs and Unemployment Rates in the Gateway Cities — August 2008</p> <p>The current Basin Plan does not consider the socio-economic impacts of its regulations. The Gateway Cities Council of Governments studied the socioeconomic impacts of the Metals TMDLs on the Los Angeles River in 2004 and the San Gabriel River in 2006. The reports illustrate high poverty rates, overcrowding and low educational levels in the watersheds. Over 936,320 persons were living in poverty in the Los Angeles River watershed, while over 508,733 were living in poverty in the San Gabriel River watershed. Although this data is three to four years old, experts believe that economic conditions have worsened.</p> <p>The Boards should factor the most recent socio-economic information into the Basin Plan review, consistent with Water Code Sections 13241 and 13000.</p> <p>(Section 13000 requires the Boards to take into consideration "all demands being made and to be</p>	<p>Comment noted. See also General Response(s) 1.</p>

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			<p>made on those waters and the total values involved, beneficial and detrimental.") This would include local unemployment rates. The most recent unemployment rates are alarming (Source: State of California Employment and Development Department). These reports point to intractable poverty, a poorly educated workforce and high unemployment in the Los Angeles River watershed. These indirectly point to the difficulty that local governments will face with raising taxes for services, such as water quality programs.</p>	
45-30	City of Signal Hill	Nov 10, 2008	<p>Impacts of Regulations on Housing Affordability            The provision of affordable housing is a Statewide goal. Water Code Section 13241 specifically requires the Boards take into consideration the impacts of regulations on housing, which currently does not exist in the Basin Plan. The Gateway Cities COG studied the impact on housing based on the implementation plans contained in the Metals TMDLs on the Los Angeles River in 2004 and the San Gabriel River in 2006. These studies were targeted towards these two watersheds in order to understand the impact of the Metals TMDLs and not the entire regulatory programs of the Basin Plan. Also, these studies did not take into account the overall impact on housing in the entire region, nor from the implementation of future TMDLs in the two watersheds.</p> <p>The findings in these reports are cautionary. Based on the implementation plan presented in the</p>	Comment noted. See General Response 1.

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			<p>TMDLs, a total of 4,967 residences would be necessary to construct sand filters (in 20% of the watershed) in the Los Angeles River watershed. A similar implementation plan for the San Gabriel River would result in the loss of 10,176 residences in 20% of this watershed. This provides a major issue for a region that has historically under produced housing. Housing production has slowed dramatically since these reports were written, due to the financial turmoil in the financial sector, including the sub-prime market. Housing production has hit 25 year lows in 2008 and housing production is expected to be slow for the remainder of this decade.</p> <p>The State requires that local governments provide a full range of housing, including affordable housing. Cities are given specific housing allocations in what is known as the Regional Housing Allocation Model (RHNA). The Southern California Association of Governments monitors housing production in the region. The last report (as of 2005) indicated that the San Gabriel River Watershed had fallen behind in producing housing by 2,780 units, while the Los Angeles River watershed had fallen behind by 15,833 units. These studies found that the implementation plans in the TMDL will worsen housing affordability in the watersheds.</p> <p>Signal Hill completed an extensive review of its Housing Element earlier this year (see the attached Housing Element). The RHNA housing forecast for</p>	

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			<p>Signal Hill is to provide 222 units by 2014, including 29 units for extremely low income households, 27 units for very low income households and 35 units for low income households. The Metals TMDLs forecast the loss of 72 homes to implement the San Gabriel River Metals TMDL (sand filters and infiltration trenches in 20% of the residential areas). An equal number of units could be lost due to the Los Angeles River Metals TMDL. These units would be lost at a time when Signal Hill is required to provide 222 units citywide and would place Signal Hill out of conformance with State housing laws and requirements. The Basin Plan needs to discuss the impact on housing of the water quality regulations and propose alternatives.</p>	
45-31	City of Signal Hill	Nov 10, 2008	<p>Consideration of the Subprime Market Collapse &amp; Housing Foreclosures            The Basin Plan review needs to take into consideration the dire economic issues facing the region, the state and the nation, based on the collapse of the subprime lenders in the last two years. In August California led the nation in housing foreclosures, with 101,485 units. This is a full 1/3 of the national total of foreclosures that month. There were 19,903 units foreclosed in Los Angeles County in August. There is second wave of foreclosures on Alternative A and Option Adjustable Rate Mortgages starting in 2009 and lasting until 2011. Signal Hill is dealing with 46 foreclosures this year, with another 96 resetting in the next year. The Southern California Association of Governments</p>	Comment noted.

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			estimates that the average cost of foreclosures on local government is \$7,000. Attached to this letter is a copy of my presentation before the Los Angeles County Bar Association on November 7, 2008, dealing with the importance achievability and economics in the Basin Plan. This presentation includes a HUD map indicating the upcoming foreclosure "hot spots" in the Long Beach/Signal Hill area.	
45-32	City of Signal Hill	Nov 10, 2008	Need for Implementation Plan and Costs The Basin Plan has failed to provide an implementation plan under Water Code Section 13242. Local government will need an implementation plan in order understand whether the standards are reasonably achievable, how they may be achieved and the budget impacts, as well as to provide additional alternatives. We have previously discussed the need for the Basin Plan to consider phased implementation (see League of California Cities comments above).	Comment noted. See General Response(s) 2.
45-33	City of Signal Hill	Nov 10, 2008	Dry Weather Implementation Plan — Sewer Diversions/infiltration The Basin Plan should provide an implementation strategy that would depend on the installation of "dry weather" diversions of urban runoff to the local sewer system. As you are aware, a series of dry weather diversions have been installed by the City and County of Los Angeles in the last several years. The Basin Plan should document the progress of these installations, including their costs. Although	The Cal. Water Code prohibits the Regional Board from prescribing the means of compliance with water quality standards; therefore, the Basin Plan does not dictate the nature of the implementation strategies that should be used by responsible jurisdictions.

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			<p>expensive, these diversions have resulted in improvements in local surface water quality.</p> <p>However, the County Sanitation Districts studied dry weather diversions along the coast in 2002 at the request of the Regional Board. This study found that the suitability and feasibility of diverting specific storm drains was highly dependant on site conditions. The suitability and feasibility were best determined by indentifying a specific impairment in the receiving water, and by performing field reconnaissance and data collection (see letter December 30, 2002 letter from Ms. Victoria Conway to the Mr. Dennis Dickerson). The Los Angeles County Sanitation Districts may have capacity issues (line sizes and lift stations) that may prevent some or most-dry weather diversions, without substantial upgrades to the local and regional wastewater treatment facilities. Signal Hill may need to construct urban runoff storage facilities, for "off-peak" pumping, as well as "pretreatment" facilities, if required by the Sanitation Districts due to their concerns of "end-of-pipe" discharges at their treatment plants. The Triennial Review and Basin Plan should include information from the Sanitation Districts on the ability of the Districts to accommodate dry weather sewer diversions from Signal Hill and the other communities served by the District.</p>	
45-34	City of Signal Hill	Nov 10, 2008	Signal Hill believes that it is imperative to consider the current economic situation in the State. We	Comment noted. See also response to comment 39-2.

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			<p>also believe that it is imperative to consider the economic, housing and other social impacts of the Basin Plan and TMDL programs and to establish clear priorities for implementation. This must be done in a transparent and open process, involving all of the stakeholders. We are concerned that the recent data solicitation does not request information relevant to these concerns, and hope that the current request for data is intended to support scoping the proposed triennial review process, since it does not provide all of the data necessary to complete the triennial review.</p> <p>Signal Hill desires to work collaboratively with the Boards to define a process and protocols, in order to ensure that the existing and future water quality standards are soundly accessed in accordance with Water Code Sections 13000, 13241 and 13242 factors. This process should include subsequent focused requests for data and information on particular topics, in order to allow for a more complete examination of the existing information and to ensure that a complete review of the standards occurs.</p> <p>We are open to meeting with the Boards at your convenience to discuss the triennial review process and our request for modifications to the Basin Plan. Signal Hill looks forward to working with you to identify the full process and resources for a comprehensive Basin Plan review.</p>	
46-1	Rutan & Tucker	Nov 10, 2008	This office represents, and these comments are	Comment noted.

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			<p>being submitted on behalf of, the Cities of Arcadia, Bellflower, Carson, Cerritos, Claremont, Commerce, Downey, Duarte, Glendora, Hawaiian Gardens, Irwindale, Lawndale, Monterey Park, Paramount, Santa Fe Springs, Signal Hill, Vernon, and Whittier, along with the Building Industry Legal Defense Foundation (hereafter collectively "Petitioners"). Petitioners are parties to that action entitled <i>Arcadia v. State Board</i>, OCSC Case No. 060002974 (the "<i>Arcadia Case</i>"). These comments and attachments are in response to the Regional Board's request of September 25, 2008 ("2008 TR Notice"), for "data and information on water quality standards and other basin planning issues for the Los Angeles region." We ask that these comments, and all exhibits included herewith, be included in the administrative record for this triennial review, and we thank you and the Los Angeles Regional Water Quality Control Board ("Board" or "Regional Board") for its review and consideration of the same.</p>	
46-2	Rutan & Tucker	Nov 10, 2008	<p>Many of the Petitioners referenced above had previously submitted extensive comments and exhibits to the Board in connection with its conducting of the 2004 Triennial Review (hereafter the "2004 TR Comments"). Unfortunately, in its response to the 2004 TR Comments, the Board concluded that such Comments were "legally incorrect and beyond the scope of the Triennial Review." Thus, in part as a result of the Board's refusal to address the 2004 TR Comments,</p>	See General Response(s) 1.

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			<p>Petitioners filed a lawsuit challenging, among other matters, the Board's 2004 Triennial Review, as well as the propriety of the Water Quality Standards ("Standards") as applied or to be applied to Stormwater in the Basin Plan. The grounds for the law suit included the fact that the Standards had <i>not</i> been developed in accordance with the requirements of law, in that: (1) the Regional Board and the State Water Resources Control Board (collectively "Boards"), had wrongly developed Standards to protect "potential" beneficial uses, contrary to law; and (2) had failed to comply with the requirements of Water Code sections 13241 and 13000<sup>2</sup> before applying the Standards to Stormwater, e.g., through the incorporation of Total Maximum Daily Loads ("TMDLs") into NPDES Permits or through the use of other numeric limits as a means of enforcing the Standards against Stormwater discharges. (A true and correct copy of the Complaint initiating this lawsuit is attached hereto and marked as Exhibit "1.")</p>	
46-3	Rutan & Tucker	Nov 10, 2008	<p>After the issues raised in the lawsuit were briefed and argued to the Orange County Superior Court, the Honorable Thierry P. Colaw presiding, the Court issued a Notice of Ruling/Decision dated March 13, 2008 (Exhibit "2," hereafter "Decision"), finding, among other matters, that:</p> <p>The Standards cannot be applied to Stormwater without appropriate consideration of the 13241/13000 factors. There is no substantial evidence showing that the Boards considered the</p>	See General Response(s) 1

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			<p>13241/13000 factors before applying the Standards to storm water in the 1975 Plan Adoption, the 1994 Amendment, or the 2002 Bacteria Objective. . . . They must be considered in light of the impacts on the "discharges" themselves. The evidence before the court shows that the Board did not intend that the Basin Plan of 1975 was to be applied to storm waters when it originally was adopted. The Respondents admit this. "[T]he regional board considered storm water to be essentially uncontrollable in 1975." [Citation.] This was confirmed by the State Board in a 1991 Order when it stated: "The Basin Plan specified requirements and controls for `traditional' point sources, but storm water discharges were not covered ... The Regional Board has not amended the portions of its Basin Plan relating to storm water and urban runoff since 1975. Therefore, we conclude that the Basin Plan does not address controls on such discharges, except for the few practices listed above. Clearly, the effluent limitations listed for other point sources are not meant to apply." [Citation.] There is no substantial evidence in the record to show that the Boards have ever analyzed the 13241/13000 factors as they relate to storm water. (See Exhibit "2," Decision p. 6; bolding in original.)</p>	
46-4	Rutan & Tucker	Nov 10, 2008	<p>The Superior Court also concluded in its Decision that the Regional Board's refusal to consider the 2004 TR Comments, amounted to the Board having "rejected out of hand" such comments, action which</p>	See General Response(s) 1

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			<p>the Court found to be "an abuse of discretion." (Decision pp. 6-7.) The Court went on to find that: "The Board and staff may have read portions or even all of the comments and Review Report, but it is clear that they <u>did not consider</u> it or, more to the point, conduct the analysis of the Standards required under 13241/13000." (Decision p.7, underlining in original.) "The Board should not have brushed off the Petitioners' comments and urgings to perform the 13241/13000 analysis at the 2004 TR. ... Here they abused their discretion, did not proceed as the law required, and the writ should therefore issue." (Id.)</p>	
46-5	Rutan & Tucker	Nov 10, 2008	<p>As a result of the Decision, the Court issued a Writ of Mandate and Judgment (both dated July 2, 2008 and attached hereto as Exhibits "3" and "4" respectively), setting aside Regional Board Resolution No. 2004-003 (the Resolution concluding the 2004 Triennial Review process), and directing the Boards during either the reopened 2004 Triennial Review or the next scheduled triennial review:</p> <p>(a) to review and, where appropriate, revise the Standards, which apply or are to be applied to storm water and urban runoff (collectively "Stormwater"), in light of the factors and requirements set forth under Water Code sections 13241 and 13000, including, but not limited to, the specific factors set forth under Water Code sections 13241(a) — (f), and the considerations provided under Water Code</p>	See General Response(s) 1

