Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Commenter
1.	Heal the Bay
2.	U.S. Environmental Protection Agency (U.S. EPA)
3.	County of Los Angeles
4.	Los Angeles County Flood Control District
5.	City of Los Angeles
6.	County Sanitation Districts of Los Angeles County
7.	Joyce Dillard

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
0.1	Multiple	Several of the comments submitted to the State Water Resources Control Board (State Water Board) regarding approval of this amendment were submitted verbatim to the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) without further explanation.	The State Water Board's Notice of Opportunity to Comment concerning this Basin Plan amendment accurately informs interested persons of the procedural requirements used to implement the State Water Board's regulatory programs. According to the State Water Board's CEQA Regulations (23 Cal. Code Regs. § 3779, subd. (f)): The state board, when considering approval of a regional board's adoption of an amendment to its water quality control plan or guideline, shall prescribe a comment period of not less than 30 days. The state board may refuse to accept any comments received after the noticed deadline. All comments submitted to the state board must be specifically related to the final amendment adopted by the regional board. If the regional board previously responded to the comment, the commenter must explain why it believes that the regional board's response was inadequate. The commenter must include either a statement that each of the comments was timely raised before the regional board, or an explanation of why the commenter was unable to raise the specific comment before the regional

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
			board. The state board may refuse to accept any comments that do not include such a statement. The state board is not required to consider any comment that is not in compliance with this section. Several of the comments submitted to the State Water Board on this matter are identical to a comment submitted to the Los Angeles Water Board at the time the draft version of this regulation was under Los Angeles Water Board consideration. During its consideration, the Los Angeles Water Board received and provided written responses to all timely comments. The Los Angeles Water Board's responses either indicated that changes would be made to the regulatory provisions or related documentation in view of the comment (in which case corresponding changes were made), or the Los Angeles Water Board's written responses indicated that changes would not be made, and the response indicated why not. Where a commenter has merely repeated the comment submitted below, the State Water Board cannot divine what the commenter believes has been adequately satisfied and what has not, nor can it determine the reason for any remaining dissatisfaction.

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
			Without that information, the State Water Board does not have a fair opportunity to understand what if any remaining concerns exist, and the State Water Board is therefore unable to use its authority under Water Code section 13245 to address them. The doctrine of exhaustion of administrative remedies is intended to allow agencies like the State Water Board an opportunity to address the concerns of the commenters. The State Water Board cannot do so if those concerns have not, as here, been fairly presented.
1.0	Heal the Bay	"We support the approval of the Machado Lake Pesticides TMDL. This TMDL has many positive aspects, such as the inclusion of concentration-based waste load allocations (WLAs) for the constituents of concern in the water column and the call for development of a Lake Water Quality Management Plan (LWQMP). In particular, we support the coordinated timeline for implementation with the Machado Lake Nutrient TMDL and the inclusion of an explicit margin of safety in the loading capacity for the lake."	Comment noted.
1.1	Heal the Bay	**"**We support the seven-year schedule for meeting final WLAs and LAs, as this is consistent with the timeframe for the TMDL for Eutrophic, Algae, Ammonia, and Odors in Machado Lake. It	Comment noted. Like the Los Angeles Water Board, State Water Board staff recognizes the importance of the Proposition O projects and commends the City of Los Angeles on the planned

No.	Author	Comment	Response
		makes sense for the implementation schedule for this TMDL to be shorter relative to other Region IV TMDLs because the City of LA has already completed a conceptual design of the Machado Lake Ecosystem Rehabilitation Project and Wilmington Drain Multi-Use Project – a comprehensive project to restore and dredge the lake. The City has earmarked Proposition O funding to implement the project by mid-2014. This 117 million dollar project will be the key to meeting the WLAs in this TMDL."	projects that will lead to improved water quality throughout the City. State Water Board staff is supportive of the Prop O Machado Lake Ecosystem Rehabilitation Projects.
1.2	Heal the Bay	"We also support the inclusion of an explicit 10% margin of safety to the loading capacities for constituents of concern in the lake. The Regional Board's decision to include an explicit margin of safety for LAs in the proposed TMDL is reasonable and justified. Regional Board staff appropriately highlights uncertainties in the calculation including: • Limited data on the amount of pesticides and PCBs residing within the lake sediments • Limited data on the amount of pesticides and PCBs entering the lake • Estimated information on the depth to firm sediment in Machado Lake • Estimated information on the watershed sediment deposition rate (Staff Report Page 41). We believe these uncertainties warrant the 10% explicit margin of safety appropriately included in	Comment noted. State Water Board staff agrees with the Los Angeles Water Board's inclusion of an explicit 10% margin of safety to the loading capacity for this TMDL.

No.	Author	Comment	Response
		this TMDL."	
1.3	Heal the Bay	"In conclusion, we are supportive of many aspects of the Machado Lake Pesticides and PCBs TMDL, and we urge the State Board to adopt it."	Comment noted.
2.0	U.S. EPA	"The U.S. Environmental Protection Agency (EPA) supports the Los Angeles Regional Water Quality Control Board's proposed basin plan amendment (BPA) to establish Total Maximum Daily Loads (TMDLs) for pesticides and PCBs in Machado Lake. The proposed TMDLs meet all federal regulatory requirements."	Comment noted. State Water Board staff agrees that the TMDLs meet all federal regulatory requirements.
2.1	U.S. EPA	"EPA reviewed the proposed BPA and Staff Report during the consideration of the TMDL by the Los Angeles Regional Water Quality Control Board (Resolution No. R10-008), and supported the adoption of the TMDL with recommended modifications (Letter dated June 1, 2010). In response to our comment, the staff report and BPA were appropriately amended to include an explicit 10% margin of safety to ensure attainment of the fish tissue numeric targets."	Comment noted.
2.2	U.S. EPA	"EPA concurs with the selection of the human health California Toxics Rule (CTR) criteria as TMDL water targets. Since the human health CTR criteria are more stringent than the CTR aquatic life criteria, they will protect both human health and aquatic life. TMDL targets are also identified for sediment and fish tissue, consistent with EPA guidance for addressing narrative water quality	Comment noted.

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
		standards. EPA supports the selection of Threshold Effect Concentration (TEC) guidelines as numeric sediment targets and OEHHA Fish Contaminant Goals (FCG) as numeric fish tissue targets. In addition, we find the concentration-based wasteload allocations are consistent with EPA guidance and other similar TMDLs adopted in the state."	
2.3	U.S. EPA	"EPA reviewed the proposed pesticides and PCBs TMDLs and found reasonable scientific analysis for addressing the ChemA, chlordane, DDT, dieldrin, and PCBs impairments in Machado Lake. We also appreciate the inclusion of specific actions and milestones in the associated implementation plan to provide greater clarity of implementation expectations for all stakeholders."	Comment noted.
2.4	U.S. EPA	"We urge the State Board to approve the TMDLs to meet California's TMDL commitments and to enable EPA to meet its requirements under the consent decree (Heal the Bay v. Browner, C. 98-4825 SBA, March 22, 1999)."	Comment noted.
3.0	County of Los Angeles	"**Proposed TMDL should include a mass-based compliance option for stormwater discharges** The proposed TMDL's Waste Load Allocations (WLAs) are expressed only in terms of concentrations and without a mass-based alternative. This approach is not appropriate because it would discourage the use of Low Impact Development (LID) best management	State Water Board staff reviewed the Los Angeles Water Board's response to this comment and agrees with its response. Please see Los Angeles Water Board's response to comment 2.2 (http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/79_New/RTC_Table_final.pdf)

