Response to Comments on Tentative Resolution No. R9-2012-0033

This document contains responses to written comments received from interested parties in response to tentative Resolution No. R9-2012-0033, and all supporting documents, noticed for public review on February 15, 2012. The formal public comment period began February 15, 2012 and ended at noon on April 2, 2012.

Responses to comments are divided into CEQA comments and comments on the remaining documents (including the tentative Resolution, Staff Report, and Basin Plan amendment). Multiple comment letters submitted the same or very similar comments. These comments are grouped and responded to collectively. Individual comments are included in section 4. Coded comment letters are included in section 5. Responses to written comments on previous versions of the resolution and staff report are included in section 5.

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List of Commenters

Commenter ID Number	Company/Agency	Representative
A	Hanson Aggregates	Steve Zacks
B	California Department of Fish and Game	Jennifer Edwards
C	City of Poway	Robert Manis
D	City of Del Mar	Mikhail Ogawa
E	City of San Diego	Kris McFadden
F	California Department of Transportation	Scott McGowen
G	County of San Diego	Cid Tesoro
H	Coastal Environmental Rights Foundation	Livia Borak
I	San Diego Gas & Electric	Scott Pearson

CEQA Comments

Number	Coded Comment ID	Comment	Response
1	C-10 D-2 F-11 E-12 G-11	The CEQA document should evaluate the impacts of the lagoon restoration that may be required to meet the lagoon target. The CEQA document should evaluate the impacts of the lagoon restoration that may be required to meet the lagoon target, and the economic analysis of the cost of achieving the lagoon target. The City recommends a full and thorough CEQA analysis be performed. The implementation of this TMDL, once adopted, has the potential to significantly impact jurisdictional funding and resources. The CEQA analysis for the TMDL states "The overall project costs arising from lagoon restoration activities and pollutant loading reduction in storm water could be in a range of $116.2 million to $185.2 million". The City wants to ensure that we have the ability to identify and prioritize where our limited funding and resources are focused to maximize environmental protection. As such, the City requests that the following language, similar to page A55 of Resolution No. R9-2010-0001 (Bacteria TMDL), be added to this TMDL on page A-8 after the third full paragraph under the "Responsible Parties Identification" heading: **"The municipal MS4s may demonstrate that their discharges are not causing the exceedances or sediment issues in the lagoon by providing data from their discharge points to the lagoon, by providing data collected at jurisdictional boundaries, and/or by using other methods accepted by the San Diego**	Lagoon restoration projects, including earthmoving, minor construction, and vegetation enhancement, are included in the Supplemental Environmental Document (SED) California Environmental Quality Act (CEQA) analysis as reasonably foreseeable methods of compliance. The SED is included in the Staff Report as Attachment 3. This CEQA analysis is at programmatic level; environmental impacts of specific projects will be further analyzed by responsible jurisdictions during the implementation phase. Nothing in the TMDL prevents municipal MS4s from demonstrating that their discharges are not causing or contributing as described in the comment. Such monitoring should be proposed and occur as part of the TMDL implementation, monitoring and compliance. Addition of the proposed language is not warranted as the responsible parties are identified in Finding 10 and in section 9.2. As a responsible discharger, the City is also accountable for meeting the lagoon numeric target. Finally, the adaptive management approach of the TMDL implementation plan allows each responsible party to prioritize funding decisions, provided the results of their actions are fed into further decision making.

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		Water Board. Additionally, Phase II MS4s, agricultural dischargers, and other sources that are identified as significant sources (i.e. causing or contributing exceedances in the receiving waters) will also be responsible for compliance with the TMDL."	
2	B-1	The California Department of Fish and Game (Department) has reviewed the Substitute Environmental Documents (SED) dated February 15, 2012, for Tentative Resolution # R9-2012-0033, An Amendment to the Water Quality Control Plan for the San Diego Basin (Basin Plan) Incorporating a Sediment Total Maximum Daily Load (TMDL) for Los Peñasquitos Lagoon. The comments provided herein are based on information provided in the SED (including the Project Description and Attachment #3: Environmental Checklist), our knowledge of sensitive and declining vegetation communities in the County of San Diego, and our participation in regional conservation planning efforts. The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; §§15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA; Fish and Game Code §2050 et seq.) and other sections of the Fish and Game Code. The Department also administers the Natural Community Conservation Planning (NCCP) program. While the Department acknowledges that the San Diego Water Board (Board) is not a signatory to the NCCP, the project site is located within the approved boundaries of the City of San Diego Multiple Species Conservation Program Subarea Plan.	Comment Noted, the San Diego Water Board identified, described, and considered the Multiple Species Conservation Program in the SED. Please see sections 3.3.1, 3.3.2, 3.4.3, and 3.7(iv).

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3	B-2	The Department has identified biological resources issues which are of potential concern. Activities that are not described in detail in the SED, such as minor construction, earthmoving operations, and erosion control best management practices may directly impact (or indirectly impact through habitat disturbance) species protected under the NCCP or the CESA. In addition, these activities may have direct or indirect impacts to migratory birds which are under the protection of the Migratory Bird Treaty Act. Due to the nature of the SED, we do not have any specific comments at this time; however, we request the opportunity to comment on these activities as they become specifically described by the Board so that we may assist the Board in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources, as well as ensure that the project is consistent with ongoing regional habitat conservation planning efforts.	Comment noted. As noted in the previous comment, the Department of Fish and Game is a Trustee and Responsible Agency pursuant to CEQA. As such, the San Diego Water Board encourages the Department of Fish and Game to comment on any subsequent project-specific CEQA document(s) for the prescribed activities and require mitigation measure to the extent feasible by law.
4	B-3	We appreciate the opportunity to comment on the SED for this project and to assist the Board in further minimizing and mitigating project impacts to biological resources.	Comment Noted
5	G-T54	Item 15 CEQA CEQA §21092.5, §150880 require that public comments be responded to in the public record. No attempt currently has been made to address previous comments. Significantly revising documents used in this TMDL does not obviate the requirement to address previous concerns. At a minimum, the Regional Board should identify where previous specific comments were addressed and provide explanations for comments not specifically addressed.	Previous comments received during the written comment period, including for CEQA, have been responded to and are included as Supplemental Document No. 6 of the tentative Resolution agenda package. The SED was significantly revised to address previous comments, and it is important to note that the substitute environmental document is a part of the proposed TMDL.

