

DRAFT Comment Summary and Responses  
 Comment Deadline: January 26, 2017  
 Amendment to the Water Quality Control Plan for the Los Angeles Region to  
 Revise the Total Maximum Daily Load (TMDL) for Metals and Selenium in Calleguas Creek, Its Tributaries, and Mugu  
 Lagoon

List of Commenters:

Comment Reference	Organization	Representative
1	Stakeholders Implementing TMDL in Calleguas Creek Watershed (Stakeholders)	Lucia McGovern

Response to Comments:

No.	Author	Comment	Response
01	Stakeholders	The Stakeholders Implementing Total Maximum Daily Loads in the Calleguas Creek Watershed (Stakeholders) appreciate the opportunity to support State Water Resources Control Board (State Water Board) approval of the amendment to the Basin Plan to revise the Total Maximum Daily Load for Metals and Selenium in the Calleguas Creek, Its Tributaries, and Mugu Lagoon (Basin Plan Amendment). The Stakeholders worked with closely with Regional Board staff to develop the TMDL modifications. While supportive of the approval of the Basin Plan Amendment, the Stakeholders wish to take this opportunity to highlight the success of the TMDL in reducing impairments in the Calleguas Creek Watershed and note the need for the State Water Board and Regional Water Boards to consider how to better address successful TMDLs in the future.	Comment noted.
02	Stakeholders	As discussed in the Staff Report for the Basin Plan Amendment, all reaches of the Calleguas Creek Watershed, except copper in Revolon Slough, are no longer impaired for copper and nickel and could be delisted. There have been no	Stakeholders previously made this comment to the Los Angeles Water Board and the Los Angeles Water Board responded to it. The State Water Board

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		<p>exceedances of copper or nickel in over 5 years and only 1 exceedance of nickel in the past 8 years. This success resulted in the need to modify allocations in the TMDL to reflect that further load reductions were not needed to remove the impairments. While Regional Water Board staff agreed with the need and willingly prepared the Basin Plan Amendment, the Stakeholders and Regional Board staff differed in the preferred approach to modifying the TMDL. In the development of the Basin Plan Amendment, the Stakeholders requested that the TMDL be modified to remove the allocations in the reaches that were no longer impaired, consistent with what was done for zinc during the development of the original TMDL. Regional Board staff preferred an approach based on existing discharge concentrations that was ultimately adopted.</p>	<p>reviewed and agrees with the Los Angeles Water Board's responses to Comment No. 1 to Los Angeles Water Board Resolution R16-007, which states:</p> <p>The Regional Board recognizes that two out of three reaches listed as impaired due to metals and selenium -- Mugu Lagoon and Calleguas Creek Reach 2 -- are currently meeting the numeric target for copper as a result of implementing programs to reduce copper loading to Calleguas Creek and Mugu Lagoon. The Regional Board also notes that Revolon Slough, which drains the agricultural land in the western portion of the watershed and outlets to Mugu Lagoon, is not yet meeting the numeric target. Based on the review of current conditions using data from March 2007 to June 2015, a decreasing trend in dissolved copper concentration was only found in Calleguas Creek Reach 2. There are no significant decreasing trends in dissolved copper or dissolved nickel concentrations in other reaches, and a slightly increasing trend found for Reach 3. The Regional Board finds that allocations assigned to all sources including POTWs, agricultural, and MS4 discharges to Calleguas Creek and Conejo Creek</p>
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			<p>are necessary to maintain current conditions in Mugu Lagoon and Calleguas Creek Reach 2.</p> <p>According to the State Water Board's CEQA Regulations (23 Cal. Code Regs. § 3779, subd. (f)) and the State Water Board's Notice of Opportunity to Comment concerning this Basin Plan amendment, if the Los Angeles Water Board previously responded to the comment, then the commenter must explain why it believes that the Los Angeles Water Board's response was inadequate. This comment submitted to the State Water Board is very similar to a comment submitted to the Los Angeles Water Board at the time the draft version of this regulation was under consideration by the Los Angeles Water Board. The Stakeholders have not explained why the Los Angeles Water Board's response to this comment was inadequate or incorrect, but has instead reiterated its original comment.</p>
		<p>In addition, Stakeholders raised concerns about the interpretation of the applicability of the adopted copper water effects ratios for the watershed.</p>	<p>Stakeholders also previously made this comment to the Los Angeles Water Board and the Los Angeles Water Board responded to it. The State Water Board reviewed and agrees with the Los Angeles Water Board's responses to Comment No. 8 to Los Angeles Water Board Resolution R16-007, which states:</p>