No.	Author	Comment	Response
		practices (BMPs) or other infiltration BMPs favored by the State Water Board and the United States Environmental Protection Agency (USEPA). A concentration-only approach also is unjustifiably inconsistent with other toxic pollutant TMDLs in the Los Angeles Region. LID and infiltration BMPs are designed to reduce runoff volume as opposed to pollutant concentration. Thus, by using a concentration-only compliance approach, the proposed TMDL would discourage the use of LID or other infiltration BMPs, because dischargers would get no credit for reducing the amount of runoff. In September 2011, the County submitted a multi-pollutant implementation plan to the Regional Board in response to the Machado Lake Nutrient TMDL (Regional Board Resolution No. R08-006). The Machado Lake Nutrient TMDL includes a mass-based compliance option; thus, the implementation plan was designed to address multiple constituents of concern, including nutrients, pesticides, and PCBs, in an integrated manner and primarily using infiltration BMPs. Adopting the Machado Lake Toxics TMDL without a mass-based compliance option would seriously undermine the County's multi-pollutant implementation strategy already underway.	The commenter also does not explain why it believes a mass-based approach is as protective as a concentration-based approach. Please see response to Comment 0.1. A mass-based WLA is not included in this TMDL because Machado Lake acts like a sedimentation basin at the base of the watershed. Thus, mass is being discharged into the lake, but is not going out of the lake. Thus, any mass being discharged into the lake accumulates over time. A mass-based WLA would lead to ongoing contamination and accumulation of pollutants in the lake, which would lead to further impairment of beneficial uses. State Water Board staff agrees with the Los Angeles Water Board that a concentration-based WLA is needed for Machado Lake and is more protective than a mass-based WLA. The WLA is for concentration in sediment (not water) – this is an important technical difference. Because Machado Lake acts like a sedimentation basin, and the watershed is large relative to the size of the lake, a concentration-based WLA is needed to fully protect the waterbody and ensure that targets are not exceeded. Also, because the pollutants addressed in this TMDL (OC pesticides and PCBs) are conservative pollutants, a

No.	Author	Comment	Response
		The proposed concentration-only approach is also not consistent with other toxic pollutant TMDLs in the Los Angeles Region, including those for Marina del Ray Harbor (Regional Board Resolution No. 2005-012), Ballona Creek Estuary (Regional Board Resolution No. 2005-008), and Colorado Lagoon (Regional Board Resolution No. R09-005). These TMDLs address similar pollutants (pesticides and PCBs) as the Machado Lake TMDL, but unlike the Machado Lake TMDL, each contains WLAs expressed as mass. Further, the Dominguez Channel and Greater Harbors TMDL, which was adopted by the Regional Board around the same time as the Machado Lake TMDL, also expresses WLAs as mass. In its response to comments, Regional Board staff does not adequately explain the reason for this inconsistency. Instead, Regional Board staff states that the TMDL "establishes concentration-based WLAs and LAs to ensure that the sediments discharged to the lake... do not accumulate pollutants at levels that would exceed water quality standards..." The County agrees with Regional Board staff that pesticides and PCBs are conservative pollutants in the environment. However, we do not agree that a concentration-based approach is in any way more protective of	concentration-based WLA is suitable to ensure that the contaminants do not accumulate in the lake. Accordingly, the TMDL establishes concentration-based WLAs and LAs to ensure that the sediments discharged to the lake and the internal lake sediments do not accumulate pollutants at levels that would exceed water quality standards and impair the lake. State Water Board staff also agrees with the Los Angeles Water Board's inclusion of a 3-year averaging period for the concentration-based WLAs. An averaging period is appropriate in this TMDL because the pollutants being addressed are bioaccumulative and thus it is reasonable to evaluate discharges and expected improvements in water quality over longer timeframes. The averaging period allows for modest variability in the quality of sediment discharged and also provides stakeholders flexibility during implementation. The use of concentration-based WLAs in this TMDL does not discourage the use of LID or other infiltration BMPs, nor does it undermine the County's multi-pollutant approach to TMDL implementation and compliance. The submitted draft implementation plan includes both structural and non-structural BMPs, which are appropriate

No.	Author	Comment	Response
		the receiving waters than a mass-based approach. In response to public comment, Regional Board staff incorporated a three-year averaging period into the concentration-based WLAs. The County appreciates Regional Board staffs consideration of public comments in this regard but believes the three-year average should apply to mass-based WLAs. Therefore, the County respectfully requests that the State Water Board remand the proposed TMDL to the Regional Board and direct the Regional Board to revise the TMDL to include a mass-based compliance option for stormwater discharges."	to attain both mass-based and concentration-based WLAs. Also, this draft implementation plan has yet to be approved by the Los Angeles Water Board Executive Officer; thus, there is still an opportunity to revise this plan, if necessary. Additionally, this comment appears to assume that the quality of sediment will not improve and that contaminated sediment will continue to be discharged from the watershed. State Water Board staff does not agree with this assumption; staff expects that sediment quality will generally improve and that cleaner sediments will be transported from the watershed. Also, a focus on non-structural housekeeping BMPs (which is included in the County's draft implementation plan) and the identification of potential hot spots within the watershed can be effective to improve the quality of sediment discharged from the watershed. The TMDLs identified by the commenter that contain mass-based WLAs are TMDLs for significantly different waterbodies as compared to Machado Lake. These waterbodies are considerably larger and have different mixing and flushing regimes that provide conditions for the use of mass-based WLAs. As explained above, State Water Board staff agrees that the use of

No.	Author	Comment	Response
			concentration-based WLAs is warranted in a small waterbody like Machado Lake. The approach of using concentration-based WLAs in small lakes with limited or no outflow is consistent with other Los Angeles Water Board toxic pollutant TMDLs; namely, the McGrath Lake PCBs, Pesticides, and Sediment Toxicity TMDL. Based on the discussion above, State Water Board staff disagrees that the proposed TMDL should be remanded to the Los Angeles Water Board.
3.1	County of Los Angeles,	"**The TMDL should include a schedule for reconsideration** The proposed TMDL does not include a schedule for reconsideration to evaluate factors specified in the TMDL, such as the science underlying the TMDL, based on available new information. In its response to comments Regional Board staff states that "[a]t this time, stakeholders have not suggested any necessary special studies or other data gathering projects needed to reconsider the targets and/or allocations." The County maintains that stakeholder-driven special studies are only one of many factors that may trigger a TMDL reconsideration. For example, new data collected as part of the TMDL's monitoring requirement may trigger a reconsideration, as would changes	State Water Board staff reviewed the Los Angeles Water Board's response to this comment and agrees with its response. Please see Los Angeles Water Board's responses to comments 1.11 and 2.4 (http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/79_New/RTC_Table_final.pdf). The Los Angeles Water Board may reconsider the TMDL at any time. Therefore, a schedule for reconsideration is not necessary. As the commenter asserts, mandatory TMDL reconsiderations are generally triggered by many factors including, but not limited to, the results of stakeholder-driven special studies and/or to