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6	G-T55	Item 17 CEQA Findings It is not enough to state that feasible mitigation exists. It needs to be specifically identified in the CEQA document.	Item 17 CEQA Findings of the Tentative Resolution No. R9-2012-0033 is a brief summary of the CEQA analysis performed by the San Diego Water Board. Details of CEQA analyses, including feasible alternatives and mitigation measures, are provided in the SED, Attachment 3 of the Staff Report. Additional clarification regarding the findings regarding impacts has also been added to the SED
7	G-T56	Item 18 Overriding Considerations Regional Board must make specific findings related to significant impacts that cannot be fully mitigated. Restating the requirements is not sufficient. What are the relevant specific findings, what are they based on and where are located in the attached documents?	Item 18 CEQA Findings of the Tentative Resolution No. R9-2012-0033 is a brief summary of the CEQA analyses performed by the San Diego Water Board. Details of CEQA analyses, including feasible alternatives and mitigation measures, are provided in the SED, Attachment 3 of the Staff Report. As stated in the Finding: "The basis for this finding is more fully set forth in the substitute environmental documents (14 CCR section 15093)" Additional clarification regarding the findings has been added to the SED.
8	G-T71	Item XVIII.a Mandatory Findings of Significance The no impact finding is not appropriate given the findings of Item V Cultural Resources which have potentially significant impacts for three of the four findings.	CEQA Checklist XVIII.a of Mandatory Findings of Significance is changed to "Potentially Significant Impact" and the 1st paragraph is modified as following: a) As discussed in the checklist, reasonably foreseeable methods of compliance would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels~~, or eliminate important examples of the major periods of California history or prehistory~~. The proposed Basin Plan amendment is intended to increase the extent of areas with high

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			biological importance. It is expected that reduced sediment loading from stormwater discharges consistent with the watershed sediment reduction target will encourage the establishment of native vegetation in degraded areas through various mechanisms. BMP implementation actions designed to reduce sedimentation will also likely reduce nuisance freshwater flows into the Lagoon that have historically contributed to observed habitat and beneficial use impacts. Reasonably foreseeable methods of compliance will facilitate recovery of beneficial uses that have been affected by various complex processes, including sedimentation, nuisance flows, reduced tidal circulation, and other factors. An adaptive management approach will be used to determine the most effective course of action to achieve the numeric targets and improve beneficial uses in the Lagoon with the least environmental impact. The reasonably foreseeable methods of compliance may cause some impacts to historical resources, but the impact by individual projects cannot be determined at the program level; a project level CEQA analysis will be performed by a local lead agency. However, regardless of the level of CEQA analysis, it is unlikely that the reasonable foreseeable methods of compliance are unavoidable as to cause elimination of important examples of the major periods of California history or prehistory. First of all, according to CEQA section 15064.5, a historical resource must be eligible as determined by the State Historical Resources Commission, and must be listed in the California Register of Historical Resources. Secondly, should a specific project identify significant impacts to historical resources, according to CEQA

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			section 15091, no public agency shall approve or carry out the project unless changes or alterations are made to avoid or alleviate the significant effects. The changes or alterations include those that are within the responsibility and jurisdiction of other public agency and not the agency making the finding; that have been adopted by such other agency or can and should be adopted by such other agency. In fact, the following regulations have been adopted by other agencies: the Conservation Element of the San Diego County General Plan, the Historical Preservation Element of the City of San Diego's General Plan, the Historical Structures Chapter of the City of Poway's Municipal Code, and the Historic Preservation Overlay Zone of the City of Del Mar's Municipal Code. The project not only will be reviewed and cleared before being approved by appropriate public agencies, but also will be closely monitored during the whole process, and will require mitigation measures to avoid and reduce such impact. However, implementation of these mitigation measures is within the jurisdiction of the local regulatory agencies listed in this document (Section 3.4.3). These agencies have the ability to implement these mitigation measures, can and should implement these mitigation measures, and are required under CEQA to implement mitigation measures unless mitigation measures are deemed infeasible through specific considerations. Therefore, c~~C~~onsidering the above information, potentially significant impacts may ~~no impacts will~~ occur.

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9	G-T72	Section 3.8 Economic Factors While the information provided in this section provides a range of potential costs for implementing foreseeable compliance measures, it provides little to no analysis on what impact these costs would have on the local jurisdictions, especially in light of multiple TMDLS in this watershed.	The San Diego Water Board is required by law (Public Resources Code section 21159(c)) to perform an environmental analysis including costs for reasonably foreseeable methods of compliance. The agency is not required to perform an analysis on economic impact on the dischargers resulting from implementing the reasonably foreseeable methods of compliance.
10	G-T73	Section 3.9 Reasonable Alternatives Section only provides discussion of three alternatives two of which are TMDLS and the No Project Alternative. This does not include alternatives to the TMDL approach, such as the efforts Regional Board is pursuing for Lake San Marcos and the Tijuana River Valley. Both of these other water bodies are on the State's 303(d) list and both potentially will be protected through alternative methods other than through development of TMDL.	The Los Penasquitos Lagoon Sediment TMDL has been developed through a third-party process. The responsible parties collectively selected adoption of a TMDL to address sediment impairment in the lagoon. CEQA analysis therefore focused on three TMDL alternatives, i.e. Basin Plan Amendment by San Diego Water Board, USEPA adoption of a TMDL and No TMDL. Non-TMDL alternatives, whether regulatory or voluntary, would require activities and projects that reduce sediment discharges and restore water quality and beneficial uses. Environmental impacts result primarily from those activities and projects, which are similar in nature to the reasonably foreseeable methods of compliance as analyzed in the SED for TMDL alternatives. Therefore, no significant difference should result from these alternatives. In addition, any project will require a separate, project-level environmental review by responsible jurisdictions.

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11	G-T74	Section 3.9.2 US EPA TMDL The analysis for this alternative states that it would be speculation on the Regional Board's part to identify potential environmental impacts associated with this alternative; however, in the discussion of selecting the preferred alternative, it is stated that the EPA TMDL may have greater impacts than the SD Water Board TMDL. If it is speculative to assume what impacts are, then it is speculative to assume they would be more significant under an EPA TMDL. Furthermore, the Overriding Considerations (pg 3-37) states that the EPA TMDL would be significantly more severe. How was this determined?	The determination is based on the fact that an EPA TMDL requires immediate compliance once incorporated into an NPDES permit within 5 years, unlike the longer compliance period allowed (20 years in this case) through San Diego Water Board adoption and implementation of a TMDL. While it is speculative to assume environmental impacts from individual projects, it is not speculative to assume that if similar reasonable foreseeable methods of compliance are used to meet the same LAs and WLAs, the environmental impacts of EPA TMDL may be of greater severity as the intensity of implementation actions will be greater to comply within the shorter time frame.
12	G-T75	Section 3.10.1 Cumulative Impacts The Regional Board should include in the list of projects for Cumulative Review projects being undertaken by the water board including additional approved and proposed TMDL's especially those that have been adopted for this watershed.	There are no other adopted TMDLs by the San Diego Water Board in the watershed. None of the creeks or the Lagoon is named in the adopted Bacteria I TMDL. There is no other proposed TMDL by the San Diego Water Board in the watershed.
13	G-T76	Section 3.10.1 Cumulative Impacts Cumulative Impacts should include an analysis of potential impacts to all resources regardless of project specific findings of significance to Cultural Resources.	The San Diego Water Board contends that the discussion of cumulative impacts at section 3.10.1 is consistent with CEQA Guidelines at 15130. For example, the CEQA Guidelines at 15130(b) state: "The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impacts to which the other identified projects contribute rather than the attributes of the other projects which do not contribute