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			<p>section 13000;</p> <p>(b) to revise the Standards that apply or are to be applied to Stormwater, such that no "potential" use designations for such Standards remain in the Basin Plan; and</p> <p>(c) to revise the Standards, as appropriate, during said triennial review process, consistent with subsection (a) and (b) above and state and federal law, after a full and fair public hearing or hearings, and before concluding the triennial review. (See July 2 Writ, Exh. "3", p. 2-3.)</p> <p>Although, by Orders dated August 28, 2008, the Court vacated the July 2, 2008 Writ and Judgment, the Court indicated that the above-quoted portions were to be left unchanged in the final Writ and Judgment, to be issued and entered by the Court. (See, collectively Exh. "5," the Court's August 28, 2008 Orders denying the Boards' and Intervenors' Motions for New Trial and Intervenors' Motion to Vacate.) The Regional Board has now apparently commenced the "next scheduled triennial review" for the Basin Plan for the Los Angeles Region, and as such, as a part of this triennial review process, must, therefore, comply with the Court's Decision and any final Writ and Judgment ultimately entered in the <i>Arcadia Case</i>.</p>	
46-6	Rutan & Tucker	Nov 10, 2008	The initial set of technical exhibits/documents and data which Petitioners request the Boards consider and evaluate in this upcoming triennial review are	See General Response(s) 1. The Regional Board will take Official Notice of the fact of all prior triennial reviews

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			<p>the various comments, documents and submittals provided as part of its review of the 2004 Triennial Review process. Included herewith as Exhibit "6" is a compact disk of the Administrative Record for the 2004 TR generated in the Arcadia Case. Petitioners ask that the Boards give full consideration to the comments, data, exhibits and other documents submitted by many of these Petitioners in connection with the 2004 Triennial Review included with Exhibit "6," as such comments, etc., have not yet been addressed, and as the Basin Plan, therefore, remains defective and in need of review and revision.</p>	<p>and basin amendments that have previously been performed. There is no need, however, to incorporate the 2004 triennial review administrative record or any other triennial review or basin plan amendment administrative records into this administrative record, because they do not necessarily assist the Regional Board in prioritizing basin planning resources over the next three years.</p> <p>In any event, incorporation of only one prior triennial review's administrative record presents a skewed and inaccurate history of basin planning activities undertaken by the regional board. As the commenter knows, the triennial review process does not merely include the triennial review record, but subsequent basin planning activities that occurred pursuant to the priorities determined at the triennial review.</p> <p>During the <i>Arcadia II</i> litigation, the commenter unfairly raised arguments about the Regional Board's prior basin planning activities although the administrative records pertaining to which, the commenter specifically did not request be placed before the court. This enabled the commenter to incorrectly argue that basin planning activities had not occurred, that actually</p>

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				<p>had, and to mischaracterize the nature of the triennial review process and scope of the regional board's management of its basin plan.</p> <p>To the extent staff has considered outstanding issues from any prior triennial reviews in formulating the recommendations now before the Board, those are reflected in the staff report supporting the triennial review. If the commenter has a legitimate explanation beyond the issues discussed in General Response(s) 1, as to why the commenter believes those records or specific parts of them would be of assistance to this proceeding, the commenter should specify the reasons for the request, and the specific portions of the administrative records the commenter believes are relevant.</p>
46-7	Rutan & Tucker	Nov 10, 2008	<p>THE BOARDS MUST COMPLY WITH THE REQUIREMENTS SET FORTH UNDER WATER CODE SECTIONS 13241/13000 AS A PART OF THE PROPOSED TRIENNIAL REVIEW.</p> <p>The goal of the Porter-Cologne Act is to "attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible." (§ 13000; <i>also see City of Burbank v. State Board</i> (2005) 35 Cal.4th 613, 618.)</p>	See General Response(s) 1.

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			<p>The Porter Cologne Act also specifically requires Basin Plans to "conform to the policies set forth in [the PCA] commencing with Section 13000." (§ 13240.)</p> <p>In addition, when establishing water quality objectives, the Boards must do so insofar as to "ensure the reasonable protection of beneficial uses," recognizing that it "may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses." (§ 13241.) Section 13241 further requires that the Boards consider the following factors when establishing water quality objectives:</p> <ul style="list-style-type: none"> <li>(a) Past, present, and probable future beneficial uses of water.</li> <li>(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.</li> <li>(c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.</li> <li>(d) Economic considerations.</li> <li>(e) The need for developing housing in the region.</li> <li>(f) The need to develop and use recycled water.</li> </ul>	
46-8	Rutan & Tucker	Nov 10, 2008	Moreover, when considering the 13241 factors and the development of Standards, controlling case	See General Response(s) 1

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			<p>authority requires that these factors not be <i>considered</i> in a vacuum, but instead be considered in light of the impacts on the dischargers themselves. In <i>City of Burbank v. State Board</i> (2005) 35 Cal. 4th 613, the California Supreme Court held that, to the extent that the NPDES Permit provision in that case were not compelled by federal law, the Boards were required to consider their "economic" impacts on dischargers, i.e., the "dischargers cost of compliance." (<i>Id.</i> at 618.) In doing so, the Supreme Court interpreted the need to consider "economics," as requiring a consideration of the "cost of compliance" on the cities involved in the case. (<i>Id.</i> at 625.) Accordingly, under the California Supreme Court's holding in <i>Burbank</i>, the 13241/13000 analysis cannot be conducted in a vacuum, but must be considered in light of the impacts on the "dischargers" themselves. In the Court's Decision in the <i>Arcadia Case</i>, the Court agreed with this analysis and concluded that: "The [<i>Burbank</i>] Court interpreted the need to consider economics as requiring a consideration of the costs of compliance on the cities" (<i>id</i> at 625), and that "under <i>Burbank</i>, the 13241 factors cannot be evaluated in a vacuum. They must be considered in light of the impacts on the `dischargers' themselves." (Decision, p. 6.)</p>	
46-9	Rutan & Tucker	Nov 10, 2008	<p>In <i>US. v. State Board</i> (1986) 182 Cal.App.3d 82, the State Board issued revised water quality standards for salinity control because of changed circumstances which revealed new information</p>	See General Response(s) 1

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			<p>about the adverse affects of salinity on the Sacramento <i>S a n</i> Joaquin Delta ("Delta"). (<i>Id.</i> at 115.) The State Board approved the revised standards with the understanding it would impose more stringent salinity controls in the future. In invalidating the revised standards, the Appellate Court recognized the importance of complying with the policies and factors set forth under section 13000/13241, emphasizing the section 13241 need for an analysis of "economics," as well as the importance of establishing water quality objectives which are "reasonable," and the need for adopting "reasonable standards consistent with overall State-wide interests":</p> <p>In formulating a water quality control plan, the Board is invested with wide authority "to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible." (§ 13000.) In fulfilling its statutory imperative, the Board is required to "establish such water quality objectives . . . as in its judgment will ensure the reasonable protection of beneficial uses ..." (§ 13241), a conceptual classification far-reaching in scope. (<i>Id.</i> at 109-110, emphasis added.)</p> <p>* * *</p> <p>The Board's obligation is to attain the highest reasonable water quality "considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible."</p>	

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			<p>(§13000, italics added.) (<i>Id.</i> at 116, emphasis in original.)            * * *</p> <p>In performing its dual role, including development of water quality objectives, the Board is directed to consider not only the availability of unappropriated water (§ 174) but also all competing demands for water in determining what is a reasonable level of water quality protection (§ 13000). In addition, the Board must consider . . . "[water] quality conditions that could reasonably be achieved through the coordinated control of <i>all</i> factors which affect water quality in the area." (<i>Id.</i> at 118, emph. added.)</p>	
46-10	Rutan & Tucker	Nov 10, 2008	<p>Similarly, Justice Brown in her concurring opinion in the <i>Burbank</i> decision, made a number of significant comments regarding the importance of considering "economics" in particular, and the Section 13241 factors in general, when developing <i>Standards</i>, and the problems that have resulted to date from the Regional Board's failure in that case to consider "economic considerations" when developing the Standards in the Basin Plan:</p> <p>Applying this federal-state statutory scheme, it appears that throughout this entire process, the Cities of Burbank and Los Angeles (Cities) were unable to have economic factors considered because the Los Angeles Regional Water Quality Control Board (Board) — the body responsible to enforce the statutory framework — failed to comply with its statutory mandate.</p>	See General Response(s) 1

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			<p>For example, as the trial court found, the Board did not consider costs of compliance when it initially established its basin plan, and hence the water quality standards. The Board thus failed to abide by the statutory requirements set forth in Water Code section 13241 in establishing its basin plan. Moreover, the Cities claim that the initial narrative standards were so vague as to make a serious economic analysis impracticable. Because the Board does not allow the Cities to raise their economic factors in the permit approval stage, they are effectively precluded from doing so. As a result, the Board appears to be playing a game of "gotcha" by allowing the Cities to raise economic considerations when it is not practical, but precluding them when they have the ability to do so. (<i>Id.</i> at 632, J. Brown, concurring; emphasis added.)</p>	
46-11	Rutan & Tucker	Nov 10, 2008	<p>Justice Brown also found that the last time the "toxicity" objectives were reviewed and modified was in 1994, a fact not denied by the <i>Regional</i> Board, and went on to find that:</p> <p>Accordingly, the Board has failed its duty to allow public discussion — including economic considerations — at the required intervals when making its determination of proper water quality standards.</p> <p>What is unclear is why this process should be viewed as a contest. State and local agencies are presumably on the same side. The costs will be</p>	See General Response(s) 1

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			<p>paid by taxpayers and the Board should have as much interest as any other agency in fiscally responsible environmental solutions.</p> <p>In light of the Board's initial failure to consider costs of compliance and its repeated failure to conduct required triennial reviews, the result here is an unseemly bureaucratic bait-and-switch that we should not endorse. (<i>Id.</i> at 632-33, J. Brown concurring; <i>emph. added.</i>)</p>	
46-12	Rutan & Tucker	Nov 10, 2008	<p>Justice Brown concluded her comments by stating that the Board's actions in that case: "<i>makes me wanna holler and throw up both my hands.</i>" (<i>Id.</i> at 634)</p> <p>In short, in light of the clear requirements of the Porter-Cologne Act as interpreted by controlling case authority, as well as the Decision in the <i>Arcadia Case</i>, including the requirements of the unchanged portions of the July 2 <i>Writ</i> of Mandate and Judgment requiring a review and revision of the Standards where appropriate "in light of the factors and the requirement set forth under Water Code Sections 13241 and 13000)," both the State and Regional Boards at this time must conduct a full 13241/13000 analysis of the Standards that apply or are to be applied to Stormwater as a part of this upcoming Triennial Review.</p>	See General Response(s) 1
46-13	Rutan & Tucker	Nov 10, 2008	THE BOARDS MUST DELETE ALL "POTENTIAL" USE DESIGNATIONS SET FORTH IN THE BASIN	See General Response(s) 1

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			<p>PLAN DURING THE TRIENNIAL REVIEW, AS SUCH IS REQUIRED BY APPLICABLE LAW AND THE COURT'S DECISION.</p> <p>Under Section 13241, the factors to be considered in establishing Water Quality Objectives "shall include but not necessarily be limited to . . . past, present and probable future beneficial uses of water." (§ 13241(a).) In addition, under Section 13240, the Boards are required to conform to the policies set forth in Chapter 1 of the Porter-Cologne Act, "commencing with Section 13000" when formulating and adopting "water quality control plans for all areas within the region." (§ 13240.) Section 13000 provides, in part, as follows:            The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the State shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible. (Emph. added.)</p>	
46-14	Rutan & Tucker	Nov 10, 2008	<p>Similarly, under the Clean Water Act ("CWA" — 33 U.S.C. § 1251 et seq.), and specifically CWA section 1313(c)(2)(A), Standards are to "be established taking <i>into consideration their use and value.</i>" (Emph. added.) Section 1313(d) of the CWA also requires that the State rank impaired water bodies "taking into account the severity of the pollution and the <i>uses to be made</i> of such waters." (Emph. added.)</p>	See General Response(s) 1

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			<p>In the <i>Arcadia Case</i>, the Court reviewed the State statutory requirements and applicable case law, as well as the various contentions of the parties, and concluded as follows:</p> <p>The real problem is that basing Standards on "potential" uses is inconsistent with the clear and specific requirement in the law that Boards consider "probable future" uses. It is also inconsistent with section 13000 which requires that the Boards consider the "demands being made and to be made" on state waters. (Water C. § 13000 emphasis added.) The factors listed by the Legislature in 13241 were chosen for a reason. <i>Bonnell v. Medical Bd of California</i> (2003) 31 Cal.App.4<sup>th</sup> 1255, 1265 [courts will "not accord deference" to an interpretation which "is incorrect in light of the unambiguous language of the statute"]. Respondents have acted contrary to the law by applying the vague 'potential' use designations to Stormwater. (Decision, p. 5.)</p>	
46-15	Rutan & Tucker	Nov 10, 2008	<p>In light of the clear requirements of State and federal law, as well as the Court's express findings in the <i>Arcadia Case</i>, and given the pending Writ and Judgment to be entered which will require revisions to the Standards such that no "potential" use designations remain in the Basin Plan, the upcoming Triennial Review Process must include a full review and deletion of all "potential" use designations presently in the Basin Plan, as they</p>	See General Response(s) 1

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			apply or are to be applied to Stormwater. Failure to do so would be action contrary to law and would contradict the unchanged portions of the July 2 Writ and Judgment. (See Exh. "3" and "4.")	
46-16	Rutan & Tucker	Nov 10, 2008	<p>A PROGRAM OF IMPLEMENTATION MUST BE DEVELOPED UNDER SECTION 13242 TO DETERMINE THE PROPER MEANS OF APPLYING AND IMPLEMENTING THE STANDARDS TO STORMWATER.</p> <p>Under Water Code Section 13242, as a part of the development of a Basin Plan, the Boards are required to develop a "program of implementation for achieving water quality objectives." Section 13242 provides as follows:</p> <p>§ 13242. Program to achieve objectives</p> <p>(a) The program of implementation for achieving water quality objectives shall include, but not be limited to: A description of the nature of actions which are necessary to achieve the objectives, including recommendations for appropriate action by any entity, public or private.</p> <p>(b) A time schedule for the actions to be taken.</p> <p>(c) A description of surveillance to be undertaken to determine compliance with objectives.</p>	See General Response(s) 2
46-17	Rutan & Tucker	Nov 10, 2008	Because State law specifically requires the development of a program of implementation as needed for "achieving water quality objectives," and given the lack of any implementation plan at this time describing how the Standards will be achieved when applied to Stormwater dischargers, as a part	See General Response(s) 2