No.	Author	Comment	Response
		in statewide policy or water quality standard that may affect this TMDL. Finally, the fact that stakeholders have not proposed any special studies does not preclude them from conducting studies in the future. Therefore, the County respectfully requests that the State Water Board remand the TMDL to the Regional Board and direct the Regional Board to revise the TMDL to include a schedule for reconsideration. The reconsideration date should coincide with that for the Machado Lake Nutrient TMDL, which would be September 2016."	address specific data gaps in the TMDL. At the time the Los Angeles Water Board adopted the TMDL, stakeholders had not suggested any necessary special studies or other data gathering projects needed to reconsider the targets and/or allocations. If new data becomes available that affects the TMDL, the Los Angeles Water Board has the discretion to reconsider the TMDL based on that new information. The State Water Board believes that the Los Angeles Water Board has a proven track record with regards to working with the County of Los Angeles and other stakeholders to achieve water quality goals and it will continue to do so. As a result, State Water Board staff disagrees that the proposed TMDL should be remanded to the Los Angeles Water Board with a direction to include a schedule for reconsideration.
3.2	County of Los Angeles,	"**The numeric targets are well below the current analytical methods' minimum detection limits** The proposed TMDL's water column numeric targets for the pesticides and PCBs are several orders of magnitude lower than the detection limits of current analytical methods, thus making compliance assessment impossible. Water column numeric targets should be set to levels detectable	The State Water Board staff reviewed the Los Angeles Water Board's response to this comment and agrees with its response. Please see Los Angeles Water Board response to comment 2.5, which states: The TMDL must attain water quality standards including the narrative water quality objectives, which are translated

No.	Author	Comment	Response
		by current technology until analytical techniques are sufficiently advanced to detect pesticides and PCBs at the lower limits. In responding to this comment, Regional Board staff states that "it is not appropriate to set a TMDL numeric target based on method detection levels available,...[a]t this time, currently available detection limits will be used to evaluate compliance with the TMDL." Without waiving the County's concerns regarding the appropriateness of the TMDL's numeric targets, we believe this language should be incorporated into the TMDL so Regional Board staff's intent is clearly reflected. Further, the TMDL should include interim WLAs based on the current available detection limits. It is not unprecedented to set temporary numeric criteria in this way. For example, for Marina del Rey Toxics TMDL, the Regional Board established interim water column target for PCB of 0.03 ug/L based on the current method detection limit until advances in technology allow for analysis of PCBs at lower detection limits, with the final target of 0.00017 ug/L. Therefore, the County respectfully requests that the State Water Board remand the proposed TMDL to the Regional Board and direct the	into numeric targets. The pollutants being addressed in this TMDL are all priority toxic pollutants and as such have established criteria as part of the California Toxics Rule. These criteria are established to protect human health and the environment. It is not appropriate to set a TMDL numeric target based on method detection levels available at commercial laboratories. Method detection levels were not developed with the intent of being a water quality objective and are unlikely to be protective of water quality and beneficial uses. At this time, currently available method detection limits will be used to evaluate compliance with the TMDL. As analytical methods and detection limits improve and are more readily available, they must be incorporated into dischargers' MRPs and used to demonstrate compliance with the TMDL. Additionally, as presented in the TMDL linkage analysis, toxic pollutants from the lake sediments may solubilize into the water column exposing

No.	Author	Comment	Response
		Regional Board to revise the TMDL to insert the following language under "Numeric Targets" (BPA Page 2): ...the CTR human health criteria are more stringent than the aquatic life criteria. However, given the inability of current analytical methods to detect concentrations at this low level, current available detection limits will be applied in an interim. These numeric targets will remain in effect until advances in technology allow for analysis of Pesticides and PCBs at lower detection limits. The TMDL should also be revised to include interim numeric targets based on current MDLs..."	aquatic organisms to toxic pollutants, which biomagnify and expose humans to toxic pollutants. The water column numeric target will ensure that all standards are attained. Moreover, the water column numeric target is necessary to address the fish tissue impairment due to uncertainties in how the pollutants migrate between water, sediment, and fish tissue. This linkage analysis is based on using the correct water quality objective as the numeric target. The numeric targets may not be adjusted to values (such as method detections limits), which are not and were never intended to be water quality objectives that protect human health and the environment. It should be noted that the TMDL contains WLAs for contaminants in suspended sediment only, not the water column. Also, the TMDL provides until 2019 to attain the waste load allocations, at which time the detection limits of currently available analytical methods may change and/or new analytical methods may become available that can detect the numeric targets. Since the adoption of the Marina del Rey Toxics TMDL in 2005, the Los Angeles Water Board has adopted 2 other toxics TMDLs: the McGrath Lake PCBs, Pesticides, and Sediment Toxicity TMDL

No.	Author	Comment	Response
			and the Colorado Lagoon Pesticides, Sediment Toxicity, PAHs, PCBs, and Metals TMDL. These TMDLs, which were adopted in 2009, also included CTR-based water column numeric targets to ensure protection of human health and all beneficial uses, and were not adjusted to available method detection limits. Accordingly, State Water Board staff disagrees that the proposed TMDL should be remanded to the Los Angeles Water Board with a direction to revise the TMDL to insert suggested language.
4.0	Los Angeles County Flood Control District	**"Naming the Los Angeles County Flood Control District (LACFCD) as a responsible party is inappropriate** The proposed TMDL should not name the LACFCD as one of the responsible parties for meeting the TMDL's Waste Load Allocations (WLAs) or for monitoring associated with assessing compliance with WLAs. None of the land areas draining to the LACFCD storm drains that empty into Machado Lake are under the jurisdiction of the LACFCD. The drains themselves function solely as a conveyance for urban and stormwater runoff from the upstream municipalities and do not generate any of the pollutants of concern at issue in the TMDL. Because the LACFCD does not control the land	The Los Angeles Water Board's response to this comment 3.2 states in part: The LACFCD is listed as a permittee in the Los Angeles County MS4 permit, which is one of the regulatory mechanisms identified in the TMDL to implement waste load allocations. Furthermore, the LACFCD, as the owner and operator of many of the storm drains in the watershed, is responsible for ensuring that water discharged from its facilities does not cause or contribute to exceedances of water quality standards. […]Additionally, LACFCD specifically owns and operates Wilmington Drain, which directly

No.	Author	Comment	Response
		uses within the municipalities, it has no practical means of preventing the pollutants at issue flowing from those land uses from entering its facilities and ultimately Machado Lake. The TMDL instead should be directed at the jurisdictions and private entities that have control over the areas that are generating the pollution. It makes no sense to allocate a WLA to the LACFCD when the LACFCD does not have control over the area from which the pollution is coming. The Regional Board's response to these concerns was that the LACFCD as owner and operator of many of the storm drains that discharge into Machado Lake, including the Wilmington Drain, is responsible for ensuring that water discharged from its facilities does not cause or contribute to exceedances of water quality standards, and that the LACFCD has the authority to install pollutant controls at the points of entry to its facilities or within its facilities. This response does not address the heart of the problem. If pesticides or PCBs are continuing to be introduced into Machado Lake, then the source of the sediment containing those pesticides and PCBs needs to be addressed. The LACFCD does	discharges to Machado Lake. The sediments in Wilmington Drain have been identified as a likely source of contamination to the lake. As the owner and operator of Wilmington Drain, LACFCD is responsible for routine maintenance of this facility, including inspections, clean outs, and other activities. Moreover, LACFCD has the authority to install pollutant controls at the points of entry to its facilities, or within its facilities. These activities are feasible means of preventing pollutants from discharging to Machado Lake. State Water Board staff agrees with the Los Angeles Water Board that the LACFCD is appropriately named as a responsible party to this TMDL. Under the Clean Water Act, a point source is defined as "any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit…from which pollutants are or may be discharged." (33 U.S.C. § 1362(14).) Under the Clean Water Act, therefore, the fact that a point source may merely convey pollutants, and does not generate them, does not absolve the point source operator of responsibility for discharges of pollutants from the point source. This was recently confirmed by the