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			to the cumulative impact." The focus of the analysis for cumulative impacts should be upon the incremental effect(s) of the project, and not include the redundancy of stating every area in which there are not effects or where effects are mitigated to a less than significant level and do not have reasonably foreseeable cumulative effects. It should also be noted that City and County of San Diego have General Plans with Final Program Environmental Impact Reports (PEIR) that address cumulative impacts, including within the Los Penasquitos watershed. The City of San Diego certified a Final PEIR in 2008 that includes an evaluation of cultural and paleontological impacts (sections 3.6 and 5.0). The County of San Diego certified a PEIR on August 3, 2011, which also includes an evaluation of cultural and paleontological impacts (section 2.5). In addition, both PEIRs discuss cumulative impacts. For example, the County of San Diego PEIR identifies and discusses the Los Penasquitos Ranch House in section 2.5: **"**Los Peñasquitos Ranch House, located in Los Peñasquitos Canyon Preserve, was built in 1823, making it one of the oldest existing structures in the San Diego region. The ranch was originally constructed by Captain Francisco Maria Ruiz, a Commandant of the San Diego Presidio. The area was rich in natural resources which made it ideal not only for Native American habitation, but also for the 19th century settlers. In 1846, Rancho Los Peñasquitos was the first place of rest for General Stephen Watts Kearny and his

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			Army of the West after the historic Battle of San Pasqual."
14	G-T77	Section 3.11 Statement of Overriding Considerations This section should cite specific conclusions related to the economic, legal, social, and technological benefits of the Project that support the statement. For example, this section states that the "EPA TMDL would be significantly more severe" but the alternatives analysis stated that the impacts of the EPA TMDL would be speculative and were not analyzed.	See response No. 11 regarding the EPA TMDL. The San Diego Water Board contends that Section 3.11 provides the specific ***reasons*** (emphasis added) in accordance with the requirements of substitute environmental documentation (see Title 23, Division 3, Chapter 27, Article 1 § 3777) and CEQA Guidelines at 15093. Additional language has been added to Section 3.11 in attempt to add additional clarity regarding the Statement of Overriding Considerations.

Responses to Remaining Comments: Grouped Comments

Number	Coded Comment ID	Comment	Response
15	C-2 D-3 E-3 E-T1 F-2 G-2	**TMDL Scope and Beneficial Uses**. The Staff Report and Basin Plan Amendment should clearly and consistently state this TMDL was developed to address the listed sediment/siltation impairment with the goal to restore beneficial uses that have been directly affected by anthropogenic sources of excessive sedimentation. The Problem Statement included in the TMDL Technical Report was developed by the stakeholders through an iterative process in collaboration with the Regional Board. This section only lists estuarine habitat (EST) as the beneficial use most sensitive to sedimentation. Please clarify the rationale for including BIOL in the updated Staff Report description and the linkage to sedimentation. In addition, the TMDL does not establish a link between sedimentation and other beneficial uses. Please consistently note other factors that can also impact lagoon beneficial uses, such as the railroad berm, confinement of the lagoon mouth, nuisance dry weather flows, and other factors. The City recommends that only the EST beneficial use be used in this TMDL, as agreed upon by the third-party stakeholders, which included the Regional Board, EPA, California State Parks, the Los Penasquitos Lagoon Foundation, and Coastkeeper. As part of the third party TMDL effort for the Los Peñasquitos Lagoon, stakeholders developed a Problem Statement through a collaborative and iterative process with Regional Board staff. The Problem	The use of BIOL as a sensitive beneficial use was in response to a stakeholder comment requesting BIOL be used to aid in the clarification regarding the impairment of the EST beneficial use. As prescribed in more detail in the staff report, the impairment to the lagoon is for sediment, which has primarily impacted salt marsh habitat within the lagoon. The utilization of BIOL is simply to clarify that salt marsh habitat, which is a subset of EST habitats, is a biologically significant habitat as defined by the Basin Plan. The addition of BIOL does not change the scope or framework of the TMDL, but provides further clarification regarding the impairment. A clarification to this effect has been added to section 7 of the staff report. In addition, the Los Penasquitos Marsh Natural Preserve is specifically identified as containing biological habitats of special significance in the San Diego Basin Plan. In regards to other factors that may impact sedimentation, these are described in detail within sections 3.3, 3.4.1, 3.4.2, 3.4.3 and 3.4.4 of the staff report.

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		Statement included in the proposed TMDL on pages A-2 thru A-3 of Attachment A has been altered from what was originally developed by stakeholders. Page A-3 states, “the beneficial uses that are most sensitive to increased sedimentation are estuarine habitat (EST) and preservation of biological habitats of special significance (BIOL)”. The problem statement developed by the stakeholders listed only estuarine habitat. Please provide an explanation for the addition of preservation of biological habitats of special significance as a beneficial use that is most sensitive to increased sedimentation.	

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16	C-3 D-5 E-4 E-T29 F-3 G-3 G-T48	**Lagoon Target.** The lagoon numeric target is expressed as an "increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres". It is understood that compliance with the TMDL will be based on demonstrating an "increasing trend" over the 20-year compliance period through BMP implementation and restoration efforts, as appropriate, to address sedimentation impacts. The County recommends clarification of this interpretation in the TMDL documents. The Staff Report acknowledges that impacts to beneficial uses caused by sediment have not been explicitly differentiated from those impacts caused by other factors. In particular, the Staff Report states best professional judgment was used to determine the amount of habitat loss due to historic sediment discharges and calculate the target acreage. An adaptive management approach will be used to determine if adjustments to the numeric targets may be needed in the future. The City recommends that all Staff Report and Basin Plan Amendment lagoon target references state "The lagoon numeric target is expressed as an increasing trend in the total area of tidal salt marsh and non-tidal salt marsh toward 346 acres", and make clear that compliance will be achieved by demonstrating this increasing trend.	The comment is correct that compliance with the lagoon numeric target is expressed as an increasing trend in the total area of tidal salt marsh and non-tidal salt marsh toward 346 acres. This is very explicitly stated in Finding 7 of the resolution and also in the staff report, section 4.4 for Lagoon Numeric Target as follows: “The Lagoon numeric target is expressed as an increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres.” It is unnecessarily repetitive to define the lagoon numeric target at each instance of use through the documents. Some additional clarification language has been added to section 9.8.2 of the staff report and to Finding 7 of the resolution regarding the numeric target.