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			<p>The Basin Plan Amendment was revised in response to this comment. Specifically, the amendment language clarified that if a quantitative analysis is conducted to show that downstream water quality is protected, a WER higher than 1.51 (but not to exceed 3.69) could be applied at the permitting stage for the upstream MS4, agricultural, and other NPDES discharges.</p> <p>As previously iterated, according to the State Water Board's CEQA Regulations (23 Cal. Code Regs. § 3779, subd. (f)) and the State Water Board's Notice of Opportunity to Comment concerning this Basin Plan amendment, if the Los Angeles Water Board previously responded to the comment, then the commenter must explain why it believes that the Los Angeles Water Board's response was inadequate. This comment submitted to the State Water Board is very similar to a comment submitted to the Los Angeles Water Board at the time the draft version of this regulation was under consideration by the Los Angeles Water Board. The Stakeholders have not explained why the Los Angeles Water Board's response to this comment was inadequate or incorrect, but has instead reiterated its</p>
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			original comment.
		<p>While a compromise was reached and the Stakeholders are supporting the approval of the Basin Plan Amendment by the State Water Board, the modification process highlighted that there is not clear guidance on what happens once a waterbody is no longer impaired. While all parties agree that it is important to ensure the waterbodies do not become impaired again in the future, it is critical that dischargers are not put in a situation where they are potentially out of compliance when impairments no longer exist. Setting allocations based on existing conditions as a consistent practice for addressing this situation is not practical or appropriate for all types of dischargers in a TMDL, particularly agricultural and stormwater dischargers that have intermittent discharges. Thus, the Stakeholders request that the State Water Board provide better guidance for addressing TMDL allocations in waterbodies that are no longer impaired. This will allow dischargers to focus resources on improving conditions in reaches with ongoing impairments without worrying about non-compliance for waterbodies meeting objectives.</p> <p>In conclusion, the Stakeholders support the approval of the Basin Plan Amendment, but request the State Water Board consider identifying better alternatives for implementing allocations in waterbodies that are meeting water quality objectives because of TMDL implementation. Hopefully we all will be celebrating more of these successes in the future and it is important to ensure that dischargers are not at risk of being out of compliance with allocations and associated effluent limitations when the waterbody impairments no longer exist.</p>	<p>The State Water Board agrees that it is important to ensure that waterbodies do not become impaired again in the future. The State Water Board agrees with the Los Angeles Water Board's approach in this matter by revising the assigned WLAs to POTWs in consideration of the performance of the POTWs, current conditions in the receiving waters, and the need to maintain the high quality of waters consistent with federal and State anti-degradation policies.</p> <p>With respect to guidance addressing TMDL allocations in waterbodies that are no longer impaired, the State Water Board notes that the Clean Water Act Section 303(d)(3) instructs States to use TMDLs in circumstances of no impairment. In addition, USEPA guidance, "Draft Considerations for Revising and Withdrawing TMDL" March 22, 2012, states:</p> <p><i>EPA recommends that existing TMDLs <u>not</u> be withdrawn simply because the load and wasteload allocations have been implemented successfully and the water is now attaining water quality standards. EPA recommends that such "successful" TMDLs remain in place to ensure that WQS continue to be</i></p>

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			<p><i>maintained in the future, and that their water quality analyses and allocation targets continue to inform permit writers' and stakeholders' efforts to maintain those water quality standards.</i></p> <p>The State Water Board and the Los Angeles Water Board will continue to work closely with the Stakeholders to develop appropriate responses to address TMDL allocations in waterbodies that are no longer impaired.</p>
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