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
		not have the authority over those sources. Moreover, although LACFCD has the responsibility to maintain the flood conveyance capacity of its channels, it does not control the sources that empty into its channels, including the sources that empty into the Wilmington Drain. In Los Angeles region Trash TMDLs, the Regional Board properly assigns WLAs to jurisdictions that have control of the areas that generate trash. For instance, in its response to comments for the Santa Monica Bay Debris TMDL, the Regional Board states: The Regional Board's approach to regulating trash in the context of a TMDL is unique and unlike that used for other pollutants. Trash is generally visible and easily containable, and these attributes make it a pollutant that is readily controllable within its area of origin through proper and frequent collection and disposal by municipalities and the public. Also, the feasibility of containing this pollutant allows for determining compliance within a jurisdiction prior to discharge to the MS4. The LA Region trash TMDLs take this into account in identifying responsible jurisdictions and agencies and their points of compliance, and in assigning waste load allocations. ***(Responsiveness Summary — TMDL for Debris in the Near-Shore and Offshore of Santa***	U.S. Court of Appeals for the 9th Circuit in *Natural Resources Defense Council et al. v. County of Los Angeles et al*., to which the District was a party. In that case, the Court stated, "Although the District argues that merely channeling pollutants created by other municipalities or industrial NPDES permittees should not create liability because the District is not an instrument of 'addition' or 'generation,' the Clean Water Act does not distinguish between those who add and those who convey what is added by others - the Act is indifferent to the originator of water pollution." (2011 WL 2712963, p. *17 (July 13, 2011). While the LACFCD may not have control over the area from which the pollution is coming, it does have control over its own conveyance systems. Because the LACFCD is the owner and operator of the drain systems that collect and convey untreated discharges into Machado Lake, it has the responsibility and ability to control the water and the quality of the water that it conveys, conduct routine maintenance of its facilities, including inspections, clean outs and other maintenance. As noted by the Los Angeles Water Board, LACFCD can install pollutant controls at its

No.	Author	Comment	Response
		Monica Bay, Comment Due Date: September 13, 2010, Regional Water Quality Control Board, Los Angeles Region, p. 25) The fact that pollutants, such as pesticides and PCBs, are not "generally visible and easily containable" should have no bearing on who is ultimately responsible for addressing them. Naming the LACFCD as a responsible party in the long run will hinder rather than promote accomplishing the goals of the TMDL because including the LACFCD as a responsible party diverts responsibility from the other entities that have the control over the sources of the pollutants entering the lake. In this regard, the Regional Board's response that joint and several liability is appropriate under the Clean Water Act is erroneous as a matter of law. Moreover, the Regional Board's response with respect to joint and several liability is based on its position that the parties are joint permittees to the permit. This position will only encourage permittees to seek their own separate permits, rather than seeking to work together under one permit. For these reasons, we request that the State Water Board remand the proposed TMDL to the Regional Board and direct the Regional Board to	facilities to prevent pollutants from being discharged to Machado Lake. Pesticides and PCBs are generally legacy pollutants that persist at the microscopic level, comparing the control of Pesticides and PCBs with that of Trash is inappropriate. It is precisely the fact that pollutants, such as pesticides and PCBs, are not "generally visible and easily containable" that makes them difficult to control and determine the sources. It is because of that reason that it is necessary to control the input of sediment and water entering via the LACFCD's conveyances into Machado Lake. It is the only way to ensure that once the in-lake sediments are addressed that contamination will not continue. The success of this TMDL will require the cooperation of all the responsible parties involved, including the LACFCD. Towards that end, the TMDL requires the LACFCD to monitor Wilmington Drain to demonstrate that Wilmington Drain is not re-contaminating Machado Lake. (See TMDL, pages 9-10.) Based on the Los Angeles Water Board's response to comment 3.2, it appears that reference to "joint and several liability" addressed the broader issue of having co-mingled discharges in a shared system for which it must hold

No.	Author	Comment	Response
		remove the LACFCD from the list of responsible parties in footnote 1 on page 5 of the Basin Plan Amendment."	accountable jurisdictions that have control of the areas that contain the discharge of pollutants. Contrary to the commenter's assertion, , recognizing the LACFCD's responsibility does not divert or lessen responsibility from other responsible jurisdictions and, in any event, the commenter provides no basis for its assertion Contrary to the commenter's assertion, recognizing the LACFCD's responsibility does not divert or lessen responsibility from other responsible jurisdictions and, in any event, the commenter provides no basis for its assertion Based on the above, State Water Board staff disagrees that the proposed TMDL should be remanded to the Los Angeles Water Board with a direction remove LACFCD as a responsible party.
4.1	Los Angeles County Flood Control District	**"Monitoring for the Wilmington Drain should take place after the completion of the Wilmington Drain Multi-use Project** The proposed TMDL requires the LACFCD to monitor Wilmington Drain to demonstrate that Wilmington Drain is not re-contaminating Machado Lake. This monitoring is to be initiated at the same time as other required monitoring which can be as early as late 2012 if the TMDL takes effect in March 2012. This requirement does not appear to take into	Before addressing the merits of this comment, State Board staff notes that the commenter did not raise this issue of altering the TMDL's monitoring schedule with the Los Angeles Water Board at any time prior to its adoption of this TMDL. Pursuant to Resolution No. R10-008, the Los Angeles Water Board Executive Officer may only make minor, non-substantive modifications to the language of the TMDL as needed for clarity or consistency. The commenter's proposed clarifying revisions would constitute a substantive change to

No.	Author	Comment	Response
		account a restoration effort currently being planned by the City of Los Angeles, in collaboration with the LACFCD, to remove potentially contaminated sediment in Machado Lake and Wilmington Drain and to enhance these waterbodies for public use. Should the project proceed as planned, sediment removal for Wilmington Drain is anticipated to be complete by late 2013. To avoid the monitoring of sediment that is slated to be removed, monitoring within Wilmington Drain should be conducted after the completion of the restoration project. The LACFCD requests that the State Water Board make the following clarifying, nonsubstantive change to the last sentence of the last paragraph on page 9 of the Basin Plan Amendment: This monitoring shall be initiated at the same time as all other required WLA monitoring, except that the Executive Officer of the Regional Board shall have the discretion to adjust the monitoring schedule for good cause."	the language of the TMDL and thus cannot be made by the Executive Officer. However, as noted below, the proposed clarifying revisions are neither necessary nor warranted. The commenter correctly notes that the TMDL requires monitoring for the Wilmington Drain to be initiated at the same time as all other required WLA monitoring (TMDL, p. 9). However, State Board staff views the date in which the monitoring shall be initiated differently than the commenter, for the following reasons: Regarding other WLA monitoring, responsible parties must submit a Monitoring and Reporting Program (MRP) and Quality Assurance Project Plan (QAPP) for Los Angeles Water Board Executive Officer Approval within 6 months from the effective date of the TMDL. The requirement to sample is triggered by the Executive Officer's approval of the MRP and QAPP (i.e. sampling must begin within 60 days of Executive Officer approval of the MRP and QAPP), and must be collected during wet weather events (TMDL, p. 7). Thus, if the TMDL takes effect in March 2012, the commenter concludes that that sampling may be required in late 2012. However, thatassumes that both Office of Administrative law and U.S. EPA approve the final TMDL by March 2012. Responsible parties will necessarily require