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17	C-4 E-5 E-T3 F-4 G-4 G-T3	**Responsible Parties.** The TMDL list of responsible parties should include California State Parks (the lagoon landowner), the Railroad Authority, the Regional Board, and EPA given the inclusion of the lagoon numeric target and other stressors that are outside the control of the watershed responsible parties. The City, therefore, recommends that California State Parks, the Railroad Authority, the Regional Board, and EPA be added as responsible parties in this TMDL.	The San Diego Water Board recognizes that success will be dependent upon actions of parties not assigned waste load allocations, such as State Parks and regulatory agencies. However, the responsible parties are named because they are dischargers of sediment to the lagoon. It is inappropriate to name entities that are not shown to be discharging sediment. In addition, it should be clarified that the lack of inclusion of an entity from the responsible parties list does not prevent or preclude the San Diego Water Board from using other lawful regulatory methods to address factors related to the TMDL that are outside of the control of the watershed responsible parties.

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18	C-5 E-6 E-T15,24 F-5 G-5 G-T19	**MS4 Responsibility**. Phase I MS4s are not responsible for controlling the discharge of sediment and other pollutants by other NPDES permit holders within the watershed (e.g. Phase II dischargers, Industrial and Construction general permits), especially discharges that are not routed through the MS4 storm drain system. According to the Staff Report, the MS4 collection system is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) (San Diego Water Board, 2007). Repeated statements in the Staff Report and Basin Plan Amendment that the MS4s are the "primary and ultimate point sources of sediment to the lagoon" appear to be based on the incorrect assumption that natural stream channels are themselves part of the MS4 system. Based on this definition, sand mining operations that discharge directly to surface waters should be specifically named in this TMDL and issued investigative orders to help determine current and historical sedimentation impacts that may have resulted from these operations. The City also recommends that all Phase II dischargers be enrolled with the Regional Board. Caltrans suggests industrial operations that discharge directly to surface waters should be investigated to help determine current and historical sedimentation impacts that may have resulted from these operations and specifically named in this TMDL.	The San Diego Water Board does not agree with the comment that Phase I MS4s do not hold a level of responsibility for other NPDES permit holders within the watershed. As described in sections 5.3.1 and 9.2 of the staff report, the Phase I MS4 copermittees are required to inspect facilities within their jurisdiction for storm water BMP compliance. The San Diego Water Board also regulates facilities under general or individual NPDES permits and/or WDRs, often working with the municipalities to ensure compliance. It should be clear that this distinction does not alleviate individual dischargers under general NPDES permits (e.g. construction sites) from updating their SWPPPs and implementing BMPs as required by the TMDL and under the General Orders. However, it is clear that the Phase I dischargers have a higher cumulative role of responsibility in the watershed. The San Diego Water Board does not agree with the comment that Phase I MS4s do not include stream channels used to convey storm water. As prescribed in the Phase I MS4 NPDES permit for the watershed (R9-2007-0001, Finding D.3.c): “Historic and current development makes use of natural drainage patterns and features as conveyances for urban runoff. Urban streams used in this manner are part of the municipalities MS4 regardless of whether they are natural, man-made, or partially modified features. In these cases, the urban stream is both an MS4 and a receiving water.”

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			As an example, the San Diego Water Board received comments in Comment Letter H regarding proposed maintenance activities within the Los Penasquitos watershed by the City of San Diego. These activities are taking place within receiving waters in Sorrento Valley that are used as part of the MS4. The City of San Diego's website contains information regarding the activities (http://www.sandiego.gov/stormwater/services/channels/maintenance.shtml) The website states: "The purpose of this work is to maintain existing storm water facilities by restoring their original design capacity to provide public safety and protection of property. The City must routinely maintain the drainage channels through periodic removal of trash, debris, vegetation and accumulated sediment." In addition, the Phase I Copermittees must have a legal mechanism in place to control discharges into their MS4s. Finding D.3.d of the MS4 permit (R9-2007-0001) states: "As operators of the MS4s, the Copermittees cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not prohibit or control. These discharges may cause or contribute to a condition of contamination or a violation of water quality standards."

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			The referenced sand mining operations, in addition to other industrial facilities, are regulated on a dual level by both the local agency and San Diego Water Board. Current sand mining operations referenced by the City of San Diego are regulated by the San Diego Water Board under Waste Discharge Requirements (Order No. 95-104 and No. 93-121). The San Diego Water Board may consider more stringent requirements if needed during re-issuance of WDRs and NPDES permits for dischargers within the watershed. In addition, the San Diego Water Board may deny enrollment in General NPDES permits and/or may issue investigative orders to General and Individual permit enrollees as appropriate. This is further clarified in section 9.4 of the staff report: “Sites identified through monitoring data or site inspections as posing an increased risk to the receiving water body may be directed to perform additional monitoring by the San Diego Water Board Executive Officer to quantify sediment load contributions to the receiving water body.” Please note the specific issuance of investigative order(s) is addressed in response 26.

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19	C-6 E-7 E-T5,27, 28 F-6 G-6 G-T4 G-T51	**Margin of Safety (MOS).** The City worked with the Regional Board and other stakeholders on the development of the implicit MOS for this TMDL. An explicit MOS is not necessary due to several significant conservative assumptions that were included in the modeling approach and TMDL calculation, as described in the TMDL Technical Report. In addition, the inclusion of a lagoon target in the current Staff Report provides a direct assessment of lagoon conditions relative to beneficial uses versus the watershed loading target. Including a lagoon target minimizes the need to include an additional, explicit MOS because the Waste Load Allocation, and associated load reduction, only provides a gauge for the amount of sediment loading that will help support long-term lagoon beneficial uses. An adaptive management approach will be used to determine the acceptable balance of sediment loading relative to progress in achieving and maintaining lagoon beneficial uses, and other factors. This approach will ultimately determine the actual sediment load reduction requirement. The City, therefore, recommends the removal of the explicit MOS. During the third party TMDL development process it was determined that the implicit Margin of Safety was satisfactory for the Los Peñasquitos Lagoon TMDL. The Los Peñasquitos Lagoon TMDL Technical Report explains the conservative assumptions utilized in the development of the TMDL. The conservative assumptions as noted on page 56 of the Technical Report include: □ Critical condition: The wet season that includes the	In discussions in response to comments received on the staff report in January 2012, the San Diego Water Board agreed that an implicit MOS was appropriate. The MOS has been changed from explicit to implicit. As a result the references and numbers throughout the resolution text (including attachments) has been modified accordingly. The Margin of Safety is discussed at length in section 8.11 of the staff report, where the majority of changes in response to the comments are found.

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		1993 El Nino storm events (10/1/92 – 4/30/93) was selected as the critical condition time period for TMDL development. This is one of the wettest periods on record over the past several decades. Because of the large amount of rainfall, sediment loads were significant higher during this period than in other years with less rainfall. Soil composition: Soils that are more easily transported typically have higher proportions of smaller particles sizes (silt and clay fractions), as compared to local parent soils, because of differences in settling rates and other sediment transport characteristics. To account for these differences in the model, soils transported by surface runoff were assumed to be composed of 5 percent sand, twice as much clay as the percentage of clay within each hydrologic soil group, and the remainder assigned to the silt fraction. Numeric target: The historical analysis involved an extensive literature search and technical analysis in order to identify an appropriate time period for development of the numeric sediment target. This comprehensive 'weight of evidence' analysis considered all available information regarding urbanization and lagoon impacts over time in order to identify a conservative reference condition. Critical location: TMDL load reductions are based on meeting the numeric target across the entire Lagoon (lagoon channels and marsh areas). This approach ensures protection of beneficial uses throughout the lagoon. Additionally, the inclusion of a lagoon numeric target for the TMDL provides a direct assessment of lagoon conditions which also addresses uncertainties in	

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		the data or calculations used to link sediment sources to water quality impairments. Based on the conservative assumptions already included within the TMDL development along with the lagoon numeric target that has been incorporated, there is no need to also include an explicit margin of safety. We request that the explicit margin of safety (5%) be removed from the TMDL. We also request that the implicit margin of safety be discussed on page 5 of the resolution and pages A- 6 and A-7 of Attachment A.	