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			<p>of the upcoming Triennial Review Process an Implementation Plan must be developed as a means of applying the Standards to Stormwater. The lack of an Implementation Plan is a material defect in the Basin Plan, and, as to Stormwater dischargers, is now required and should be prepared while the Boards are conducting requisite 13241/13000 analysis, and correcting its "potential" use designation.</p>	
46-18	Rutan & Tucker	Nov 10, 2008	<p>ALL OF THE STANDARDS IN THE BASIN PLAN THAT APPLY OR ARE TO BE APPLIED TO STORMWATER MUST BE REVIEWED AND REVISED AT THIS TIME.</p> <p style="padding-left: 40px;">A. <u>Sections 13241/13000 And The Court's Decision Requires The Review And Revision Of All Of The Standards In The Basin Plan Applicable To Stormwater.</u></p> <p>As discussed above in connection with the Court's Decision in the <i>Arcadia</i> Case, during the course of this upcoming <i>Triennial</i> Review of the Basin Plan, the Regional Board and the State Board are both required to review and where appropriate "revise the [Standards] in the Basin Plan, which apply or are to be applied to [Stormwater], in light of the factors and requirements set forth under Water Code Sections 13241 and 13000, including but not limited to, the specific factors set forth under Water Code Sections 13241(a)-(f), and the considerations provided under Water Code Section 13000." (Exh.</p>	See General Response(s) 1

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			<p>"3," July 2 Writ, p. 3.)</p> <p>The unchanged portions of the July 2 Writ also require that the Boards <i>"revise the Standards that apply or to be applied to Stormwater, such that no 'potential' use designations for such Standards remain in the Basin Plan,"</i> and that such revisions as well as the review under Sections 13241/13000, are to occur <i>"during the Triennial Review process, after a full and fair public hearing or hearings, and before concluding the Triennial Review."</i> (Exh. "3," p. 3, <i>emph. added.</i>)</p> <p>The 2008 TR Notice requesting data and information, however, mentions nothing of the Decision, nor the unchanged portions of the July 2 Writ or Judgment, and, in fact, makes no mention whatsoever of the Arcadia Case.. On its face therefore, the 2008 TR Notice does not evidence any attempt on behalf of the Boards to conduct the review required by the Court's Decision.</p> <p>In addition, beyond the fact that the 2008 TR Notice fails to even mention the <i>Arcadia Case</i>, the Decision, or the July 2 Writ or Judgment, in fact, it actually appears to contradict the Decision where it specifically limits the submission of comments by commentors to specifically <i>"affected water quality objectives,"</i> or <i>"affected water bodies and watersheds,"</i> as well as a particular <i>"affected beneficial use."</i> (2008 TR Notice, p. 2.)</p> <p>Accordingly, although the Court in the <i>Arcadia Case</i> has found that the State and Regional Boards are</p>	

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			<p>required to conduct a complete 13241/13000 analysis of all of the Standards in the Basin Plan that apply or are to be applied to Stormwater, as well as to correct all such designated "potential" beneficial uses in the Basin Plan, the 2008 TR Notice ignores the Decision and the unchanged portions of the July 2 Writ and Judgment, and fails to comply with the requirement therein, and those under State law requiring a 13241/13000 review of all the Standards that apply to Stormwater and a correction of all designated "potential" beneficial uses.</p>	
46-19	Rutan & Tucker	Nov 10, 2008	<p style="text-align: center;">B. <u>A Conceptual Outline For Compliance With Sections 13241/13000 And The Court's Decision.</u></p> <p>In light of the clear requirements of sections 13241 and 13000 of the Porter Cologne Act, as well as the Court's Decision requiring a review of all the Standards in the Basin Plan that apply or are to be applied to Stormwater, and considering the applicable requirements of the Clean Water Act and any federal criteria developed <i>thereunder</i>, Petitioners would propose the following conceptual outline as a suggested approach for the Boards to consider when performing the required review under the Court's Decision of all the Standards in the Basin Plan, as applied or to be applied to Stormwater:</p>	See General Response(s) 1

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			<p>(1) The Boards should first properly identify all "existing uses" for all water bodies in the Region in accordance with applicable federal and State law. (See, e.g., 40 CFR 131.3(e).) Other comments submitted on behalf of various Petitioners and other parties provide examples of the problems created by improper "existing" use designations in the Basin Plan, and provide further guidance on the process to be followed to properly designate "existing uses."</p> <p>(2) For the waterbodies and "existing" uses identified in (1) above, establish appropriate water quality criteria/objectives as necessary to protect the properly identified "existing use." Where federal criteria have been developed and are required to be used, or where criteria have been established by the State Board, e.g., through the State's Ocean Plan, then such federal or state required criteria should be utilized. Where no federal or state required criteria exist, then appropriate criteria should be established as necessary to protect the properly designated "existing use."</p> <p>(3) For each water body in the Region, identify all point source dischargers, including Stormwater dischargers, along with all significant non-point source dischargers.</p> <p>(4) For each water body in the Region, properly identify the past and probable future beneficial uses of the Water Body, along with</p>	

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			<p>"the demands being made and to be made" on the water body, as well as the "use and value" of the water body.</p> <p>(5) For each water body and designated use in (4) above, when applying the water quality criteria referenced/established in (2) above, determine whether such criteria "could reasonably be achieved", in light of the "environmental characteristics" of the water body, the "economic considerations" (specifically including the cost of compliance on Stormwater dischargers), the impacts on housing within the region, the need to develop and use recycled water, and the policy considerations under Section 13000, i.e., "considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible," as well as other State and federal required considerations.</p> <p>(6) Where the analysis conducted in (5) above shows that the designated beneficial use could not reasonably be achieved, or the economic impacts on the dischargers are significant and unreasonable in light of the desired proposed past or probable future use, or the environmental characteristics make the use unattainable (e.g., concrete lined and dangerous to swim in), or the impacts on housing in the region would be unreasonable, or the balancing otherwise required under section</p>	

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			<p>13000 or other State and federal laws, would not justify attaining the use, then the proposed designated use should be downgraded as appropriate to comport with State or federal law, or deleted.</p> <p>(7) All designated "potential" uses presently in the Basin Plan, must be evaluated and a determination must be made as to whether such uses can properly be designated as a past, present, or probable future use, and either deleted, if they cannot be properly designated as such, or evaluated in accordance with the analysis under (1)-(6) above.</p> <p>The above-proposed general approach for conducting the requisite section 13241/13000 analysis, and <i>complying</i> with the other requirements of State and federal law, is designed specifically to accommodate any federal or State required criteria/objectives. Specifically, this approach would avoid any concerns over conflicts with federally required criteria for properly designated "existing" uses in the Basin Plan, that apply or are to be applied to Stormwater, while at the same time complying with the requirements of applicable State law, including but not limited to the required factors under sections 13000 and 13241, as well as the Court's Decision.</p>	
46-20	Rutan & Tucker	Nov 10, 2008	AS REQUIRED BY THE JULY 2 WRIT OF MANDATE AND JUDGMENT, THE STATE BOARD	See General Response(s) 1

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			<p>MUST ALSO BE INVOLVED IN THE TRIENNIAL REVIEW PROCESS.</p> <p>The unchanged portions of the July 2 Writ of Mandate are directed at both the Regional Board and the State Board, <i>requiring</i> both to be involved in the review and revision process of the Basin Plan, as it applies to Stormwater. This is consistent with the requirements of State law, as the State Board is required under section 13245 to review and approve any Basin Plan before it can become effective. (See Water Code § 13245.) And, in fact, it was the State Board that ultimately adopted the 1975 Basin Plan, as well as the 1994 Amendments and the 2002 Bacteria Objectives, and thus, it is the State Board that must ultimately review and revise the Standards so as to comply with sections 13241/13000, and correct the improperly designated "potential" beneficial use designations in the current Basin Plan.</p> <p>The 2008 TR Notice is therefore deficient as it fails to provide proper notice to the public, and fails to recognize, that the State Board is to be a part of the upcoming Triennial Review Process and that it is the State Board that must <i>ultimately</i> approve the necessary revisions to the Standards so as to comport with the Court's Decision and applicable law.</p>	
46-21	Rutan & Tucker	Nov 10, 2008	THE REVISED BASIN PLAN SHOULD REFLECT THE FACT THAT NUMERIC LIMITS CANNOT "REASONABLY BE ACHIEVED" BY	See General Response(s) 1, 3.

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			<p>STORMWATER DISCHARGERS AT THIS TIME. Over the years, because of the variability and difficulty in containing and/or treating Stormwater, the State Board has consistently determined that numeric effluent limits were not to be applied to Stormwater dischargers, and that instead, iterative best management practices ("BMPs") were to be utilized. Starting with the 1975 Basin Plan, the Boards determined that:</p> <p>There are presently no generally applicable effluent limits nor water pollution control facilities in connection with urban runoff that appear practical or economical. The emphasis for water quality control from this standpoint should be public education, public cooperation and improved (outdoor) housekeeping, and continued search for solutions to the air pollution problem. (See 1975 Basin Plan Administrative Record in the <i>Arcadia Case</i>, AR 1975 BP 5522.)</p> <p>Similarly, in rejecting a claim by the Natural Resources Defense Council ("NRDC") that numeric limits were required to be included in the 1990 Municipal NPDES Permit for Los Angeles County, the State Board found that: "<i>There are no numeric objectives or numeric effluent limits required at this time, either in the Basin Plan or in any statewide plan that apply to storm water discharges.</i>" (See Exh. "7," Order No. 91-04, p. 14; emph. added.)</p> <p>Since this 1991 Order, the State Board has consistently determined that Numeric Limits are not</p>	

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			<p>required for Stormwater permittees. (See Exh. "8," Order No. 98-01, p. 12 ["Stormwater permits must achieve compliance with water quality standards, but they may do so by requiring implementation of BMPs <i>in lieu of numeric water quality-based effluent limitations.</i>"]; Exh. "9," Order No. 2006-0012, p. 17 ["<i>Federal regulations do not require numeric effluent limitations for discharges of storm water.</i>"]; Exh. "10," April 18, 2008 Letter from the Office of Chief Counsel, p. 6 ["Most NPDES permits are largely comprised of numeric limitations for pollutants. . . . <i>Storm water permits, on the other hand, usually require dischargers to implement BMPs.</i>"].)</p>	
46-22	Rutan & Tucker	Nov 10, 2008	<p>Similarly, a Blue Ribbon Panel of experts commissioned by the State Board known as the "Stormwater Panel on Numeric Limits," concluded, after studying the issue of the propriety of utilizing numeric limits for municipal stormwater dischargers, that: "It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban dischargers." (Exh. "11," p. 8.) Even with respect to numeric limits for construction stormwater dischargers, although the Numeric Limits Panel concluded that: "Numeric limits [are] <i>technically feasible</i> for pollutants commonly associated with stormwater dischargers from construction sites," the Panel went on to find that: "[w]hether the use of Numeric Limits is prudent, practical or necessary to more effectively achieve non-point pollution control is a separate question," with the panel expressing "reservations and</p>	See General Response(s) 3.

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			concerns" in this regard. (Exh. "11," p. 15-17) <sup>3</sup>	
46-23	Rutan & Tucker	Nov 10, 2008	<p>In the State Board Fact Sheet for Water Quality Order No. 99-08, the General Construction Activities Permit, the State Board concluded that it was "aware that USEPA has concluded that in general it is not appropriate or legally required to include numeric, water quality-based effluent limitations in storm water permits. (40 CFR 122.44(k)(2).)" The State Board went on to find that: "USEPA has addressed the relationship between BMPs and water quality standards, and has determined that almost all storm water discharges can be adequately controlled to meet water quality standards through BMPs." (See Exh. "12," Excerpts from Fact Sheet for Order No. 99-08, p. 34.)</p> <p>For municipal Stormwater dischargers, the State Board has repeatedly endorsed the use of "an iterative" BMP process as a means of improving water quality, rather than the use of "numeric limits." For example, in <i>Order</i> No. 2001-15, the State Board concluded that: "While we continue to address water quality standards in municipal stormwater permits, we also continue to believe that the iterative approach, which focuses on timely improvement of BMPs, is appropriate." (See Exh. "13," Order No. 2001-15, p. 8.)</p> <p>Moreover, as further referenced above, in Order No. 98-01, the State Board also concluded that Stormwater permits may achieve compliance with</p>	See General Response(s) 3.