No.	Author	Comment	Response
			adequate time to develop technically appropriate plans after the TMDL is effective. Commenter's anticipated start date also assumes that the Executive Officer will approve the MRP and QAPP immediately upon its submission. However, the Executive Officer requires sufficient time to review the MRPs and QAPPs before they may be approved. Thus, it is possible that monitoring may not be required until early to mid-2013. If the LACFD believes the anticipated completion date for the Wilmington Drain Multi-Use Project should be considered in the LACFD's monitoring schedule for the Wilmington Drain to demonstrate that recontamination is not occurring, LACFD, it should include documentation of the Project and projected schedule in its MRP and QAPP to be submitted to the Executive Officer. The Executive Officer may consider this documentation prior to approval of the MRP and QAPP for the Wilmington Drain.
4.2	Los Angeles County Flood Control District	**"The implementation schedule should be extended in light of the presence of endangered species in Wilmington Drain** After the adoption of the TMDL by the Regional Board in 2010, it came to the attention of the LACFCD that Least Bell's Vireo *(vireo beffii*	See response to comment 4.1. This TMDL does not specify the manner of compliance, and does not require any channel clearing and sediment removal activities. The District can comply with the TMDL in any lawful

No.	Author	Comment	Response
		push/us), a federally registered endangered species, was again observed in Wilmington Drain in 2011 as part of a focused survey conducted by Bon Terra Consulting. The last documented sighting of Least Bell's Vireo in Wilmington Drain was in 2007. The results of the 2011 survey are summarized in the enclosed technical memo. This discovery potentially affects the ability of the LACFCD to maintain Wilmington Drain including any channel clearing or sediment removal activities that may be necessitated by the proposed TMDL. Even if allowed to go forward, the regulatory permitting process for projects that potentially affect endangered species habitat is lengthy and should be taken into consideration in the TMDL's compliance schedule. The LACFCD requests that the State Water Board make a clarifying, nonsubstantive change to the proposed TMDL by adding a footnote 7 to Task 12 on page 14 of the Basin Plan Amendment. Footnote 7 should state that "The Executive Officer of the Regional Board shall have the discretion to extend the final compliance timeline for good cause".”	manner. If the District chooses channel clearing and/or sediment removal activities as a method of compliance, the District should comply with all applicable laws and regulations, especially those concerning endangered species. Pursuant to Resolution No. R10-008, the Los Angeles Water Board Executive Officer may only make minor, non-substantive modifications to the language of the TMDL as needed for clarity or consistency. The Executive Officer does not have the authority to adjust the TMDL implementation schedule. Only the Los Angeles Water Board st a publicly noticed meeting may adjust the schedule. Thus, the commenter’s proposed clarifying revisions would constitute a substantive change to the language of the TMDL and thus cannot be made. Furthermore, the proposed clarifying revisions are neither necessary nor warranted. The Los Angeles Water Board may reconsider the TMDL and schedule at any time based on the results of new data. State Water Board staff encourages the LACFCD to share the technical report details with the Los Angeles Water Board staff if they haven’t already and additional information, if any exists. If the District believes that it cannot comply with the TMDL within the adopted schedule, the

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
			District should provide such information to the Los Angeles Water Board with documentation of the District's proposed methods of compliance, including an evaluation of alternatives considered.
4.3	Los Angeles County Flood Control District	**"Incorporation of the Comments of Los Angeles County** The LACFCD concurs with the comments submitted by the County of Los Angeles and hereby incorporates them by reference."	Comment noted. See responses to comments 3.0 thru 3.2.
5.0	City of Los Angeles	**"DISCHARGERS WHO CONTRIBUTE CONTAMINATED SEDIMENT TO MACHADO LAKE MUST BE JOINTLY RESPONSIBLE FOR ANY FUTURE IMPLEMENTATION ACTIONS NECESSARY TO PROTECT MACHADO LAKE** In the June 1, 2010 comment letter to the Regional Board, the Bureau requested additional clarity regarding recontamination of Machado Lake from upstream dischargers after the completion of the City of Los Angeles's Machado Lake Ecosystem Rehabilitation Prop 0 Project. Regional Board staff agreed with this request and provided clarifying language in the Final BPA. While the Bureau greatly appreciates the revision provided by the Regional Board, as the City of Los Angeles is investing approximately $120 million in the rehabilitation of Machado Lake, the added	State Water Board staff reviewed the Los Angeles Water Board's response to this comment and agrees with its response. Please see Los Angeles Water Board's response to comment 1.8, which states in part: The Los Angeles Water Board previously explained: Once implementation activities are completed by the City and LAs attained, Machado Lake must be protected from possible recontamination due to discharges from the surrounding watershed. Therefore, the TMDL assigns to watershed dischargers WLAs that will address pollutants discharged from the watershed into the lake. Additionally, the TMDL requires compliance monitoring, which

No.	Author	Comment	Response
		language did not adequately clarify the upstream dischargers responsibility for future cleanup and the Bureau remains concerned about the potential for recontamination after the completion of the Proposition 0 Rehabilitation Project. More explicit language is needed to clarify the responsibility of dischargers if Machado Lake is recontaminated. The concern of recontamination is based upon all upstream discharges as a potential source, but in particular, bed sediments in Wilmington Drain. These sediments are a known source of pesticides and PCBs. The Bureau is concerned that such a large source of pesticides could be mobilized over time through typical storm events or deposited in the lake from one major storm event. As noted in the June 1, 2010 comment letter, the Bureau strongly supports the removal of the in-channel sediment before the Prop 0 Rehabilitation Project is completed. However, if such sediment is not removed, and such sediment leads to exceedances of TMDL targets in Machado Lake, the Bureau requests that the BPA ensure that all upstream dischargers are fully responsible for any additional remediation or implementation actions. The requested clarifying revisions are to language on Page 12 of the Final BPA (Implementation Plan) as follows (deletions indicated in strikeout	will report if contaminated discharges are occurring. Parties not attaining WLAs and contributing to the recontamination of Machado Lake will be required to take action to address WLA exceedance and may be subject to other Regional Board actions. The Los Angeles Water Board revised the TMDL to account for the any potential recontamination from the surrounding watershed after remediation activities occur in a manner that will adequately addresses the responsibilities of the watershed dischargers: After lake remediation activities, to address existing sediment contamination, are complete and LAs are attained, if Machado Lake is recontaminated as a result of continued polluted discharge from the surrounding watershed, the WLA compliance monitoring data will be used, along with other available information, to assess the relative contribution of watershed dischargers and determine their responsibility for secondary lake remediation activities. If a significant amount of contaminated sediment is transported to Machado Lake from the