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20	C-7 E-8 E-T37 F-7 G-7 G-T43	**Lagoon Monitoring.** The lagoon monitoring schedule should be consistent with the TMDL compliance schedule. Annual monitoring is not necessary given the time lag between implementation actions and measurable changes in lagoon condition. In addition, limited resources are available to conduct long-term monitoring, therefore, monitoring requirements should be carefully considered. The City recommends monitoring one year prior to each interim compliance date, and the final compliance date, in order to detect changes in lagoon condition and measure compliance with the lagoon target. We request the following changes on page A-14 of Attachment A: Lagoon Monitoring The responsible parties shall monitor the Lagoon **prior to each interim compliance date and final compliance date** ~~**annually in the Fall for**~~ **to identify** changes in extent of the vegetation types. Aerial photos of the Lagoon must be acquired, digitized onscreen (at an approximate 1:2,500 scale), interpreted, and mapped into generalized classifications. Vegetation types must be classified as saltmarsh, non-tidal saltmarsh, freshwater marsh, non-tidal saltmarsh–Lolium perrene infested, freshwater marsh, southern willow scrub/mulefat scrub, herbaceous wetland, or upland land cover (urban, beach, dune, upland vegetation, etc.). Vegetation type classifications are described in the Sediment TMDL for Los Penasquitos Lagoon Staff Report. Ground truthing may be performed after aerial photo interpretation to distinguish between vegetation types.	The San Diego Water Board understands that resources may be limited and requirements should be carefully considered. However, the comment does not provide any supporting evidence regarding the cost when compared to the benefit of annual surveys. The San Diego Water Board also contends that annual aerial surveys will be of value when supplementing the required annual watershed monitoring, for any reconsiderations as described in 9.7 of the staff report, and to monitor for measurable changes following implementation of BMPs. Annual monitoring is necessary in the adaptive management context of this TMDL. The proposal to monitor lagoon conditions five times within the twenty year period will not provide for adequate or timely evaluation of conditions and development of management responses.

Number	Coded Comment ID	Comment	Response
21	C-8 E-9 E-T36 F-8 G-8 G-T42	**Watershed Monitoring.** Watershed monitoring should focus on detecting long-term changes in sediment load contributions to the lagoon. Suspended sediment monitoring is not a good indicator of watershed sediment transport because of the episodic nature of storms. The focus should be on quantifying overall sediment transport, including bedload calculations and field measurements that better detect trends, rather than episodic flow events. Additional details should not be included at this stage, given future development of a load reduction plan that will address the specific TMDL monitoring requirements. The City recommends that a combination of bedload and field measurements be used to assess watershed contributions.	The San Diego Water Board recognizes that suspended sediment monitoring alone for WLA determinations will not allow the dischargers to obtain the types and quantities of data necessary to evaluate sources, sinks, and types of sediment being discharged over time. The San Diego Water Board agrees and supports a multi-faceted approach that evaluates WLAs and provides the needed information and tools to base BMP decisions upon as part of the adaptive management approach.

Number	Coded Comment ID	Comment	Response
22	C-9 E-10 F-9 G-9 G-T45	**Basin Plan Update/TMDL Reopener.** The criteria for when the Regional Board will initiate a basin plan update should be revised to clarify what is meant by "sufficient data." Given that the responsible parties have the burden to provide all of the materials and supporting documentation for the basin plan update, the text should be updated to include a more firm commitment from the Regional Board that the update will be processed in a timely fashion. In addition, the City supports language in the TMDL regarding reopeners/reconsideration given the possible need to update the TMDL based on additional information in the future. The TMDL should be updated to allow for Regional Board consideration of a reopener request at any point given there may be future changes to important policies, additional studies, and other information that may warrant reconsideration of key components of the TMDL. The City recommends the Regional Board provide a clear definition of "sufficient data" to solidify the minimum requirements for future special studies that can be performed to provide updates and modifications to the TMDL Waste Load Allocation, numeric targets, and/or the compliance schedule.	The comment requests a definition for “sufficient data” needed to reopen and update a TMDL. It is not possible to give a definition with any reasonable accuracy when not given the specific study scope and purpose. However, the wording in the staff report is needed as the data collected and analyzed in support of an update will be subject to review by multiple parties, including: -The San Diego Water Board -State Water Resources Control Board -USEPA -The Public -A scientific peer review group (depending upon the basis of the update) Thus the data collected must be statistically sound with a weight of evidence that supports a TMDL update. It should be noted that the San Diego Water Board is not against re-opening a TMDL in order to update it. The San Diego Water Board uses the triennial review process (California Water Code Section 13240 and Clean Water Act section 303(c)(1)) to identify and prioritize projects to update the Basin Plan. As a reopener requires a significant amount of staff time and resources, the update needs to be very strongly supported by data collected in a scientifically sound manner. The TMDL does not provide any dates that a reopener is required, as picking such a date would be speculative, and requiring a reopener when not necessary would be unnecessarily burdensome while not necessarily providing a positive environmental outcome.

Number	Coded Comment ID	Comment	Response
			The responsible parties are capable of conducting studies, hopefully in coordination with the San Diego Water Board, that may lead to a re-opening of the TMDL. As stated in the staff report (9.7): "The results of special studies submitted to the San Diego Water Board's Executive Officer will be considered during subsequent TMDL reopeners. In addition, it may be necessary to make adjustments to the TMDL to be responsive to new State policies and other regulations."

Number	Coded Comment ID	Comment	Response
23	C-10 E-11 E-T32 F-10 G-10 G-T47	**Comprehensive Load Reduction Plan (CLRP) Development.** The time allowed for development of the CLRP should be 18 months rather than 12 months, which is consistent with other TMDLs in the region and limited resources available to the responsible parties. The process for developing a Memorandum of Understanding (MOU) among all the responsible parties typically requires many months to complete. A separate MOU would need to be developed to address the requirements of this TMDL. In addition, the TMDL should not add new CLRP requirements to avoid potential conflicting requirements and conditions with the recently approved Bacteria TMDL for Beaches and Creeks in San Diego. The Bacteria TMDL load reduction plan is currently being developed. The City recommends that the CLRP development timeframe be expanded to 18 months.	The San Diego Water Board has no objection to extending the due date for submission of an adequate CLRP from 12 to 18 months after adoption of the TMDL. The San Diego Water Board encourages the Responsible Parties to engage in the preparation of the MOU as soon as possible and not wait until the TMDL is adopted.