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			<p>water quality standards through the "implementation of BMPs in lieu of numeric water quality-based effluent limitations." (Exh. "8," p. 12.) And, in the Office of Chief Counsel's letter of April 18, 2008, the Chief Counsel stated that although "most" NPDES permits are largely comprised of numeric limitations for pollutants," "stormwater permits . . . usually require dischargers to implement BMPs." (Exh. "10," p. 6.)</p> <p>Accordingly, at this time, in the course of reviewing and, where appropriate, revising the Standards to comply with Section 13241/13000, and specifically when developing an Implementation Plan to implement the revised Standards, the Standards and the Implementation Plan should recognize the view the State Board has long since held, i.e., as to Stormwater, compliance with the Standards is to be achieved by "requiring implementation of BMPs, in lieu of numeric water quality-based effluent limitations." (Exh. "8," Order No. 98-01, p. 12.)</p>	
46-24	Rutan & Tucker	Nov 10, 2008	<p>THE PROPOSED TRIENNIAL REVIEW PROCESS IS DEFECTIVE, AS IT WRONGLY SEEKS TO ESTABLISH A PROPOSED SET OF "PRIORITIZED ADDITIONS AND REVISIONS" TO THE BASIN PLAN.</p> <p>The 2008 TR Notice provides that the Regional Board is seeking input from the public for "possible additions and revisions to water quality standards" to be "identified and prioritized at a Regional Board hearing." According to the 2008 TR Notice, "[t]hese prioritized additions and revisions are then</p>	See General Response(s) 1

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			<p>developed and <i>implemented</i> through future Basin Plan Amendments over the course of the three-year cycle, based upon available resources." Thus, the Boards appear poised to continue to follow a flawed triennial review process involving the development of "priority" lists, rather than following federal law, which specifically requires a review, and "as appropriate, modifying" the Standards during the triennial review. (33 U.S.C. § 1313(c)(1).)</p> <p>The Boards' desire to continue with a flawed triennial review process that does not, during this process, allow for "appropriate" modifications to the Standards, is directly contrary to the clear requirements of the CWA, as well as that portion of the July 2, Judgment entered by the Superior Court in the <i>Arcadia Case</i> — <i>which</i> section is to remain unchanged. (Exh. "4," p. 5.) This unchanged language in the July 2 Judgment provides as follows:</p> <p style="padding-left: 40px;">The Court, having reviewed the applicable provisions of State and federal law governing the triennial review process to be followed when reviewing and revising Standards (<i>see</i> 33 U.S.C. § 1313(c)(1) and Cal. Water Code §§ 13143 and 13240), hereby further declares that a public hearing is to be conducted as a part of the triennial review process, and that such public hearing is to be conducted for the express purpose of reviewing and, as appropriate, modifying the Standards or adopting new Standards. (<i>See</i> 33 U.S.C. §</p>	

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			<p>1313(c)(1).) The Court declares that, under applicable State and federal law, the triennial review process is <i>not</i> to be concluded until such time as the need for appropriate modifications to the Standards has been considered, and until such time as actual modifications, where appropriate, have been made to the Standards or determined not to be made. (Emph. in original.)</p>	
46-25	Rutan & Tucker	Nov 10, 2008	<p>The Court's determination in this regard is, moreover, entirely consistent with the requirements of State and federal law. Under the CWA, "at least once every three year period" a State is to "hold <i>public hearings</i> for the purpose of reviewing applicable water quality standards and, as appropriate, <i>modifying</i> and adopting standards." (33 U.S.C. § 1313(c)(1).) Similarly, under Water Code sections 13240 and 13143, basin plans are required to be "periodically reviewed" and "revised" as appropriate. The federal regulations under the Clean Water Act also require that the triennial review process be conducted "in accordance with the provisions of state law," and that the states "shall submit the results of the review . . . and any revision of the standards" to EPA. (40 C.F.R. § 131.20(b) &amp; (c).)</p> <p>Thus, the "triennial review" process required by federal and State law, involves not only the review of the Standards, but also the actual modification or revision of the Standards, when necessary, i.e.,</p>	See General Response(s) 1

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			<p><i>any deficiencies or defects in the Basin Plan are to be corrected during the triennial review process. (33 U.S.C. § 1313(c)(1); see also US. v. State Bd., supra, 182 Cal.App.3d 82, 108 ["every state water pollution control agency must conduct a triennial review of its water quality standards and submit proposed revisions to the Environmental Protection Agency for approval"]; emph. added.)</i></p>	
46-26	Rutan & Tucker	Nov 10, 2008	<p>According to the District of Columbia Court of Appeal, the states are <i>"to revisit and, if necessary, revise [the Basin Plan's] initial standards at least once every three years--a process commonly known as triennial review."</i> (<i>American Paper Inst. v. United States EPA</i> (D.C. Cir. 1993) 996 F.2d 346, 349, emph. added.) As further stated in <i>National Wildlife Fed'n v. Browner</i> (D.C. Cir. 1997) 127 F.3d 1126:</p> <p style="padding-left: 40px;">The Act requires states to review their water quality standards at least once every three years (a "triennial review"). [Cite.] They must submit the results of this review to the Environmental Protection Agency ("EPA"). [Cite.] EPA is then responsible for reviewing any new or revised standards adopted by the states to determine if the standards are consistent with the Act and EPA regulations promulgated under the Act. (Id. at 1127, emph. added.)</p> <p>Likewise, in <i>Manasota-88, Inc. v. Tidwell</i> (11th Cir.</p>	See General Response(s) 1

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			<p>1990) 896 F.2d 1318, the Court of Appeal found that: "Once a state adopts its initial water quality standards, <i>it is required to hold hearings to review those standards at least once every three years (the triennial review) and adopt new or revised standards as necessary.</i>" (<i>Id.</i> at 1320, <i>emph. added.</i>) Similarly, in <i>Raymond Proffitt Found. v. EPA</i> (E.D. Pa. 1996) 930 F. Supp. 1088, the Court explained that "[o]nce a state's water quality standard complies with the Act, <i>it is required, at least once every three years, to hold public hearings to review the standard and decide whether to modify it or adopt a new standard.</i>" (<i>Id.</i> at 1090 ["This process is known as the Triennial Review."].)</p> <p>Other courts have also recognized that the Triennial Review process is to include the <i>actual revision</i> of deficient Standards (not just the compilation of a list of items to study in the future). (<i>See e.g. Northwest Env'tl. Advocates v. EPA</i> (D. Or. 2003) 268 F.Supp.2d 1255, 1259 ["Water quality standards are created and reviewed by the states at least every three years in a process known as 'triennial review.' 33 U.S.C. § 1313(c)(1). States must submit <i>all new and revised standards</i> to EPA for review."]; <i>CORALations v. EPA</i> (D.P.R. 2007) 477 F.Supp.2d 413, 417 ["Puerto Rico completed its first triennial review <i>and submitted revised WQSs to the EPA</i>"; <i>Defenders of Wildlife v. Browner</i> (D. Ariz. 1995) 909 F.Supp. 1342, 1350 ["the timeliness standards of 33 U.S.C. 1313(c) must be met within the confines of <i>the CWA's</i></p>	

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			<i>requirement for triennial review and, if necessary, revision of a state's water quality standards."].)</i>	
46-27	Rutan & Tucker	Nov 10, 2008	<p>The need to use the Triennial Review process to correct deficiencies in the Standards, and specifically to correct the Boards' failures to address the 13241 factors, was also recognized by Justice Brown in her concurring opinion in <i>Burbank v. State Board</i>: Moreover, the Board acknowledges that it has neglected other statutory provisions that might have provided an additional opportunity to air these concerns. As set forth above, pursuant to the CWA, "[t]he states were to revisit and, if necessary, revise those initial standards at least once every three years—a process commonly known as triennial review. [Citation.] Additionally, the CWA directs states to consider a variety of competing policy concerns during these reviews, including a waterway's use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes." [Citation.]</p> <p>According to the Cities, "[t]he last time that the narrative water quality objective for toxicity contained in the Basin Plan was reviewed and modified was 1994." The Board does not deny this claim. Accordingly, the Board has failed its duty to allow public discussion—including economic considerations—at the required intervals when making its determination of proper water quality standards. (<i>Burbank, supra</i>, 35 Cal.4th 613, 632-33,</p>	See General Response(s) 1

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			emphasis added).	
46-28	Rutan & Tucker	Nov 10, 2008	In light of the extensive authority referenced above requiring that the Triennial Review process include, not only a review of the Standards, but also appropriate revisions to the Standards, along with the Superior Court's determination on this issue in the <i>Arcadia Case</i> (Exh. "4"), the continuing attempt by the Boards to conduct a triennial review without requiring, as a part of that process, appropriate modifications to the Standards, shows that the Boards are once again poised to proceed with the Triennial Review process in a manner that is contrary to law.	See General Response(s) 1
46-29	Rutan & Tucker	Nov 10, 2008	<p>TO THE EXTENT THE BOARDS SEEK TO LIMIT THE SUBMISSION OF COMMENTS TO THOSE SUBMITTED BY NOVEMBER 10, 2008, SUCH A RESTRICTION WOULD RESULT IN A DENIAL OF DUE PROCESS OF LAW</p> <p>In light of all the above referenced findings and determinations of the Court in the <i>Arcadia Case</i>, as well as the clear requirements of the Porter-Cologne Act and the Clean Water Act, and given various representations by representatives of the Boards' that the process to comply with the <i>Arcadia Court's required</i> 13241/13000 analysis is one that will "take a number of years to complete" (see Exh. "14," Respondents' Response to Petitioners' Revised Proposed Writ and Judgment dated 5/28/08, p. 9:11-12), the 45-day comment period provided under the 2008 TR Notice is woefully inadequate,</p>	Comment noted. As it relates to the commenters, the proper claim is based in the California Administrative Procedure Act (APA), not due process. Governmental bodies are not "persons" within the meaning of the Due Process Clause of the Constitution. In any event, the public hearing process contemplated by the APA allows public agencies to establish reasonable procedures, such as deadlines for submittals, which facilitate a manageable hearing. While not asserted as a defense in <i>Arcadia II</i> , it is not clear that the commenters have standing to object to the triennial review process, as that is a matter between the

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			and in and of itself, unless additional public comment and opportunities to be heard are provided, would amount to a denial of due process of law.	<p>Water Boards and US EPA. Furthermore, while the triennial review process involves public hearings, the first set of hearings relate to ascertaining where standards are inadequate and establishing priorities for addressing them. Such hearings are not quasi-adjudicative within the meaning of Chapters 4.5 or 5, of Division 3, Part 1 of the California Government Code (particularly, Article 2, of Chapter 4.5, commencing with section 11405.10). As such, the procedural requirements of those chapters are inapplicable to this proceeding. Nor for that matter, are the initial hearings of the triennial review process rulemaking proceedings, within the meaning of Chapter 3.5, of Division 3, Part 1 of the California Government Code, as they do not involve the “adoption, amendment, or repeal” of “regulations”, as that term is defined in section 11342.600. (See Gov. C. § 11346.) Therefore, the Special Provisions for Water Board rulemaking activities, set forth in Gov. C. § 11353, are not triggered by this phase of the triennial review. As such, it is unclear to what procedural right the commenter is referring.</p> <p>Of course, subsequent hearings over</p>

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				<p>the next three years, convened during the process of considering whether to adopt basin plan amendments to modify standards where appropriate (which is also part of the triennial review process), are quasi-legislative, as they establish rules of general application, and they are therefore subject to the requirements of Gov. Code § 11353.</p> <p>The commenter's suggestion that a single hearing must be convened for both purposes is without support in statute or EPA guidance, and would lead to an unwieldy and unmanageable hearing process, which would likely involve too many issues and stakeholders to effectively focus upon particular issues. The Water Board's discretion to undertake the three year process in manageable and discrete phases is both appropriate and necessary, and the commenter has not submitted evidence or statutory/regulatory authorities to support a contrary conclusion.</p>
46-30	Rutan & Tucker	Nov 10, 2008	Petitioners recognize the comment on page 3 of the 2008 TR Notice that "public involvement is an important part of the Triennial Review," and that "there will be other opportunities for public participation, including public workshops and formal public comment periods," but without more in terms	Comment noted. See also General Response(s) 1 and response to comment 46-29.

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			of an explanation of the limitations imposed on future commentors based on comments submitted or not submitted in response to the 2008 TR Notice, Petitioners object to any attempt to limit future comments to only those made during the course of this 45-day period. Any such attempt to limit the opportunity of the public and the Petitioners to be heard on these important matters is an attempt to skirt the "full and fair public hearing" mandate to be included in the Court's final Writ of Mandate and Judgment in the <i>Arcadia Case</i> . (See Exh. "3," p. 3, ¶ 2(c); and Exh. "4," p. 3, ¶ 2(b).)	
47-1	Executive Advisory Committee	Nov 6, 2008	We are pleased to see that the Regional Board has recently issued a request for data and information on water quality standards and other basin planning issues for the Los Angeles Region. In a letter sent to you on November 6, 2008, we and other stakeholders in the Region discussed Basin Planning priorities and offered to work with the Regional Board to develop a work plan, to identify necessary resources and procedures to address those priority issues, and to form a Stakeholder Task Force to work through relevant issues.	Comment noted.
47-2	Executive Advisory Committee	Nov 6, 2008	In this letter, we provide additional details regarding the process the Boards may wish to follow to evaluate the Porter-Cologne Section 13000, 13241 and 13242 factors, information and guidance the Boards may wish to take into account when evaluating beneficial use designations, and a detailed list of technical issues. We also provide	Comment noted. See General Responses 1 and 2.

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			references relevant to the required 13241/13000 analysis and the application of existing standards to storm water and urban runoff.	
47-3	Executive Advisory Committee	Nov 6, 2008	<p>We respectfully suggest that the Boards consider the following overall approach to the triennial review process:</p> <ol style="list-style-type: none"> <li>1. Properly identify all “existing uses” for all water bodies in the region.</li> <li>2. Develop appropriate water quality criteria, and a program of implementation, for pollutants as needed to achieve the “existing uses” defined in (1) above, in consideration of the Porter-Cologne Sections 13000, 13241 and 13242 requirements.</li> <li>3. For each water body, identify both point source discharges (including storm water discharges) and significant non-point source discharges.</li> <li>4. Properly identify tentative “probable future” uses of each water body.</li> <li>5. For each tentative “probable future” beneficial use, determine whether the criteria developed in (2) “could reasonably be achieved” in consideration of the Porter-Cologne Section 13241 factors and the policy considerations of Section 13000, i.e., “considering all demands made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.”</li> <li>6. Where the analysis conducted in (5) shows that the criteria developed in (2) (and, thus, the tentative probable future beneficial uses) could not reasonably be achieved (i.e., that environmental</li> </ol>	See General Response(s) 1

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			<p>characteristics make the use unattainable, or that economic impacts to achieve the probable future designation are significant and unreasonable, and so on with respect to the other 13241 factors), then the probable future use should be dropped.</p> <p>7. All designated “potential” uses should be re-evaluated to determine whether or not they are probable future uses and either deleted or evaluated as per (6) above.</p>	
47-4	Executive Advisory Committee	Nov 6, 2008	<p>In Attachment A, we provide an outline that the Boards may wish to consider in establishing a protocol or procedure for evaluating or establishing water quality objectives and for developing a program of implementation pursuant to Porter-Cologne Sections 13000, 13241 and 13242. As detailed in Attachment A, we believe that the Boards should evaluate a range of water quality objectives and corresponding implementation actions. We trust that establishing standards within this framework will provide a firm foundation for stakeholders and the Boards to work in partnership to attain water quality goals.</p> <p>Attachment B provides relevant information and guidance that we have compiled regarding the definition and designation of both “existing” and “probable future” beneficial uses.</p> <p>Attachment C includes more detailed comments on specific and general technical issues and suggested Basin Plan revisions, along with supporting documentation. To the extent possible, the referenced documents are being provided in</p>	See General Response(s) 1 and 2.