No.	Author	Comment	Response
		text; additions indicated in bold, italicized text): ~~After lake remediation activities, to address existing sediment contamination, are complete and LAs are attained, if Machado Lake is recontaminated as a result of continued polluted discharge from the surrounding 'watershed~~, *If TMDL targets for sediment and/or fish tissue are exceeded within the lake after the completion of the City of Los Angeles's Machado Lake Ecosystem Rehabilitation Prop 0 Project, then dischargers that contributed contaminated sediment to Machado Lake will be responsible for future implementation actions necessary within Machado Lake to comply with the TMDL (such as dredging of the lake).* *T* ~~t~~he WLA compliance monitoring data will be used, along with other available information, to assess the relative contribution of watershed dischargers and determine their responsibility for secondary lake remediation activities. If a significant amount of contaminated sediment is transported to Machado Lake from the surrounding watershed after lake remediation actives are completed, but	surrounding watershed after lake remediation actives are completed, but before monitoring is conducted to confirm attainment of LAs, Regional Board staff shall consider all information related to watershed discharges and lake conditions when assessing responsibility for secondary lake remediation activities. (Page 12 of the TMDL) State Water Board staff disagrees with the assertion that the TMDL should be further revised to clarify the responsibility of the dischargers if Machado Lake is recontaminated. The revised language adequately accounts for the concerns expressed by the commenter. Making the additional revision suggested by the commenter is unnecessary, and in any event, the commenter fails to explain why the revised language does not sufficiently address the commenter's concern about discharger responsibility. Pursuant to Resolution No. R10-008, the Los Angeles Water Board Executive Officer may only make minor, non-substantive modifications to the language of the TMDL as needed for clarity or consistency. The commenter's proposed clarifying revisions would constitute a substantive change to the language of the TMDL and thus cannot be

No.	Author	Comment	Response
		before monitoring is conducted to confirm attainment of LAs, Regional Board staff shall consider all information related to watershed discharges and lake conditions when assessing responsibility for secondary lake remediation activities. ***Requested Action**: On page* 12 *in the Implementation Plan section of the Final BPA, revise the language as noted above."*	made by the Executive Officer. However, as noted above, the proposed clarifying revisions are unnecessary as the Los Angeles Water Board's revised language accounts for commenter's concerns.
5.1	City of Los Angeles	"**SOURCE ASSESSMENT NEEDS TO INCLUDE IN-CHANNEL SEDIMENT FROM WILMINGTON DRAIN** For the Machado Lake Ecosystem Rehabilitation Prop 0 Project, the City of Los Angeles assessed four sites in Wilmington Drain to measure levels of organochlorinated pesticides and PCBs in the soft bottom sediment. All four sites showed exceedances for all pesticides between 0-6 feet. This bottom sediment is a potentially significant source of organochlorinated pesticides and PCBs to Machado Lake. In the June 1, 2010 comment letter, the Bureau requested that the Source Assessment section of the Staff Report and the Source Analysis section of the BPA quantify the source of in-channel sediment in Wilmington Drain. In the Response to Comments, the Regional Board noted that such information was	State Water Board staff reviewed the Los Angeles Water Board's response to this comment and agrees with its response. Please see Los Angeles Water Board's response to comment 1.6 (http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/79_New/RTC_Table_final.pdf). As noted by the commenter, the Los Angeles Water Board revised the Staff Report by adding section 4.1.4. Section 4.1.4 of the Staff Report summarizes the Wilmington Drain Sediment Quality Data which documents the presence of contaminated sediment residing in Wilmington Drain. The sediment quality data is descriptive in nature and thus does not warrant inclusion in the TMDL

No.	Author	Comment	Response
		added to the Final Staff Report. The Bureau appreciates the revision to the Staff Report, but for consistency, respectfully requests that the information pertaining to Wilmington Drain as a source of contaminated sediment is also included in the Final BPA. The requested additional language to Page 4 of the Final BPA (Source Analysis) is as follows (additions indicated in bold, italicized text): ***In addition, sediment within Wilmington Drain is a reservoir of contaminated sediment. If this sediment is transported downstream to Machado Lake, it would be a significant source of contaminated sediment and could contribute to exceedances of TMDL targets***. ***Requested Action****: On page* 4 *of the Source Analysis section of the Final BPA, include the additional language as noted above.*	Basin Plan Amendment. The TMDL Basin Plan amendment (see the Source Analysis section, pages 3-4 of the TMDL) already names Wilmington Drain as a source of discharges of pesticides and PCBs into Machado Lake. Making the adjustments suggested by the commenter is unnecessary.
5.2	City of Los Angeles	**TMDL SCHEDULE SHOULD INCLUDE AN EXPLICIT REOPENER TO OCCUR CONCURRENTLY WITH THE REOPENER OF THE MACHADO LAKE NUTRIENT TMDL** In the June 1, 2010 comment letter, the Bureau requested the inclusion of a task in the Implementation Plan section of the BPA to	See responses to comments 3.1 and 0.1 above. While the commenter previously requested the Los Angeles Water Board (see Los Angeles Water Board response to comment 1.11 (http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/79_New/RTC_Table_final.pdf) to include

No.	Author	Comment	Response
		incorporate an explicit reopener of the TMDL to occur concurrently with the reopener of the Machado Lake Nutrient TMDL. This revision was not included in the Final BPA. In the Response to Comments, the Regional Board noted that a reopener would be necessary to consider the results of special studies or data gaps that would impact the TMDL targets or allocations, not to consider implementation actions. However, as noted in the comments above, Wilmington Drain contains a substantial amount of contaminated sediment. The Regional Board recognized Wilmington Drain as a source of contaminated sediment and stated that the Board may use regulatory programs or orders to require the cleanup of Wilmington Drain within the Prop. 0 timeline (emphasis added): These data document the presence of contaminated sediment residing in Wilmington Drain. ***If this sediment is transported downstream to Machado Lake it would be a significant source of contaminated sediment***. - Final Staff Report, pg. 34 Additionally, the TMDL calls for specific monitoring of bed sediment in Wilmington Drain by the County of Los Angeles Flood Control District to ensure that sediment	a reopener of the TMDL to occur concurrently with the reopener of the Machado Lake Nutrient TMDL to consider "new data, results of special studies, and new information to re-evaluate the status of any impairments after the Prop. O project is completed," the commenter did not also previously submit any comment concerning the purported need to include a reopener to account for the addition of allocations to be assigned to the Los Angeles County Flood Control District. Thus, this issue was not raised to the Los Angeles Water Board prior to adoption of the TMDL, the time in which issues are most appropriately raised and efficiently addressed by the Los Angeles Water Board. Nevertheless, the mandatory reopener requested by the commenter concerning the purported need to account for the addition of allocations to be assigned to the Los Angeles County Flood Control District is not necessary because The LACFCD already has WLAs assigned to them and their facilities including Wilmington Drain in this TMDL. In addition, there is a specific monitoring plan required for Wilmington Drain to ensure that sediment from Wilmington Drain is not re-contaminating Machado Lake. If it is shown that the Wilmington Drain is in fact recontaminating Machado Lake the Los Angeles