Number	Coded Comment ID	Comment	Response
24	D-8 E-T7 E-T21 F-13 F-14 G-T1 G-T2 G-T9 G-T10	D-8: The finalization of the establishment of the lagoon target occurred outside of the third party TMDL process. More detailed information on the lagoon numeric target is needed in Attachment A. Page A-3 of Attachment A includes a description of acreages for certain habitat types in the lagoon that do not match with the acreages presented on page 49 of the Staff Report. Additional clarification and information is needed to understand the assumptions used to develop the lagoon target. Furthermore, this target should take into account areas that cannot reasonably be recovered due to constraints. ET-7: Area estimates in this paragraph were updated from the Problem Statement that was included in the TMDL Technical Report. Please include the original estimates for consistency and note any updated values based on information provided by California State Parks ET-21: 80 percent of the total acreage of tidal and non-tidal saltmarsh present in 1973 equals 344 acres (not 346). This differs with the calculation presented in the 2nd paragraph on Page 50. Additional information is needed to understand the assumptions used to develop the lagoon target. This target should take into account areas that cannot reasonably be recovered due to development or other constraints and the historical footprint of the various wetland types that will be encouraged for recovery of the lagoon. F-13-14: Lagoon 80% target. The TMDL does not provide an explanation of how the 80% lagoon target was chosen.	The establishment of the lagoon numeric target was done in response to USEPA comments requiring a lagoon numeric target on the previous version of the tentative resolution. Additionally, 3rd parties were included in the process and establishment prior to the release of the current tentative resolution. In fact, prior comments by a 3rd party even recommended a higher acreage than that in the current draft. In regards to the consistency in the acreage of habitats: The acreages listed on page A-3 and within the staff report at pages 9 and 49 are consistent. The referenced table within the staff report at page 49 has also been updated for clarity. The total acres of salt marsh (tidal and non-tidal, 262 acres) is the same in both locations. The difference is that Page A-3 of the resolution and page 9 of the staff report differentiate between acreages of impaired habitat v. non-impaired habitat that has not been converted from salt marsh, while the table at page 49 of the staff report simply presents the habitat types by acreage, not by impaired v. unimpaired. The source of the mapping of habitats is clearly cited as California State Parks 2011 throughout section 7.4. An additional citation and further description of the converted habitat has been added to section 7.5. The comment regarding 510 acres of wetland in the previous staff report was based upon a 2010 citation. The current draft report reflects a 2011 citation. In regards to the 80% determination process and 3rd

Number	Coded Comment ID	Comment	Response
		This target must take into account areas where development or other constraints may make recovery more difficult. In addition, the target should also take into account the historical footprint of the various wetland types that will be encouraged for recovery of the lagoon (Draft Staff Report, Pages 2 and 32). Caltrans requests that the Regional Board include a clear explanation of how the 80% target was obtained in the TMDL. Lagoon Acres. The TMDL Staff Report dated February 15, 2012 includes an estimate of 565 acres of wetland. This is inconsistent with other documents and previous versions of the TMDL Staff Report. For example, Attachment I to Tentative Resolution No. R9-2012-0033 (dated February 13, 2012) and the TMDL Staff Report dated April 22, 2011 include estimates of 510 acres. Please make sure that documents are consistent and clarify how the acreage was estimated. In addition, note the data on which the estimates were based and the information provided by California State Parks. G-T1-2 80% of 430 is 344 not 346 Please provide additional detail (Linkage Analysis) regarding how this percentage was selected? G-T9-10 This paragraph is from the Tetra Tech Technical Report but has changed the acreage amounts for vegetation types within the lagoon. This needs to be explained. Furthermore, this is different from the acreage of habitat types identified under State Parks Vegetation Mapping	party process: The 80% is not a calculation of 0.80 x 430 = 346, which indeed would be incorrect. The target is fully described in section 7.5 of the staff report as "The target tidal and non-tidal saltmarsh acreage was calculated based upon the total acreage of tidal and non-tidal saltmarsh lost multiplied by a factor of 0.5. A factor of 0.5 indicates that half the acreage of tidal and non-tidal saltmarsh lost is due to sedimentation or 84 acres. Subtracting this lost acreage due to sedimentation from the historic extent of tidal and non-tidal saltmarsh results in the target acreage of 346 acres of tidal and non-tidal saltmarsh. This target acreage represents 80 percent of the total acreage of tidal and non-tidal saltmarsh present in 1973 and provides a reasonable consideration of factors beyond sedimentation that have led to the loss of saltmarsh and non-tidal saltmarsh." So, the estimated assumption, which is based upon best professional judgment, is that 50% of the lost salt marsh is attributable to sedimentation, thus setting an acreage lost to 84 acres. This target does reasonably take into account areas that cannot reasonably be recovered due to development. For example, an estimated 67 of acres of existing impaired salt marsh could be restored via removal of rye-grass and restoration of non-tidal salt marsh. It is unclear how this would not be seen as meeting the lagoon numeric target of an "increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres." Lastly, the 3rd parties were

Number	Coded Comment ID	Comment	Response
		Exercise Based on Table 3 Section 7, these habitat types total 236 acres not 132.	notified and provided the best professional judgment target for review and comment in advance of the public release as part of the 3rd party process. The San Diego Water Board contends that a 50% assumption to set the acreage, when in combination of the numeric target being a trend in acreage, is not an unreasonable approach.
25	E-T23 F-16	Numeric Targets: Revise Section 8.2 of the Draft TMDL Staff Report to state that"...Lagoon mapping under historical (mid-19~~07~~**70s**)" (Draft Staff Report Page 51).	The San Diego Water Board appreciates the comment and the change has been made.
26	E-T17 E-T33 G-T17 G-T49	Sand mining facilities should be specifically named in the industrial TMDL based on current and historical sediment discharges that may have contributed opt lagoon impacts. The TMDL should state that the Regional Board will issue investigative orders to the 2 sand mining operations to determine their historical and current sediment contribution. This section should emphasize which segments contribute high sediment amounts. This may provide evidence in support the issuance of investigative orders. Schedule should include date for "Investigative Orders" to be issued to the industrial permittees to define historic and current sediment loads.	The San Diego Water Board may issue investigative orders to address current and historic discharges as the San Diego Water Board deems appropriate and necessary to restore the beneficial uses of the lagoon. While the San Diego Water Board agrees that high sediment source areas should be identified and investigated, the TMDL is not an order, but a resolution assigning load allocations and compliance requirements. Investigative orders are more appropriately considered during the implemental phases of the TMDL. Section 9.8.3 of the staff report also states: “The San Diego Water Board shall consider enforcement actions, as necessary, to control the discharge of sediment to any receiving water body that ultimately impairs the Lagoon to attain compliance with the sediment WLA specified in this TMDL.”