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			<p>electronic format on CDs for your use and consideration. Note that Attachment C, while thorough, is not exhaustive, and we expect to provide additional data and information on individual subject areas through the public review process. Note also that many individual members of the EAC may be submitting comments under separate cover. Finally, Attachment D provides a detailed list of references relevant to the consideration of economics, as required by Porter-Cologne Sections 13241 and 13000.</p>	
47-5	Executive Advisory Committee	Nov 6, 2008	<p>As noted in the letter of November 6, 2008, we trust that the Regional Board’s data solicitation represents the start of a public participation process that will include all concerned parties. We ask that the Regional Board clarify the process it plans to pursue to obtain and evaluate the data and information it receives regarding the triennial review process. We urge the Regional Board to define a process that will include public hearings and focused and publicly noticed requests for data on specific topics. We also urge the Regional Board to specify its triennial review timeline for specific issues or topic areas.</p>	<p>The triennial review occurs in three phases. During the first phase, the Board reviews water quality standards and identifies issues for possible Basin Plan amendments. In the second phase, the Board prioritizes the standards-related issues that will be further researched and addressed through subsequent Basin Plan amendments. Finally, during the third phase, the Board develops projects addressing these issues and adopts any resulting changes to the Basin Plan as individual Basin Plan amendments over the course of the three-year period. Public input is a key component of each phase. Stakeholder input is solicited on issues of concern, on prioritization, and during the development of each individual Basin Plan amendment.</p>

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47-6	Executive Advisory Committee	Nov 6, 2008	Please note that the issues raised in this letter and its attachments are not necessarily presented in order of priority, and may not represent the consensus view of every watershed agency.	Comment noted.
47-7	Executive Advisory Committee	Nov 6, 2008	Source Control and legal basis and authority <ul style="list-style-type: none"> <li>• Add a new source control overview to Chapter 1 to explain the need for true source control               <ul style="list-style-type: none"> <li>o Many sources are beyond the direct regulatory control of both municipalities and the Water Boards.</li> </ul> </li> </ul>	Chapter 4 of the Basin Plan- <i>Strategic Planning and Implementation</i> - already addresses the issue of source control.
47-8	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• The use of Water Code Section 13247 should be introduced early in the Basin Plan.</li> <li>• Revise the “Legal Basis and Authority” section to explain the authority given to the Regional Board by Section 13247 of the State Water Code to require State offices, departments, and Boards, in carrying out activities that may affect water quality, to comply with the Water Quality Control Plan once approved by the State Board unless otherwise directed or authorized by statute.</li> </ul>	Comment Noted. To the extent the commenter believes that other state agencies are not complying with the Basin Plan, see General Response(s) 3.
47-9	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Cite the provisions in the Clean Air Act that can be used for controlling atmospheric pollutants that cause impairments to water quality.               <ul style="list-style-type: none"> <li>o Cite secondary (welfare-based) particulate matter component of the National Ambient Air Quality Standards.</li> </ul> </li> </ul>	See response to comment 47-8.

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			<ul style="list-style-type: none"> <li>o Cite the definition of welfare effects that includes the effects on water.</li> </ul>	
47-10	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Specify actions that may be taken by other agencies to address water quality issues. Agencies may include: CARB, CIWMB, SCAQMD, DPR, DTSC and OEHHA.</li> </ul>	See response to comment 47-8. The Regional Board is aware that in some instances other agencies may need to be involved in addressing water quality issues. As an example, atmospheric deposition is a controllable anthropogenic source generated from a different media; therefore it is necessary to work in conjunction with regulators of air pollution to come up with a comprehensive approach of dealing with its impacts on water quality. The State and Regional Boards have initiated several discussions with the ARB and South Coast AQMD on this issue, with the goal of identifying specific actions to be taken by these agencies.
47-11	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Provide exclusions or exceptions where natural conditions preclude compliance (e.g., fires, extreme storm events, upset events)</li> </ul>	See Response to Comment 2-14.
47-12	Executive Advisory Committee	Nov 6, 2008	<p>Incorporation of TMDLs into Basin Plan and water quality attainment</p> <ul style="list-style-type: none"> <li>• Revise the “Function of the Basin Plan” section to explain how TMDLs are incorporated into the Basin Plan.                             <ul style="list-style-type: none"> <li>o Suggest that each TMDL be accompanied by a Water Quality Attainment Strategy</li> </ul> </li> </ul>	The “Function of the Basin Plan” section is not the appropriate location for such a discussion. However, part of the recommended administrative update of the Basin Plan includes the incorporation of Chapter 7, which includes all currently effective TMDLs

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			<p>(WQAS).</p> <ul style="list-style-type: none"> <li>o Specify actions that should be taken by State offices, departments, and boards to achieve the numeric targets in the TMDL.</li> <li>o Recommend actions that should be taken by federal agencies and others.</li> </ul> <ul style="list-style-type: none"> <li>• Establish that TMDLs and WQASs should be combined</li> <li>• Include in the “Strategic Planning” section the use of WQASs to include as many of the entities as possible to facilitate the achievement of TMDL targets.</li> <li>• WQASs for TMDLs incorporated into the LA Basin Plan should be based on the SFRWQCB Water Quality Attainment Strategy and TMDL for Diazinon and Pesticide-Related Toxicity in Urban Creeks; clarify that the language related to state offices, departments, and boards should mandate actions pursuant to Section 13247 of the Water Code rather than suggest specific actions.</li> </ul>	<p>and their components, including the identification of responsible entities and implementation requirements. See also Response to Comment 47-8.</p>
47-13	Executive Advisory Committee	Nov 6, 2008	<p>Incorporation of Plans and Policies by Reference</p> <ul style="list-style-type: none"> <li>• Revise the “Function of the Basin Plan” section to state specifically which applicable State and Regional Board plans and policies, and other pertinent water quality plans and policies, are incorporated by reference. <ul style="list-style-type: none"> <li>o Structure the plan as an electronic file to permit easy amendment.</li> </ul> </li> </ul>	<p>Chapter 5 –Plans and Policies- contains relevant State and Regional Board policies. This section will be updated as part of the recommended administrative update of the Basin Plan.</p>
47-14	Executive Advisory	Nov 6, 2008	<p>Definition of ‘existing use’</p> <ul style="list-style-type: none"> <li>• Establish definition and criteria to designate an</li> </ul>	<p>The Basin Plan clearly defines and identifies all of the beneficial uses</p>

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47-15	Executive Advisory Committee	Nov 6, 2008	Definition of 'probable future use' <ul style="list-style-type: none"> <li>• Establish definition and criteria to designate a 'probable future use'                             <ul style="list-style-type: none"> <li>o Evaluate all "P" potential use designations in Basin Plan, and either eliminate the designation or make a 'probable future' designation</li> </ul> </li> </ul>	See General Response(s) 1.
47-16	Executive Advisory Committee	Nov 6, 2008	Designation of REC-1 and REC-2 beneficial uses <ul style="list-style-type: none"> <li>• Establish criteria for the designation of REC-1 and REC-2 beneficial uses (i.e., based upon waterbody type, amount of flow, etc.)</li> <li>• Revise beneficial uses of certain reaches in EDW or flood control channels that are not readily conducive to REC-1 and REC-2 uses based on water body attributes, accessibility, and amount of</li> </ul>	The Regional Board has addressed this issue in part through a Basin Plan amendment to suspend the REC-1 beneficial use and associated bacteria objectives in engineered channels throughout Los Angeles County during wet weather conditions characterized by high flows and high velocity.

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			flow <ul style="list-style-type: none"> <li>• REC-2 must be only designated where incidental contact is reasonably probable.</li> <li>• No REC use should be designated where contact is not reasonably probable</li> <li>• Establish priorities for implementation based upon level of use/exposure</li> <li>• Evaluate REC-1 and REC-2 designations for those channel for which a request has been made</li> <li>• Establish fact sheets laying out available evidence for each water body and clarifying reasons for each designation/risk</li> </ul>	Staff has identified this issue as one that should be addressed on a case-by-case basis during this triennial review period. Staff has recommended that the Regional Board consider evaluating appropriate recreational beneficial uses for storm channels with conditions that may not be conducive to fully supporting their REC-1 designation. Any such evaluations would be conducted with the recognition that existing beneficial uses cannot be removed, and in conformance with federal regulations at 40 CFR 131.10(g) as well as US EPA's recommendations for conducting use attainability analyses and developing a subcategory of a designated use that is not an existing use.
47-17	Executive Advisory Committee	Nov 6, 2008	New 'flood control' designation <ul style="list-style-type: none"> <li>• Consider a 'flood control' designation               <ul style="list-style-type: none"> <li>o Provide clarification that flood control use will be primary to other uses at certain times (e.g., during wet weather storm flow conditions)</li> </ul> </li> </ul>	Regional Board staff has acknowledged, and continues to acknowledge that flood control is a necessary function of certain channelized waterbodies and that this function should be a consideration in Board decisions (as evidenced by the Board's adoption of a suspension of recreational uses and associated bacteria objectives in engineered channels during wet weather; and the Board's ongoing 401 certification of routine and emergency operation and maintenance of flood control channels).

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				<p>However, neither Porter-Cologne nor the Clean Water Act authorize "flood protection" as "use" of waters as defined in those statutory schemes.</p> <p>That notwithstanding, even if it were appropriate for flood protection to be a "beneficial use", it would not remove the requirements to protect other designated uses of waterbodies.</p>
47-18	Executive Advisory Committee	Nov 6, 2008	<p>Application of objectives to GWR beneficial use</p> <ul style="list-style-type: none"> <li>• Clarify which constituents are attenuated by filtration through soils, and modify WQO to recognize attenuation/treatment that occurs as water flows through soils</li> </ul>	<p>Water Quality Objectives apply to the receiving water itself and not the discharges to it. Therefore they need not be modified to account for potential treatment of discharges during transport. Such attenuation may be considered in establishing discharge requirements.</p>
47-19	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Implement GWR objectives as annual flow weighted average concentrations</li> </ul>	<p>There has been debate over the interpretation of the averaging period in the Basin Plan for mineral quality objectives. The Regional Board addressed the issue of implementing mineral objectives in the Santa Clara River Watershed through the adoption of conditional site-specific chloride objectives in the upper Santa Clara</p>

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				River (Regional Board Resolution R08-012). The Board may eventually re-consider averaging periods for mineral water quality objectives in other watersheds.
47-20	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Clarify the application of drinking water MCLs (maximum contaminant levels), Title 22 requirements and treatment requirements to storm flows, permitted discharges, etc.               <ul style="list-style-type: none"> <li>o MCLs for specific constituents should not be applied if treatment of water prior to delivery as drinking water would reduce concentrations to appropriate levels</li> <li>o MCLs should not be applied to waters that will not recharge groundwater or be used for MUN purposes</li> </ul> </li> </ul>	See Response to Comment 30-3.
47-21	Executive Advisory Committee	Nov 6, 2008	<p>Bacteria objectives</p> <ul style="list-style-type: none"> <li>• Recognize limitations of current indicator bacteria approach:               <ul style="list-style-type: none"> <li>o Indicator bacteria are surrogates for the pathogens that may pose a human health risk, and are not perfect indicators of risk.</li> <li>o Recognize that indicator bacteria may be present due to wildlife or regrowth in the environment; bacteria from different sources pose different levels of risk</li> <li>o Indicator bacteria from human sources (including research, and new science and recommendations from EPA are expected</li> <li>o Revisit bacteria objectives and TMDLs and</li> </ul> </li> </ul>	See Response to Comment 2-10.

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			<p>permits when EPA's recommendations are available</p> <ul style="list-style-type: none"> <li>• Amend the Implementation Chapter of the Basin Plan to specify required implementation actions, focusing primarily on the reduction of bacteria of known human origin               <ul style="list-style-type: none"> <li>o Use source tracking analyses, where possible and appropriate (e.g., CREST approach, consider alternatives, such as presence of caffeine, synthetic estrogens, etc.)</li> <li>o Work to eliminate human sources of bacteria (e.g., eliminate sewer crossconnections, identify and eliminate leaking sewer lines, provide sanitation facilities where needed)</li> </ul> </li> </ul>	
47-22	Executive Advisory Committee	Nov 6, 2008	<p>Metals (copper, cadmium, lead and zinc)/ Hardness</p> <ul style="list-style-type: none"> <li>• Use dissolved metal concentrations to develop permit limits, establish TMDL LAs and WLAs, and establish compliance – as dissolved metals are the bioavailable form of metals and pose the greatest risk to aquatic life</li> <li>• Recommend use of hardness-based equations for dissolved numeric targets and WLAs (i.e., use the hardness of an individual sample to assess the compliance for that sample)</li> <li>• Adopt Los Angeles River Water Effect Ratio/Site-Specific Objective (WER/SSO study) as a Basin Plan objective; revise effluent limitations in permits for discharges to the Los Angeles River and tributaries accordingly</li> </ul>	See Response to Comment 42-17.