No.	Author	Comment	Response
		from Wilmington Drain is not recontaminating Machado Lake. ***The Regional Board may use other regulatory programs or issue other orders to require the clean up of Wilmington Drain, if necessary***. Regional Board staff recognizes the importance and investment of the Proposition 0 projects and commends the City of Los Angeles on the planned projects that will improve water quality throughout the city. Regional Board staff is supportive of the Prop 0 Machado Lake Ecosystem Rehabilitation Projects. ***Staff will work with all responsible parties in the watershed to coordinate monitoring and/or remediation measures with the Prop 0 timeline."*** - Response to Comments, Comment 1.7, pg. 11 The collection of additional data, as currently required by the TMDL, may warrant the addition of allocations assigned to the Los Angeles County Flood Control District for the bed sediment in Wilmington Drain. Therefore, the Bureau respectfully requests the following: ***Requested Action:*** Revise that the Implementation Plan to include an explicit	Water Board can reopen the TMDL to address the problem, no explicit reopener date is required. Furthermore, there are many projects working concurrently with this TMDL including the Wilmington Drain Multi-Use Project which proposes to remove the sediments from Wilmington Drain by 2013. Pursuant to Resolution No. R10-008, the Los Angeles Water Board Executive Officer may only make minor, non-substantive modifications to the language of the TMDL as needed for clarity or consistency. The commenter's proposed clarifying revisions would constitute a substantive change to the language of the TMDL and thus cannot be made by the Executive Officer. However, as noted above, the proposed clarifying revisions are unnecessary.

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
		reopener of the TMDL, to occur concurrently with the reopener of the Machado Lake Nutrient TMDL, to consider additional allocations for Wilmington Drain."	
6.0	County Sanitation Districts of Los Angeles County	"The adoption of the Machado Lake TMDL and the assignment of waste load allocations (WLAs) to stormwater dischargers in the Machado Lake subwatershed will impact the Palos Verdes Landfill (PVLF) and the Joint Water Pollution Control Plant (JWPCP), which are operated by the Sanitation Districts in the Cities of Rolling Hills Estates and Carson, respectively. When the Machado Lake TMDL was under consideration by the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), the Sanitation Districts submitted a comment letter that, among other issues, requested that wasteload allocations (WLAs) be assigned in terms of loading rates rather than as concentrations of pollutants in solids (i.e., µg/day vs. µg/kg). The Regional Board subsequently released a response to comments and revised Machado Lake TMDL in June 2010 that provided some flexibility in implementing the proposed WLAs, which we very much appreciate, but did not change the form of the WLAs themselves. The Sanitation Districts provided additional comments about this issue to	See response to comment 3.0 above. At the Los Angeles Water Board hearing, staff explained that, based on the source assessment in the staff report, the levels of DDT in the storm drains leading to Machado Lake are several orders of magnitude lower than the values presented by the commenter at the Regional Board hearing. According to page 35 of the staff report, there are three storm water inputs to Machado lake: Wilmington Drain, the Project 77 drain, and the Project 510 drain. There were no pollutants detected in the sediment sampled from the Project 510 drain. The concentration of DDT in the sediments in Wilmington Drain and the Project 77 drain, were 18.4 µg/kg and 1.5 µg/kg, respectively. Therefore, the Los Angeles Water Board found that sources in the watershed are not discharging a significant amount of DDT or other contaminants to the lake, which is why they provided flexibility to the watershed dischargers in the lake. At the hearing (page 133 of the transcript), Board Member Glickfeld asked, "So despite the fact -- just so I understand, whatever they're finding out on the ground, that level is not

No.	Author	Comment	Response
		the Regional Board during their Machado Lake TMDL hearing in September 2010, specifically noting that the U.S. EPA webpage regarding the Montrose Superfund Site1 indicates that background soils concentrations in areas as close as three miles to Machado Lake had average DDT concentrations of 1,300 µg/kg. It is these background soil concentrations, which are several orders of magnitude above the proposed WLAs, that make compliance with the Machado Lake TMDL particularly problematic."	getting into the storm drains, as we have seen through our testing in the storm drains?", and Executive Officer Samuel Unger responded, "That's exactly correct."
6.1	County Sanitation Districts of Los Angeles County	**"**The Regional Board's Final Staff Report states that: Permitted stormwater dischargers can implement a variety of implementation strategies to meet the required WLAs, such as non-structural and structural BMPs, and/or diversion and treatment to reduce sediment transport from the watershed to the lake. However, since the Machado Lake TMDL assigns solids concentration based WLAs, the fact that background soils concentrations appear to far exceed those limits makes dischargers' ability to comply extremely uncertain. Reducing the mass of solids discharged, which is typically the focus of stormwater treatment, would not be effective since the concentrations of pollutants in any remaining solids would be unchanged. For example, a facility which drastically reduces its sediment loading in stormwater tributary to	See responses to comments 3.0 and 6.0 above.

No.	Author	Comment	Response
		Machado Lake through BMPs, diversion, or treatment, still might not be able to meet the assigned WLAs, if the small amount of sediment that remained in the stormwater discharge exceeded the target concentration. Given the existing condition of elevated background soil concentrations of DDT, the only way for a discharger to ensure compliance with the Machado Lake TMDL is to have zero discharge or remove all sediment from their discharge, neither of which is practicable for large storm events."	
7.0	Joyce Dillard	"You state in Attachment A of the proposed Amendment: *Stormwater and urban runoff discharges to Machado Lake occur through the following subdrainage systems: Wilmington Drain, Project 77 and Project 510.* You also state the responsible party as the City of Los Angeles Department of Recreation and Parks. The Department of Recreation and Parks is not tasked to address stormwater runoff issues under the Charter of the City of Los Angeles. Have you notified the Department of Recreation and Parks that they are responsible. The City Charter states: *Sec.590 Powers and Duties of the Department.*	See response to comment 0.1 above. Additionally, it appears that this commenter did not present these concerns to the Los Angeles Water Board, which would be the most appropriate and effective forum to present comments concerning a proposed TMDL—prior to adoption. Additionally, State Water Board staff disagrees with the commenter's assertions concerning jurisdictional authority. As noted by the commenter, Section 590 of the City of Los Angeles Charter states in part: The Department of Recreation and Parks shall have the power and duty: (a) to establish, construct, maintain,

No.	Author	Comment	Response
		The Department of Recreation and Parks shall have the power and duty: *(a) to establish, construct, maintain, operate and control, wherever located:* *(1) all parks of the City of Los Angeles;* *(2) all recreational facilities, museums, observatories, municipal auditoriums, sports centers and all lands, waters, facilities or equipment set aside or dedicated for recreational purposes and public enjoyment; and* *(3) all property acquired by it or assigned to its jurisdiction for public recreation.* *(b) to design, construct and operate, lease, rent or sell concessions or privileges to be exercised for the benefit, education, amusement, convenience or enjoyment of the public, in connection with any function, site or facility under the jurisdiction of the department;* *(c) to establish schedules of charges for special services;* *(d) to promote public recreation and cooperate with other public agencies and organizations for that purpose; and* *(e) to establish, maintain and operate playgrounds or other recreational*	operate and control, wherever located: (1) all parks of the City of Los Angeles; (2) all recreational facilities, museums, observatories, municipal auditoriums, sports centers and all lands, waters, facilities or equipment set aside or dedicated for recreational purposes and public enjoyment; and (3) all property acquired by it or assigned to its jurisdiction for public recreation. Because the City of Los Angeles Department of Recreation and Parks (DRP) operates Ken Malloy Harbor Park and Machado Lake, they are expressly responsible to maintain the waters within that park as dictated by the City Charter. Accordingly, this TMDL does not change any functions of the DRP. Therefore, the DRP is appropriately assigned load allocations for the in-lake sediments only. The DRP was notified of the Los Angeles Water Board's intent to adopt this TMDL and assign it load allocations. The Commenter is correct in that the subdrainage systems and the Wilmington Drain are under the jurisdiction of the Los Angeles County Public Works and the Los Angeles County Flood Control District, respectively. As such, these entities are