Number	Coded Comment ID	Comment	Response
27	E-T34 E-T35 F-17	Change to "With increased urban development and inadequate management of runoff from impervious areas **and other sources,** increasing amounts of sediment are deposited into the Lagoon annually Change to "Retrofitting, New Development, & Site Management: Urban development (MS4 contribution) **and other watershed sources** are the primary source of anthropogenic sediment contribution above historical conditions" This recognizes possible sediment loading from the industrial sand mining operations and other possible watershed sources that are not contributed MS4s Load Reduction Plan Framework: Revise section 9.4.2 of the Draft TMDL Staff Report to state that "With increased urban development and inadequate management of runoff from impervious areas and **other sources**, increasing amounts of sediment are deposited into the Lagoon annually" (Page 62). Also revise "Retrofitting, New Development, & Site Management: Urban development (MS4 contribution) **and other watershed sources** are the primary source of anthropogenic sediment contribution above historical conditions" (Draft Staff Report Page 62). This recognizes possible sediment loading from the industrial sand mining operations and other possible watershed sources that are not contributed by a MS4.	Please see responses 18 and 26 regarding MS4 responsibilities and sand mining activities. Section 3.4.2 of the staff report describes sedimentation impacts as follows: "There are many potential sources that have influenced the accumulation of sediment within the Lagoon. Sources include erosion of canyon banks and bluffs, scouring stream banks, exposed soils, and tidal influx. Some of these processes are exacerbated by anthropogenic disturbances, such as urban development within the watershed. Urban development transforms the natural landscape and results in increased runoff resulting in scouring of sediment, primarily in open space areas located below storm water outfalls that discharge into steep canyons just below the mesa top." The San Diego Water Board has changed Finding 8 of the tentative Resolution (and associated sections of the staff report) from "urban development" to "land development." Urban development, as used in the staff report and tentative Resolution is intended to capture development activities within the watershed (residential, industrial, commercial, construction, etc…) The San Diego Water Board received multiple comments regarding the use and example, and has made changes throughout to "land development" for clarity and to prevent confusion. It should remain clear that the runoff from land development is carried into, through, and from the MS4 in to the lagoon.

Number	Coded Comment ID	Comment	Response
28	E-T38 G-T46	The TMDL compliance schedule should include the potential for flexibility in meeting the final Lagoon target given the breadth and scope of the problems and stressors affecting the Lagoon. An extension of the 20-year compliance may be needed considering the time lag between sediment reductions (and possible lagoon restoration activities) and long-term improvements in lagoon condition/beneficial uses. At a minimum, the possible need for an extension of the schedule should be noted based on activities completed and trends in the improvement of lagoon conditions The Compliance Schedule should provide flexibility on the 20-year timeframe based on extent of the problems and stressors (not just sediment) affecting the lagoon. For example, an extension may be warranted considering the time lag between sediment reductions and observable positive changes to the lagoon condition. At a minimum, if "increasing trends" are verified, possible extension would be warranted.	The San Diego Water Board contends that the compliance schedule already incorporates a great deal of flexibility with the lagoon numeric target being an increasing trend in acreage. This allows for maximum flexibility when considering the time needed for sediment reductions and the successful implementation and monitoring of restoration activities. The 20 year time frame is also consistent with State Board requirements in Resolution No. 2000-015, 2000-030 and 2008-0025. Some additional language has been added to the Basin Plan amendment language for clarity. It is unclear how the extension would be needed in comment's sample scenario as "increasing trends" implies a positive trend which would be meeting the numeric target.
29	E-T43 F-18 G-T50	Numeric Targets: Revise the TMDL Resolution to state"...when the numeric targets are met, the TMDL should be met, WQOs should be met and the beneficial uses should be restored. Note that recovery of beneficial uses is limited to addressing sediment-related impacts per **this TMDL**" (Resolution No. R9-2012-0033 Page 3).	The proposed addition to the "Note that recovery…" sentence is not necessary. The purpose of the TMDL is clearly to address the impairment due to sediment/siltation. There is no need to constantly restate the purpose.

Number	Coded Comment ID	Comment	Response
30	E-T46 F-19 G-T5	TMDL Monitoring: Revise the TMDL Resolution to state "Monitoring is required to assess progress towards achieving the wasteload ~~and load~~ allocation and numeric targets" (Resolution No. R9-2012-0033 Page 5). Monitoring of the load allocation (natural ocean contribution) is not necessary to assess progress in meeting the TMDL. Why is there a need to monitor load allocations which are background (natural sources)? Delete "and Load Allocations" in the first sentence and delete "and remediation actions to remove sediment from the lagoon" from the last sentence. Remediation not required at this time; therefore monitoring should not be required at this time.	There is no requirement to monitor load allocations from the ocean. The Finding specifies that "monitoring is required to **assess progress towards achieving** wasteload and load allocations and numeric targets" (emphasis added). The previous Finding (14) states that "Because the ocean is a natural background source, load reductions are not required of the ocean." Although the language may appear confusing, there is no direct monitoring of load allocations in section 9.6. Indirect assessment will occur through monitoring using aerial photos and the subsequent habitat mapping. The finding also simply states expected capabilities of a monitoring program. The finding does not specify what needs to be monitored. The monitoring required is found in section 9.6 of the staff report.
31	E-T14 F-15	Pacific Ocean Load Allocations: Please revise the draft staff report released on February 15, 2012 to state, "The sediment contributions from the Pacific Ocean are considered a **natural** background source and are presented as the Load Allocation (LA)" (Pages 3 and 34).	Page 4 of the staff report, which defines the load allocation, states: "Load Allocations to Ocean = 9780 tons/year The Ocean was assigned a load allocation (LA) of 9,780 tons/year. Because the ocean is a background source, load reductions are not necessary." Therefore, the proposed change is unnecessary.

Responses to Remaining Comments: Individual Comments

Number	Coded Comment ID	Comment	Response
32	A-1	Page A-6, TMDL, Allocations and Load Reductions, Wasteload Allocations to Watershed = 1,962 tons/year: "a wasteload allocation (WLA) of 1,962 tons/year was assigned to the responsible parties" Comment/ Questions: □ Would it be possible to meet this standard if there is extraordinary extended rainfall in consecutive wet seasons? □ What are the consequences of exceeding the 1,962 tons/year WLA in an extraordinary rain period? □ Could complying with the WLA be more dependant on rainfall amount than the effectiveness of BMP's? □ Would an operation be expected to meet the 20 NTU basin standard during an extraordinary rain event?	The stakeholders agreed to use the 1993 El Nino time period (10/1/92 – 4/30/93) as a critical condition for modeling and assessment of watershed sediment loads. Statistically, 1993 corresponds with the 93rd percentile of annual rainfall for the past 15 years measured at the San Diego Airport. The San Diego Water Board understands that should an extraordinary rain event beyond the critical condition occur, the sediment WLA might not be met even if the best available technology (BAT)/best conventional pollutant control technology (BCT) is deployed in the watershed. The TMDL WLA is calculated and evaluated using a long-term (3 year) weighted rolling average. It is reasonably expected that discharger can comply with the WLA. Please see response 33 (below) regarding the 20 NTU standard.