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47-23	Executive Advisory Committee	Nov 6, 2008	Mineral quality objectives (TDS, Sulfate, Chloride, boron, Nitrogen, SAR) • Adopt chloride site-specific objective (SSO) and associated implementation measures for the Santa Clara River	The Regional Board adopted conditional site-specific chloride objectives in the upper Santa Clara River (Regional Board Resolution R08-012).
47-24	Executive Advisory Committee	Nov 6, 2008	• Revise Basin Plan to specify that mineral quality objectives are to be interpreted and applied using a flow-weighted annual average (instead of instantaneous)	This issue was addressed in the Santa Clara River Watershed through the adoption of conditional site-specific chloride objectives in the upper Santa Clara River (Regional Board Resolution R08-012). The Regional Board may eventually re-consider averaging periods for mineral water quality objectives in other watersheds.
47-25	Executive Advisory Committee	Nov 6, 2008	• Promote the use of more recycled water by establishing an approach to adjusting mineral quality objectives as appropriate to promote use when conflicts exist (e.g., using a 'maximum benefit' and 'antidegradation' approach)	See Response to Comment 20-27.
47-26	Executive Advisory Committee	Nov 6, 2008	• Clarify that mineral quality objectives are only to be applied to storm water after consideration of an appropriate averaging period (as specified above) and only when necessary to protect a downstream beneficial use that actually occurs during a storm condition	Mineral water quality objectives apply to receiving waters. See also Response to Comment 47-24.
47-27	Executive Advisory	Nov 6, 2008	• Evaluate ambient data to establish how mineral quality objectives should vary with ambient or	See Response to Comment 2-14.

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	Committee		natural conditions (e.g., use historic data to establish how background water quality changes in response to wet or dry weather intended to be applied as flow or climate periods)	
47-28	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Clarify the approach to implementing mineral quality objectives when concentrations in source water (e.g., imported water) exceed objectives; this may require a 'maximum benefit' approach</li> </ul>	See response to comment No. 47-23. Similar approaches may be used in other watersheds, if appropriate.
47-29	Executive Advisory Committee	Nov 6, 2008	<p>Sediment quality objectives (SQO)</p> <ul style="list-style-type: none"> <li>• Add reference to the SQO adopted by the State Board in the WQO Chapter of the Basin Plan; clarify that the SQO approach is to be used and that use of Sediment Quality Guidelines (SQGs, including ERLs, ERMs, TELs, etc.) is to be discontinued</li> <li>• Reopen and revise TMDLs for sediment quality that rely upon SQGs (as described above) to make them consistent with the SQO policy (e.g., Ballona Creek Estuary TMDL)</li> <li>• Establish that the SQO policy is to be used to evaluate sediment concentrations of pollutants, and that such evaluation is not required as part of WERs/SSOs for upstream freshwater reaches [i.e., do not adopt proposed WER policy, which conflicts with SQO policy]</li> </ul>	See Response to Comment 12-15.
47-30	Executive Advisory Committee	Nov 6, 2008	<p>Atmospheric deposition and source control</p> <ul style="list-style-type: none"> <li>• Water quality objectives should be amended to specify that ambient conditions (e.g., atmospheric deposition) or extreme events (e.g., fires, drought) beyond a discharger's control may result in</li> </ul>	While atmospheric deposition may contribute to background levels of certain pollutants, it cannot be viewed as a natural source to be factored into the development of water quality

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			<p>exceedances</p> <ul style="list-style-type: none"> <li>o Relevant to metals, nutrients, mineral quality objectives, and certain organic pollutants, such as PAHs and dioxin</li> <li>• Need for interagency coordination to control pollutants at the source to the extent possible (e.g., CARB and AQMD controls/regulations may be required)</li> <li>• Incorporate and recognize source control actions to the extent possible in the Implementation section of the Basin Plan</li> </ul>	<p>objectives and/or the consideration of beneficial uses. The Regional Board is aware of the contribution of atmospheric deposition to impairments in different waterbodies. In developing TMDLs, contributions from direct atmospheric deposition may in some circumstances be subtracted from pollutant loads before allocations are assigned to responsible jurisdictions to prevent responsible agencies under the TMDL from being unfairly assigned responsibility for pollutants beyond their control. However federal law requires that the total load of each pollutant in each water body be accounted for in one manner or another.</p> <p>UCLA researchers and SCCWRP are currently working to quantify atmospheric deposition in southern California for a number of constituents, some of which are pollutants. These include trace metals (copper, zinc, lead), hydrophobic organic compounds (DDT, PCB, PAH) and macro- and micro-nutrients (iron, nitrogen, phosphorus). These data can help provide better estimates of the atmospheric contribution to pollution loadings in aquatic systems.</p> <p>Atmospheric deposition is a controllable</p>

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				<p>anthropogenic source. However, because it is generated from a different media it is necessary to work in conjunction with regulators of air pollution to come up with a comprehensive approach of dealing with its impacts on water quality. The State and Regional Boards have initiated several discussions with the ARB and South Coast AQMD on this issue.</p> <p>Also see response to comment 2-14.</p>
47-31	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• The source control discussion in the Basin Plan should clearly acknowledge the need to address atmospheric deposition (direct and indirect) as a major non-point source of water quality impairments.               <ul style="list-style-type: none"> <li>o Recognize that direct control of atmospheric deposition is beyond the ability of municipalities and Water Boards.</li> <li>o Specify the need for CARB and SCAQMD to consider the secondary effects on water in regulatory programs.</li> <li>o Specify that the Regional Water Board will work with the State Water Board to use the authorities of Sections 13146 and 13247 of the California Water Code to require State offices, departments, and boards to take actions to control atmospheric deposition of water pollution, if necessary.</li> </ul> </li> </ul>	See response to 47-30

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47-32	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Develop a comprehensive plan, policy, or guidance regarding the use of reclaimed water and reuse of storm water                             <ul style="list-style-type: none"> <li>o Address conflicts between goal to reuse/recycle more water and existing WQO</li> <li>o Implement provisions to facilitate 'maximum benefit' analyses</li> </ul> </li> <li>• Where appropriate and necessary (e.g., where groundwater objectives may preclude reuse), consider establishing groundwater basin salinity management plans</li> <li>• Make Basin Plan consistent with any new State policy on recycled/reclaimed water use</li> </ul>	See Response to Comment 20-27.
47-33	Executive Advisory Committee	Nov 6, 2008	<p>Reclaimed water, reuse of storm water</p> <ul style="list-style-type: none"> <li>• Develop a comprehensive approach to storm water management, to include:                             <ul style="list-style-type: none"> <li>o Provisions for a design storm (to be specified using both rainfall amount and rainfall intensity) for design of control measures and for enforcement considerations</li> </ul> </li> <li>• Suggest that trash TMDL design storm should be evaluated for use in regulation of other pollutants in storm flows.</li> </ul>	See Response to Comment 2-16.
47-34	Executive Advisory Committee	Nov 6, 2008	<p>Storm water policy</p> <ul style="list-style-type: none"> <li>• Expand the "Climate" section to include a comprehensive description of rainfall and runoff patterns in the Region.                             <ul style="list-style-type: none"> <li>o Include text, graphs, and maps to thoroughly explain the highly variable and</li> </ul> </li> </ul>	See Response to Comment 42-21.

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			episodic nature of rainfall in the coastal watersheds of the region. o Include graphical display of rainfall distribution by storm size for rain gauges across the region and isohyetal maps for the coastal watersheds of Angeles and Ventura counties.	
47-35	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Clarification on the approach to using numeric limits, including (if limits are to be used) development of a methodology for establishing numeric limits for storm water flows</li> </ul>	See General Response 3.
47-36	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Consolidate the discussion of storm water and urban runoff, which are currently divided between the discussions of point source and non-point source pollutants.</li> </ul>	See Response to Comment 12-6.
47-37	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Clarification of the approach to establishing dilution factors and assimilative capacity for permitting and/or TMDLs</li> </ul>	See Response to Comment 42-26.
47-38	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Recognize natural or background variability</li> </ul>	See Response to Comment 42-27.
47-39	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Clarify how CTR objectives are to be applied to storm water</li> </ul>	See Response to Comment 13-9.
47-40	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Consider exclusion of WQO during storm events resulting from either a natural disaster (fire) or natural background loadings that cause the pollutant exceedances</li> </ul>	See Response to Comment 2-14.

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47-41	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Suggest that compliance strategies should be used for other pollutants as well, as with the certification of full capture devices as constituting compliance with the trash TMDL from either a natural disaster (fire) or natural background loadings</li> </ul>	See General Response 3.
47-42	Executive Advisory Committee	Nov 6, 2008	<p>Tributary rule</p> <ul style="list-style-type: none"> <li>• Revise the tributary rule to account for limited duration storm water flows, and to specify that hydrologic connectivity, commingling of non-storm flows, and exchange of aquatic life would be required before downstream beneficial use designations could be applied to upstream locations.</li> <li>• Clarify that downstream uses must continue to be protected, but that direct translation of beneficial uses is not required (and note that direct translation of beneficial uses may preclude some treatment strategies, such as use of regional treatment before water travels downstream to a waterbody with an existing use)</li> <li>• Revisit and evaluate the appropriateness of including the tributary rule in the Basin Plan and/or revisions to the tributary rule to minimize unintended outcomes from the misapplication of the rule tributary rule in the Basin Plan</li> </ul>	See Response to Comment 4-8.
47-43	Executive Advisory Committee	Nov 6, 2008	<p>Sediment and turbidity</p> <ul style="list-style-type: none"> <li>• Sediment targets and objectives should recognize natural conditions</li> </ul>	See Response to Comment 2-14.

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			<ul style="list-style-type: none"> <li>• Sediment standards should recognize the high degree of variability (a function of storm rainfall intensity, rainfall amount and other factors) and its effect on sediment delivery to streams and rivers within the Region</li> <li>• In natural channels, removing too much sediment from storm flows can induce channel erosion and other hydromodification impacts – objectives should establish a “floor” as well as a “ceiling” on allowable sediment loads/concentrations</li> </ul>	
47-44	Executive Advisory Committee	Nov 6, 2008	<p>Hydromodification</p> <ul style="list-style-type: none"> <li>• Establish stakeholder process to establish regional hydromodification and low impact development (LID) policies and revise implementation section of Basin Plan accordingly</li> <li>• Coordinate with efforts by others (CASQA)</li> <li>• Establish permit limits only after stakeholder process and research</li> </ul>	<p>Development of a hydromodification policy is an issue that should be addressed during this triennial review period. The Regional Board has been working towards a comprehensive policy to control the water quality related impacts of hydromodification in order to protect wetlands and stream systems and their beneficial uses in the Los Angeles Region. Recently, Regional Board staff applied for and received stimulus funds for a technical component of this project that will be completed by SCCWRP. The related policy component will be developed by Board staff as resources allow. These efforts complement the work of the State Board and the North Coast and San Francisco Bay Regional Boards on the Wetland and Riparian Areas Protection Policy, which is intended to</p>

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				protect and restore the physical integrity of streams, riparian areas, estuaries and wetlands in order to enhance water quality and support beneficial uses. Stakeholders will be provided ample opportunity to be involved in the process. The establishment of permit limits is outside the purview of the triennial review process; see General Response 3.
47-45	Executive Advisory Committee	Nov 6, 2008	<p>Trading Policy</p> <ul style="list-style-type: none"> <li>• Establish mass-based TMDLs to allow trading or offsets</li> <li>• Basin Plan should clarify the Board’s positions on trading and/or offsets as a means to achieve compliance with water quality standards, and promote trading/offsets where they may promote efficient pollutant control or TMDL compliance</li> <li>• Develop a water quality trading policy section for the Strategic Planning and Implementation Chapter of the Basin Plan to help bring the Plan up-to-date by providing a framework to implement the concept of water quality trading that U.S.E.P.A. has promoted and supported for over a decade as an “innovative approach for achieving water quality standards with flexibility and cost efficiency.”</li> <li>• A water quality trading policy could be based on the 2007 <i>Water Quality Toolkit for Permit Writers</i> issued by EPA to support implementation of the water quality trading framework contained in EPA’s 2003 <i>National Water Quality Trading Policy</i> for which EPA provided guidance in its 2004 <i>Water</i></li> </ul>	See Response to Comment 30-5.

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			<i>Quality Trading Assessment Handbook</i>	
47-46	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Need transparent, clear, well documented process; consider developing a fact sheet format, similar to that used in the 303(d) listing process</li> </ul>	The Triennial Review Process will be clear and well documented process. Since the current phase simply involves a consideration and selection of which issues to be addressed a 303(d) type fact sheet may not be a suitable form of presenting this information. The Staff Report does, however, lay out concerns expressed by both Regional Board staff and stakeholders, along with Regional Board preferences as expressed at the Board workshop held in Spring 2009.
47-47	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Consider implementation language requiring standards review prior to permitting, TMDL development, etc.</li> </ul>	A review of the standards every three years (Triennial Review) renders any additional reviews redundant. Moreover, in the ordinary course of business, staff frequently becomes aware of standards issues that are relevant to other permitting, enforcement, or regulatory actions. Staff's recommendations on the triennial review priorities contemplate such information. As such, stakeholders are always invited to apprise the relevant staff members of any issues, outside of the triennial review process as well as during.
47-48	Executive	Nov 6, 2008	Suggest evaluating a range of alternatives for a	See General Response(s) 1.