No.	Author	Comment	Response
		facilities *upon portions of public streets, under terms and conditions provided by ordinance.* The Governing Board of the Department of Recreation and Parks is the Board of Recreation and Park Commissioners. The City Charter jurisdiction for storm water matter is the Board of Public Works. The Board of Public Works has jurisdiction over inspections via the Department of Public Works. Any changes to the functions of Departments within the City would require a change in the Municipal Code. The Powers and Duties were changed by a Vote of the People in the June 8, 1999 Charter Amendment Ballot Measure. The subdrainage systems are either under the jurisdiction of Los Angeles County Public Works or the City of Los Angeles Bureau of Sanitation. The Bureau of Sanitation is governed by the Board of Public Works. You state that the Wilmington Drain is under the jurisdiction of the Los Angeles County Flood Control District LACFCD. The drainage into the	named as responsible parties to this TMDL and have been assigned waste load allocations to control contaminated sediment inputs into Machado Lake. While funding is always a concern, the Department of Recreation and Parks in concert with the City of Los Angeles under Proposition O has $120 million dedicated to this and other projects associated with the Machado Lake subwatershed.

No.	Author	Comment	Response
		lake is shown on the Staff Report at 88%. LACFCD should be the responsible party in this TMDL. Funding is a concern of us citizens. We do not see any budgeted item in the Department of Recreation and Parks for ongoing maintenance for TMDLs. In fact, that department cannot maintain and operate the entire system under their current budget."	
7.1	Joyce Dillard	"Best Management Practices will be used. Why- will this address the problem at all, if the cause is a source point or ongoing discharge from a source point. Is that source point grandfathered, or if not, should not the responsible party cease discharge. The TMDL process must include solution-based approach. An Adaptive Management strategy should be engaged. This is the approach taken by the scientists in their approach to Climate Change in the Southern California Bight: Integrating Science and the Societal Implications at the USC Dornsife College Conference. Sometimes, it is a small change that can affect the problem with little capital outlay, but facts are needed for the analysis. This process has no guarantee of solving or	See response to comment 0.1 above. It appears that this commenter did not present these concerns to the Los Angeles Water Board, which would be the most appropriate and effective forum to present comments concerning a proposed TMDL—prior to adoption. Best management practices include, but are not limited to, routinely cleaning drains associated with contaminated sediment loading as well as catchments systems at the outfalls, and structural BMPs such as filtration and infiltration systems. The pollutants addressed by this TMDL are legacy pollutants, long since banned by the government. Unfortunately, they persist in the soils and sediments and can become loaded to the lake via dry-weather and stormwater runoff. Once in the lake, they can become resuspended into the water column creating a trophic cycle of pollution

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
		reducing the pollutant load. There is no measurement or monitoring addressed. We do not understand why you think the taxpayer has unlimited funds and the City has an unlimited budget to poor money into this issue without a definitive plan and system in place that would show results and reduction."	across the wildlife and people who enjoy Machado Lake. State Water Board staff suggests the commenter read the Los Angeles Water Boards Staff Report available at (http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/79_New/2010_1122/final_staff%20report.pdf). The Department of Recreation and Parks is considered a non-point source and is only responsible for the sediments already deposited within Machado Lake. The point sources have been given separate waste load allocations, no one is "grandfathered" in. The Los Angeles Water Board has implemented an adaptive management approach to solving the water quality issues throughout their region and this TMDL is no different, requiring cooperation amongst all stakeholders involved including the Department of Recreation and Parks. State Water Board staff believes this TMDL to be well planned and thought out and expect successful results that will be shown through the extensive monitoring and reporting plan required by this TMDL. Lastly, while funding is a concern, responsible parties have until 2019 to achieve load and waste load allocations.

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
7.2	Joyce Dillard	There are ethical issues when it comes to the City of Los Angeles and the California Water Boards and the funding source for the City of Los Angeles, Proposition O, a local $500,000,000 bond. At least one member of the LA Regional Water Quality Control Board, Francine Diamond, sits on the Citizens Oversight Committee of Proposition O, the City of Los Angeles Bond funding base. There is a Conflict of Interest in this issue. At least four members of Heal-the-Bay, Mark Gold, Adi Lieberman, Craig Perkins and Dayna Bochco, sit on the Citizens Oversight Committee of Proposition O, the City of Los Angeles Bond funding base. There is a Conflict of Interest in this issue. Tiger Kang with Pacific American Volunteer Association works with Heal the Bay sits on the Citizens Oversight Committee of Proposition O, the City of Los Angeles Bond funding base. There is a Conflict of Interest in this issue. Teresa Villegas, an employee of Board of Supervisor Gloria Molina. sits on the Citizens Oversight Committee of Proposition O, the City of Los Angeles Bond funding base. There is a	See response to comment 0.1. It appears that this commenter did not present these concerns to the Los Angeles Water Board, which would be the most appropriate and effective forum to present comments concerning a proposed TMDL—prior to adoption. The TMDL is a planning document and does not specify the manner of compliance. Responsible jurisdictions can comply with the TMDL in any lawful manner. Funding for Proposition O projects is independent of the establishment of this TMDL and therefore comments pertaining to alleged conflicts of interest issues with the members of the Citizens Oversight Committee are outside the scope of the State Water Board's review of this TMDL. The commenter fails to elaborate on the alleged ethical issues involved with the Proposition O bond. The commenter's conclusion that "conflicts of interest" exist because stakeholders comprise the Citizens Oversight Committee is not explained. State Water Board staff fails to see the alleged conflict of interest involved with any of the members of the Citizens Oversight Advisory

Comment Summary and Responses
Total Maximum Daily Load for Pesticides and PCBs in Machado Lake
Comment Deadline: 12pm on October 27, 2011

No.	Author	Comment	Response
		Conflict of Interest in this issue. Cynthia McClain-Hill, principal of Strategic Counsel PLC, registered lobbying firm, sits on the Citizens Oversight Committee of Proposition O, the City of Los Angeles Bond funding base. There is a Conflict of Interest in this issue. Deny this amendment and take responsibility for Public Health and Safety and address the ethical issues as well.	Committee of Proposition O. Proposition O mandates that the Citizens Oversight Advisory Committee consist of nine members, with four appointed by the Mayor and five appointed by the Council President. Of the Council President's five appointments, three must have expertise and experience in clean water issues, and one of these shall be recommended by the Regional Water Quality Control Board. The remaining two must be knowledgeable community representatives. State Water Board staff suggests the commenter submit her comments regarding the conflict of interest and unethical use of Proposition O directly to the Mayor of Los Angeles and/or the Council President.