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	Advisory Committee		given water quality objectives (i.e., performing the 13241/13242 analyses for a range of potential alternatives), and/or allowing phased implementation	
47-49	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Update funding sections of Chapter 4 of the Basin Plan               <ul style="list-style-type: none"> <li>o Suggest that the State reinstitute the State Grant Program</li> <li>o Suggest that federal planning processes (e.g., 208) be reinstated</li> <li>o Suggest that compliance be made contingent on funding availability</li> </ul> </li> </ul>	See General Response(s) 3.
47-50	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• Suggest that an integrated, fully complete Basin Plan be developed (i.e., update and reissue the 1994 Basin Plan once analyses are complete, so that all information is clear and in one place)</li> </ul>	The goal of the recommended administrative update of the Basin Plan is to provide a document inclusive of all the Basin Plan amendments and relevant policies adopted since 1994, along with changes to maps, waterbody reaches and beneficial uses.
47-51	Executive Advisory Committee	Nov 6, 2008	<ul style="list-style-type: none"> <li>• The implementation section of the Basin Plan should be amended to specify the applicability of water quality objectives and enforcement during a State of Emergency (e.g., in response to earthquakes, acts of terrorism, etc.) when resources may be redirected to acute emergency needs and away from water quality control functions</li> </ul>	The Regional Board will take such events into consideration when determining compliance with water quality objectives.
48-1	Calleguas Creek	Nov 10, 2008	Under the aegis of the Calleguas Creek Watershed	Comment noted.

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	Watershed Management Committee (CCWMC)		Management Plan, the public agencies and private parties implementing TMDLs on the watershed would like to take this opportunity to provide comments on the subject request. These parties represent the Calleguas Creek watershed interests of the Camrosa Water District; the Camarillo Sanitary District; the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks; the County of Ventura, the Ventura County Waterworks District No. 1, the U.S. Department of the Navy; the California Department of Transportation; and the private agricultural interests represented by the Ventura County Irrigated Lands Group with the Calleguas Creek watershed. The parties are active participants in the Calleguas Creek Watershed Management Plan which provides a larger stakeholder involvement and review of the issues pertinent to protecting and managing watershed resources.	
48-2	CCWMC	Nov 10, 2008	Pursuant to your September 25, 2008 request, the Los Angeles Regional Water Quality Control Board (Regional Water Board) is commencing a Triennial Review of the Water Quality Control Plan (Basin Plan) and has requested data, information and evidence on water quality standards and other Basin Plan issues. Consistent with the request, we are submitting data, information, documents, and other evidence as available on possible additions or revisions to the water quality standards as well as comments regarding other Basin Plan issues.	Comment noted.

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48-3	CCWMC	Nov 10, 2008	<p>Pursuant to the Regional Board request we have compiled the information noted in your September 25, 2008 request as attachments in the requested format. Following is a summary list of the information submitted.</p> <p>1. Revisions to the Basin Plan definitions of REC1 and REC2:  a. Evaluate recreational uses definitions and revise the Basin Plan definitions of REC1 and REC2 to be consistent with EPA guidance. (Table 1)</p> <p>Currently, Region 4 has defined two categories of recreational use. However, in Southern California waterbodies it may be more appropriate to recognize and define additional, more precise recreational use categories. The epidemiological studies described in EPA's 1986 Ambient Water Quality Criteria for Bacteria (EPA, 1986) were based on designated beach area, swimming-related illness rates, such that the geometric mean objectives presented in the Criteria Document are protective of water contact recreation where prolonged full body immersion takes place. In Region 4, there are many water bodies designated REC1 where this degree of use does not take place, and the level of protection is unwarranted. Many inland freshwater water bodies are too shallow for full body immersion. This does not constitute the same degree of water contact targeted in EPA's criteria document.</p> <p>Additionally, the definitions of REC1 and REC2, as</p>	<p>The Basin Plan clearly distinguishes between REC-1 and REC-2 beneficial uses. REC-1 (contact recreation) uses involve <i>body contact with water</i>, while REC-2 (non-contact recreation) uses involve <i>proximity to water, not normally involving body contact with water</i>. The Regional Board will not consider revisions to these definitions at the present time.</p>

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			<p>written in the Water Quality Control Plan for the Los Angeles Region (Basin Plan), may cause confusion in the implementation of bacteria indicator WQOs as intended by EPA. The current Basin Plan definition of REC1 is, "Uses of water for recreational activities involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water-skiing, skin and scuba diving, surfing, white water activities, fishing, or use of natural hot springs." The current Basin Plan definition of REC2 is "Uses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." EPA developed water quality criteria for indicator bacteria to protect primary contact recreation. Primary contact recreation is functionally equivalent to California's REC1 standard. In EPA's Draft Implementation Guidance for Ambient Water Quality Criteria for Bacteria (USEPA, 2002) it states that primary contact recreation uses should be "designated for water bodies where people engage, or are likely to engage, in activities that could result in ingestion of water or immersion". Therefore, the crux of the REC1 is that ingestion or immersion is likely. REC2 uses are functionally equivalent with EPA's secondary contact recreation use. These are defined as uses in the proximity of water where</p>	

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			<p>ingestion or immersion are not likely. The current Basin Plan definitions of the REC1 and REC2 uses do not clearly communicate this distinction. In particular, the REC1 beneficial use definition replaces the word “likely” with “reasonably possible”, and furthermore, the definition of REC2 also includes the language “where ingestion of water is reasonably possible”. The definitions of the REC1 and REC2 beneficial uses should be revised to reflect the intent of EPA in protecting human health.</p> <p>The preferred approach would be to consider developing a third level of recreational use category between the current REC1 and REC2 uses for waterbodies where full body water contact does not take place, but water contact is more than incidental. Geometric mean objectives should be developed for this beneficial use category that are greater than the recommended geometric means for primary contact recreation, and less than those developed for secondary water contact recreation. If this approach is not taken, at a minimum, the definition of REC1 should be revised to reflect the intent of EPA, therefore, the term “reasonably possible” should be replaced with “likely”, and fishing should be removed from the definition of REC1 as not all types of fishing are likely to result in ingestion or immersion. The definition of REC2 waters should be defined as those used for recreational activities involving proximity to water, but not normally involving body contact with water, and where ingestion of water is not likely. Other</p>	

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			<p>Regions are considering revising the recreational use definitions in a similar fashion. It would be appropriate to use the same definitions for consistency among Regional Boards. Proposed text is as follows:</p> <p><i>Primary Contact Recreation (REC1*): are waters used for recreational activities involving deliberate water contact, especially by children, where ingestion is likely. Examples of REC1 may include, but are not limited to: swimming, water-skiing, surfing, whitewater rafting, float-tubing, bathing in natural hot springs, skin diving, scuba diving and some forms of wading and fishing. Incidental or accidental water contact resulting in brief exposures that is limited primarily to body extremities (e.g. hands and feet, is not deemed to be REC1.</i></p> <p><i>"Non-contact Water Recreation (REC2) waters are used for recreational activities involving proximity to water, but not normally involving body contact with water where ingestion of water would not be likely. These uses may include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, and aesthetic enjoyment in conjunction with the above activities. Relatively brief unintentional or incidental water contact confined primarily to the body extremities (e.g. hands or feet) is generally considered REC2 because it is not likely to result in ingestion."</i></p>	

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48-4	CCWMC	Nov 10, 2008	b. Expand the high flow suspension to cover unsafe high flow conditions in both engineered and natural channels.	Channelization of waterbodies or waterbody segments in the Los Angeles Region was carried out for the express purpose of conveying storm flows as quickly as possible to the ocean. This, among other considerations, was the premise for the suspension of the recreational uses in engineered channels during storm events that resulted in "swiftwater conditions." The Regional Board considered and rejected applying this suspension to natural channels during the development of the High Flow Suspension amendment to the Basin Plan.
48-5	CCWMC	Nov 10, 2008	c. Consider de-designating the REC1 use for waterbodies, or sections of waterbodies, in the CCW that cannot support REC1 uses due to their physical characteristics (i.e. vertical-walled channels, prohibited access, shallow water). (Table 3)	See Response to Comment 1-4.
48-6	CCWMC	Nov 10, 2008	2. Revisions to the bacteria water quality objectives: a. Remove the fecal coliform objective from the Basin Plan for freshwaters, and consider removing both the fecal and total coliform objectives for marine waters (Table 4)	See Response to Comments 2-10 and 10-7.
48-7	CCWMC	Nov 10, 2008	b. Consider assigning single sample maximum allowable densities (SSMs) appropriate for the level of use of individual water bodies based on the qualitative descriptions and confidence levels	See Response to Comment 10-4.

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			described in EPA's Criteria Document (Table 5)	
48-8	CCWMC	Nov 10, 2008	3. Revisions to the manner in which bacteria water quality objectives are implemented: a. Develop a number of exceedence days for inland water bodies based on inland and local conditions (Table 6)	See Response to Comment 10-10.
48-9	CCWMC	Nov 10, 2008	b. Consider including implementation provisions for indicator bacteria to allow for prioritization of human sources in determining compliance with objectives. (Table 7)	See Response to Comment 2-10.
48-10	CCWMC	Nov 10, 2008	4. Recalculate the Marine Nickel California Toxics Rule criteria as a region-wide objective. (Table 8)	The Regional Board may eventually consider such an action. However, any such recalculation would necessitate a rule-making action by the US EPA to de-promulgate the CTR nickel criteria for the Los Angeles Region.
48-11	CCWMC	Nov 10, 2008	5. Revisions to the Mineral Objectives in Table 3-8 a. Mineral objective averaging period (Table 9)	See Response to Comment 47-19
48-12	CCWMC	Nov 10, 2008	b. Application of mineral objectives in the CCW (Table 10)	See Response to Comment 47-19.
48-13	CCWMC	Nov 10, 2008	6. Expand the application of the "natural sources exclusion" to include other naturally occurring pollutants (Table 11)	See Response to Comment 2-14.
48-14	CCWMC	Nov 10, 2008	7. Revise the beneficial uses in Table 2-1 to reflect specific locations of beneficial uses and for consistency with existing beneficial uses.	As part of the administrative update of the basin plan, reach boundaries will be clarified and any necessary changes to

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			<p>a. Remove the following beneficial uses (Table 12):</p> <ul style="list-style-type: none"> <li>i. IND and PROC in Conejo Creek</li> <li>ii. GWR recharge beneficial uses in concrete-lined portions Revolon Slough.</li> <li>iii. COLD designations in Arroyo Las Posas and Calleguas Creek</li> </ul>	<p>the beneficial use tables, stemming from this action, will be made.</p> <p>With regard to the re-evaluation of beneficial uses, federal regulations restrict States from removing designated beneficial uses. Specifically 40 CFR § 131.10 (h) prohibits States from removing designated uses if:</p> <ol style="list-style-type: none"> <li>1. They are existing uses, as defined in 40 CFR § 131.3, unless a use requiring more stringent criteria is added; or</li> <li>2. Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices.</li> </ol> <p>States may remove a designated use which is not an existing use, as defined in 40 CFR § 131.3, or establish sub-categories of a use, if the State can demonstrate that attaining the designated use is not feasible because of factors set forth in 40 CFR § 131.10 (g).</p> <p>Therefore, resource permitting, the Regional Board will re-evaluate a potential beneficial use where specific information about the specific attainability of a particular use in a particular waterbody or reach is presented that demonstrates that the designated use may be unattainable</p>

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				based on one or more of the factors identified in 40 CFR 131.10(g).
48-15	CCWMC	Nov 10, 2008	b. AGR beneficial uses location clarifications and refinement of beneficial use descriptions	See response to comment No. 48-14.
48-16	CCWMC	Nov 10, 2008	<p>In addition to the data, information, and evidence provided above, the Calleguas Creek watershed stakeholders described above would like to submit additional Basin Plan issues for consideration. Although not directly related to the data request, we would like to submit the issues below for consideration during the triennial review process.</p> <p><i>Update the maps and tables in the Basin Plan</i></p> <p>It is suggested that the maps and tables in the Basin Plan be functionally updated as follows. Updating the maps and corresponding tables as needed would reduce the unnecessary confusion that occurs.</p> <ul style="list-style-type: none"> <li>• Display the watershed management areas;</li> <li>• Align the existing Hydrologic Units (HU) with the most recent Cal Water 2.2 system (although this is on our list of suggestions, we understand that the Regional Board currently plans to update the Basin Plan to align the HUs with the most recent Cal Water 2.2 database);</li> <li>• Update the reaches as appropriate. The current Basin Plan reach definitions are not consistent with the 303(d) listed reaches for the CCW. This creates confusion in the application of objectives and listings within the watershed;</li> </ul>	See Response to Comment 3-10. Also see response to comment No. 48-14.

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			<ul style="list-style-type: none"> <li>• Review for consistency between the reach maps and beneficial use tables – provide the reach number and hydrologic unit in the beneficial use tables;</li> <li>• Update the waterbody-specific surface water and groundwater objectives tables to be consistent with the updated reaches;</li> <li>• Update the groundwater maps based on the Department of Water Resources (DWR) Bulletin 118 (2003 update); and</li> <li>• Make electronic GIS layers of information available for consistent application of, waterbodies, reaches, uses, and objectives</li> </ul> <p>Once the maps and reaches are updated, it will be necessary to evaluate the application of beneficial uses and waterbody-specific water quality objectives. The beneficial uses should be specific to the area in which the use applies. For example, in the CCW, there are currently reaches listed as having the groundwater recharge beneficial use (GWR) that are concrete-lined (Revolon Slough from Central Ave. to Wood Rd.).</p>	
48-17	CCWMC	Nov 10, 2008	<p>Consider adopting a variance policy or general permit for short-term discharges with no significant impact (Y5)</p> <p>General Waste Discharge Requirements, Order 93-010 allows the discharge of groundwater from dewatering projects back underground to qualifying enrollees. As a condition for permit coverage, dischargers may be required to submit</p>	<p>Currently the Regional Board does not have the authority without a variance policy to grant exceptions to water quality standards. However, there may be situations, such as groundwater dewatering during construction, where because the discharge is small, of a limited duration, and has no significant</p>

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			<p>hydrogeologic site studies and demonstrate that the discharge is in compliance with applicable water quality objectives and Department of Health Services drinking water standards. Thus, groundwater that already exceeds an objective or standard could not be recharged to the same groundwater where it came from, which is problematic and results in a discharge to the storm drain or sewer. Instead, it is recommended that the Regional Water Board develop a policy that would allow these waters to be recharged to the same groundwater where they originated provided no additional contaminants are added during dewatering or treatment. In the surface water construction dewatering general permit (Order 08-0032) separate provisions were outlined for creekside construction dewatering projects to allow for discharge of groundwaters with mineral objectives that exceeded Basin Plan objectives if the groundwater quality was connected to the surface water and the composition of the water was of similar quality. A similar provision could be considered for groundwater discharges.</p>	<p>potential environmental impacts, a variance may be appropriate for certain constituents (e.g., salts). Such a policy would not apply to any priority pollutants. According to EPA, water quality standard variances require similar substantive and procedural requirements to removing a designated use, but unlike removing a use, variances are discharger and pollutant specific, are for a limited period of time, and do not remove the underlying beneficial use(s) of the water body. A variance policy has been developed for groundwater mineral quality objectives where mineral concentrations are elevated due to proximity to the coast.</p>
48-18	CCWMC	Nov 10, 2008	<p>Include guidance on incorporation of TMDL requirements into permits in TMDL Basin Plan Amendments</p> <p>The Calleguas Creek Watershed Management Plan stakeholders worked with the Regional Water Board to develop five stakeholder-led total maximum daily loads (TMDLs) for the CCW. Currently, the wastewater treatment plants and municipal</p>	<p>Regional Board staff recognize the value of developing guidance on incorporation of TMDL requirements into permits and have recommended that such guidance be addressed on a pollutant (or pollutant group)-specific basis, as the TMDLs are incorporated into MS4 permits.</p>

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			<p>stormwater dischargers in the watershed are in the process of renewing their NPDES permits and incorporating the TMDL requirements into the permits. For both wastewater and stormwater permits, questions have arisen about how the TMDL requirements should be implemented as permit requirements. Since separate departments within the Regional Water Board develop TMDLs and waste discharge permits, it is strongly suggested that the TMDL Basin Plan Amendments provide clear guidance on the inclusion of TMDL requirements into permits so that the implementation of the TMDLs is consistent with the original intent of the TMDL. The guidance should address the application of concentration or mass-based limits, determining compliance (point(s) of compliance, frequency, etc.), responsible parties, and the inclusion of special studies into permits.</p>	
48-19	CCWMC	Nov 10, 2008	<p>Develop a general policy on interpreting narrative objectives into permits and TMDLs            In both permits and TMDLs, the need often arises to translate narrative objectives into a numeric value that can be used as a TMDL target or permit limit (receiving water or effluent limit). Given the lack of a general policy for interpreting the narrative objectives to numeric values, readily available information is often used without consideration of the basis or intended use of the developed information. As a result, the interpretation of narrative objectives during the development of TMDLs in the CCW has raised some concerns. For</p>	<p>The Regional Board recognizes the need to facilitate the consistent translation of narrative objectives in the Basin Plan. A policy or new language may be developed in the future to outline what considerations should be taken into account when the need for such translations arises. These considerations may include: correlation between beneficial use impacts and levels of the pollutant/stressor; all relevant information submitted by the discharger and interested parties; and</p>

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			<p>example, the use of NOAA sediment guidelines (ERLs and ERLMs) to interpret narrative sediment toxicity objectives in the OC Pesticide and Metals TMDLs, the need to identify selenium bird egg targets from limited information to satisfy the bioaccumulation narrative target, and the lack of guidance on interpretation of the biostimulatory narrative objective for interpreting algae listings are all examples of areas where this guidance would have been helpful. Additionally, interpretations of the temperature narrative objective in the Basin Plan have created concerns when interpreted into wastewater NPDES permits. The general policy should provide guidance on interpretation of narrative objectives to numeric values to ensure consistency across TMDLs and permits and ensure that numeric values are developed from scientifically valid information developed for the intended use of the narrative objective.</p>	<p>relevant numerical criteria and guidelines developed and/or published by other state agencies (such as the Department of Fish and Game or the Office of Environmental Health Hazard Assessment), federal agencies (such as the US EPA or US Fish and Wildlife Service), foreign government agencies, international agencies, or from the scientific literature. A policy or implementation provisions could outline a decision process for interpreting narratives using appropriate numeric limits.</p>
48-20	CCWMC	Nov 10, 2008	<p>Recognize flood protection and public safety as necessary uses of waterbodies and develop a policy for addressing incompatibilities between waterbody beneficial uses</p> <p>The waterbodies in the Los Angeles Region serve as the primary mechanism for carrying stormwater flows safely to the ocean. The use of the waterbodies as flood conveyances to protect property and human life is not considered a beneficial use of the waterbodies. However, this necessary use should be recognized in the Basin Plan. With the recognition of these uses of the</p>	See Response to Comment 47-17.

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			<p>waterbodies comes the need to evaluate the compatibility of various uses of waterbodies. For example, removal of water for agricultural, industrial and process uses may not be consistent with aquatic life and groundwater recharge beneficial uses. Uses of the waterbody to convey flood waters is not consistent with safe recreational uses of the waterbody. Additionally, naturally occurring conditions, such as drought, alter the temperature, flow, and quality of water available to aquatic life and other users. These natural alterations of the waterbody would occur regardless of the anthropogenic influences currently present in the watersheds. Finally, the alteration of natural flow conditions by adding treated wastewater effluent and urban runoff to waterbodies that would not naturally flow year round to create aquatic life habitat needs to be considered.</p> <p>It is not feasible for all waters to maintain all of the designated uses at all times and under all conditions without creating conflict between the uses.</p>	
48-21	CCWMC	Nov 10, 2008	The Regional Water Board should consider the development of guidance or a policy for evaluating and prioritizing competing beneficial uses and adjusting objectives and uses as necessary during periods of naturally-occurring changes in water characteristics.	Where competing beneficial uses exist in a waterbody, a number of regulatory tools (existing or under development) can be used to address this issue. These include site-specific objectives (SSOs), limited term variances, and tiered aquatic life uses (TALUs).
49-1	Friends of the		The attached Biological Opinion on the Freeman	See General Response 3.

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	Santa Clara River		<p>Diversion Dam is submitted as evidence that beneficial uses are not being protected in the Santa Clara River watershed.</p> <p>As further evidence, the following is a link to the final biological opinion on the Santa Felicia Dam operation.</p> <p>FERC Document P-2153-012</p> <p>The National Marine Fisheries Service submits the final biological opinion for the FERC proposal to issue a new license to the United Water Conservation District for operation of the Santa Felicia Hydroelectric Proj-2153.</p>	
50-1	ABC Nurseries Inc		<p>I am sending an email response to the letter we received dated Sept 25 2008, i.e. in the third paragraph of the first page, "requests data, information, documents and other evidence regarding current water quality standards and any suggested revisions..."</p> <p>It is my understanding that the program that has been in effect in the Los Angeles is similar to the program that originated in the Central Valley. Unfortunately for nurseries like us who have joined the "group" w/ Nursery Growers Association, we have borne a burden of time &amp; expenses to comply. In the Los Angeles County a significant portion of nurseries rent small parcels on a short term basis under electrical lines which make some of the</p>	See General Response 3.

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			recommendations impractical if not impossible, i.e. water reclamation pools for recycling, or changing the grade of the property, since tenants are not allowed to do.	
51-1	Teresa Jordan	Sep 28, 2008	I am writing because the subject of your September 25, 2008 "data solicitation notice" to "Interested Persons" does not coincide with the Board's Website's announcement --"IMPORTANT: The Regional Board is requesting data, information, documents and other evidence regarding current water quality standards and any suggested revisions or additions to water quality standards applicable to water in the Los Angeles Region"-- posted on September 25, 2008. If the subject and other areas of your "data solicitation notice" of September 25, 2008 are left intact then already State laws are being violated long before this Triennial Review is undertaken.	Comment noted.
51-2	Teresa Jordan	Sep 28, 2008	Ms. Egoscue, in order to comply with State Government Code Section 11349(d)--the "Consistency" standard ( <i>How to Participate in the Rulemaking Process</i> , Page 20, April 25, 2006)--the subject of your "data solicitation notice" must read "REQUEST FOR DATA, INFORMATION, DOCUMENTS AND OTHER EVIDENCE ON WATER QUALITY STANDARDS AND OTHER BASIN PLANNING ISSUES FOR THE LOS ANGELES REGION". (Page 1)	Comment noted.
51-3	Teresa Jordan	Sep 28, 2008	Number 3, Affected Water Quality Objective, if	Comment noted.

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			<u>applicable</u> , the first sentence reads “This section should include, if applicable, the water quality objective for which the data, information, or evidence is being submitted”. The sentence must read “This section should include, if applicable, the water quality objective for which the data, information, document and other evidence is being submitted”. (Page 2)	
51-4	Teresa Jordan	Sep 28, 2008	Number 5, <u>Affected Beneficial Use</u> , if applicable, the first sentence reads “This section should identify the beneficial use listed in the Basin Plan that is addressed by the data, information or evidence”. The sentence must read “This section should identify the beneficial use listed in the Basin Plan that is addressed by the data, information, documents and other evidence.” (Page 2)	Comment noted.
51-5	Teresa Jordan	Sep 28, 2008	Number 6, <u>Concise Summary of Data, Information or Evidence</u> , must read “ <u>Concise Summary of Data, Information, Documents and Other Evidence</u> ”. (Page 2)	Comment noted.
			Number 6, <u>Concise Summary of Data, Information, Documents and Other Evidence</u> , the sentence reads “This section should describe in one or two sentences the essence of the data, information, or evidence”. The sentence must read “This section should describe in one or two sentences the essence of the data, information, documents and other evidence submitted”. (Page 2)	Comment noted.

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51-6	Teresa Jordan	Sep 28, 2008	Number 7, <u>Concise Summary of Suggested Revisions</u> , the sentence reads “This section should clearly and specifically describe the suggested revisions to beneficial uses and/or water quality objectives based upon the data, information or evidence submitted”. The sentence must read “This section should clearly and specifically describe the suggested revisions to beneficial uses and/or water quality objectives based upon the data, information, documents and other evidence submitted”. (Page 2)	Comment noted.
51-7	Teresa Jordan	Sep 28, 2008	Number 8, <u>Supporting Data, Information or Evidence</u> , must read “ <u>Supporting Data, Information, Documents and Other Evidence</u> ”. (Page 2)	Comment noted.
51-8	Teresa Jordan	Sep 28, 2008	Number 8, <u>Supporting Data, Information, Documents and Other Evidence</u> , the sentence reads “For each comment, list any existing documents, data, information, and/or specific Evidence (with references to particular pages as appropriate) that the Regional Board should consider and provide copies of the documents, data, information, and/or evidence referenced (electronically, where possible)”. The sentence must read “For each comment, list any existing data, information, documents and other evidence (with references to particular pages as appropriate) that the Regional Board should consider and provide copies of the data, information, documents and other evidence referenced (electronically, where possible)”. (Page 2)	Comment noted.

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51-9	Teresa Jordan	Sep 28, 2008	Ms. Egoscue, the sentence at the bottom of Page 2 reads "All comments and supporting documents, data, information, and evidence must be submitted to the Regional Board by 5:00 PM on November 10, 2008". The sentence must read "All comments and data, information, documents and other evidence must be submitted to the Regional Board by 5:00 PM on November 10, 2008".	Comment noted.
51-10	Teresa Jordan	Sep 28, 2008	Ms. Egoscue, the third sentence of the first paragraph on Page 3 reads "To the extent possible, please use this e-mail address when submitting comments and documents, data, information, and evidence to the Regional Board". The sentence must read "To the extent possible, please use this e-mail address when submitting comments and data, information, documents and other evidence to the Regional Board".	Comment noted.
51-11	Teresa Jordan	Sep 28, 2008	Ms. Egoscue, the second sentence of the second paragraph on Page 3 reads "In addition to this initial solicitation for data and information on water quality standards, there will be other opportunities for public participation, including public workshops and formal public comment periods for any Regional Board actions related to the Triennial Review or to future revisions to water quality standards". The sentence must read "In addition to this initial solicitation for data, information, documents and other evidence on water quality standards, there will be other opportunities for public participation,	Comment noted.

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			including public workshops and formal public comment periods for any Regional Board actions related to the Triennial Review or to future revisions to water quality standards".	
51-12	Teresa Jordan	Sep 28, 2008	Ms. Egoscue, the first sentence of the third paragraph on Page 3 reads "Please share this request for data and information with other interested persons who may not be included on our distribution list". The sentence must read "Please share this request for data, information, documents and other evidence with other interested persons who may not be included on our distribution list".	Comment noted.
51-13	Teresa Jordan	Sep 28, 2008	Ms. Egoscue, since the first sentence of the third paragraph on Page 1 of your September 25, 2008 "data solicitation notice" reads the same as the Board's Website's announcement, it stands to reason that the noted numbered points, and paragraphs, as well as the subject matter should have included the words "data, information, documents and other evidence".	Comment noted.
51-14	Teresa Jordan	Sep 28, 2008	Ms. Egoscue, it's great that "A dedicated e-mail account has been established to receive public comments in response to this solicitation" (Page 3, first sentence, first paragraph). However, all other public comments submittal tools--mail, facsimile, messenger service, and office walk-up--must be accepted by the Board. To do otherwise is contrary to the statements made in the first sentence of the second paragraph on Page 3 ("Public involvement	The notice did not preclude an interested person from submitting comments by mail, facsimile, messenger service, and office walk-up. The Regional Board often establishes dedicated email accounts for the benefit of interested persons who prefer to submit comments electronically, as well as Regional Board staff who will be

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			<p>is an important part of the Triennial Review”), and in the second sentence of the third paragraph on Page 3 (“We look forward to your continued participation in our efforts to protect water quality”). And, a violation of California Government Code Section 11349(a)--the “Necessity” standard (<i>How to Participate in the Rulemaking Process</i>, Page 24, April 25, 2006). Most of all, this shows that the Board is not committed to the public’s interest, nor the public’s trust.</p>	<p>responding to the comments. The Regional Board is also free to express a preference in the method of submitting comments.</p>