Number	Coded Comment ID	Comment	Response
33	A-2	Page A-10, Implementation Actions, Develop and Submit a Load Reduction Plan: " Responsible parties are required to prepare and submit for San Diego Water Board review, comment and revision, a Load Reduction Plan that demonstrates how they will comply with this TMDL". Comment/ Questions: □ An initial ballpark estimate indicated the cost to treat runoff at a mining operation to meet the 20 NTU standard in the basin plan could be roughly $25,000- $30,000/month to rent a filtration system. This cost does not include a flocculent system. Will cost/ benefit analysis be considered when developing BMP's for meeting the TMDL? □ A question previously was submitted on the 4/22/2011 draft is if a site is assigned a limit/ allocation, then how will run-on from offsite properties be accounted for? The response in the RWQCB staff Meeting Notes is in part "Measure incoming and outgoing loads, difference is your contribution. Regional Board also considers discharger's actions in determining compliance." How will this method for differentiating onsite and incoming sediment contributions be incorporated into the Load Reduction Plan?	The Basin Plan Water Quality Objective of 20 NTU refers to the waterbody condition, not necessarily an effluent limitation. It is also important to note the TMDL model utilized TSS and not NTU. The San Diego Water Board conducted an economic analysis, which can be found in section 3.8 of the SED (attachment 3 of the staff report). According to California Water Code Section 13241, the San Diego Water Board is only required to consider economic factors when adopting new water quality objectives. A cost/benefit analysis for adopting and implementing a TMDL, including for BMPs, is not required. The development of BMPs will be done by the responsible parties. The SED considers costs of a reasonable range of BMPs in section 3.8.3 of the SED. An individual allocation is not proposed under this TMDL. Inclusion of effluent limits on industrial facilities may occur during revision of the state General Industrial Stormwater Permit.
34	C-1	The City of Poway has been an active participant in the third-party development of the TMDL for Sedimentation in Los Penasquitos Lagoon since 2009. Having reviewed Tentative Resolution No. R9-2012-0033 and its attached documents, the City would like to submit the following comments for the Regional Board's consideration:	Comment noted.

Number	Coded Comment ID	Comment	Response
35	C-12	The City appreciates the opportunity to provide comments on the Tentative Resolution. It is our understanding that additional oral comments will be accepted at the public hearing on May 9, 2012.	~~The comment is correct that oral comments may be made at the hearing on May 9, 2012~~. Oral comments may be made at the June 13, 2012 meeting.
36	D-1	The City of Del Mar (City) appreciates the opportunity to provide comments on the Tentative Resolution No. R9-2012-0033 (Resolution) to amend the San Diego Basin Plan to incorporate the Total Maximum Daily Loads (TMDL) for Sedimentation in Los Peñasquitos Lagoon (Lagoon) being considered by the San Diego Regional Water Quality Control Board (Regional Board) on May 9, 2012. The City understands the importance of this TMDL, and is especially cognizant of the importance of water quality protections. The City has participated in the three-year collaborative third party effort to develop the TMDL. At the request of the Regional Board, the City of San Diego led and funded the effort, with input from other Responsible Parties, and guidance from the Regional Board, US Environmental Protection Agency, and other stakeholders. The Responsible Parties (City of San Diego, County of San Diego, City of Poway, Caltrans, and the City of Del Mar) dedicated staff time to the development of the TMDL by preparing and reviewing documents and attending frequent meetings. The City is submitting the following comments for consideration by the Regional Board and its staff. The strikethrough text represents recommended deletions and the underlined bolded text represents recommended additions.	Comment noted.

Number	Coded Comment ID	Comment	Response
37	D-4	The stakeholders and Regional Board staff conducted field visits to the lagoon as part of the development of the TMDL. Through the field visits it is evident that there are factors outside of the Responsible Parties control that have (or can) impacted lagoon beneficial uses and increased ground surface elevation. These factors include but are not limited to: 1) the North County Transit District Railroad Berm 2) previous construction conducted in the lagoon; and 3) constraints at the lagoon mouth. Considering there are additional factors we request the following language on page 2, Item 5, of the Resolution be revised as follows: ***5. Water Quality Impairment of Los Peñasquitos Lagoon:*** *As required by CWA section 303(d), the Los Peñasquitos Lagoon (Lagoon) was placed on the 1996 List of Water Quality Limited Segments due to sedimentation and siltation loads that exceeded water quality objectives. The beneficial uses that are most sensitive to increased sedimentation are estuarine habitat and preservation of biological habitats of special significance. ~~Deposition of watershed sediment contributes to elevation increases within the Lagoon, which is a critical variable that determines the productivity and stability of these uses.~~ Other Beneficial Uses listed in the Basin Plan for the Lagoon include contact water recreation, noncontact water recreation, wildlife habitat, rare, threatened or endangered species, marine habitat, migration of aquatic organisms, spawning, reproduction and/or early development, and shellfish harvesting.*	It is important to note that the TMDL addresses sediment loading to the lagoon through the setting of load and wasteload allocations. The historic factors that have contributed sediment loads that increased elevations are not reason to explicitly remove the statement, as it implies that continued sediment deposition will not increase elevations within the lagoon and impair beneficial uses. Regardless of the factors influencing circulation within the lagoon presently or historically, the loading from the watershed is causing and/or contributing to the impairment.

Number	Coded Comment ID	Comment	Response
38	D-5	The watershed numeric target should be used to measure compliance with the sediment TMDL with the understanding that monitoring data will be collected to assess progress toward achieving the lagoon target relative to sediment reductions. Page 19 of the Sediment TMDL for Los Peñasquitos Lagoon Staff Report (February 15, 2012) states that "Impacts due to sedimentation are not clearly differentiated from the impacts associated from other stressors on the Lagoon such as freshwater inputs and physical barriers within the Lagoon." Given the complexity of the Lagoon habitat and other confounding factors, the lagoon target is not a reliable surrogate for measuring compliance with the sediment TMDL. Therefore, the TMDL should require the attainment of either the Lagoon target or the Watershed target. We request the language on page A-15 of Attachment A be revised as follows: *At the end of the TMDL compliance schedule, as outlined in Table {insert table number},waters must meet the Lagoon's sediment water quality standard ~~and therefore~~, **or** the Lagoon numeric target. If at any point during the implementation plan, monitoring data or special studies indicate that **a Basin Plan Amendment is needed to revise the requirements and/or provisions for implementing the TMDL, the San Diego Water Board will work with the Responsible Parties to ensure the Basin Plan Amendment is completed in a timely manner.** ~~, WLAs or LAs will be attained but the Lagoon numeric target may not be achieved, the San Diego Water Board shall reconsider the TMDL to modify WLAs and Las to ensure that the Lagoon numeric target is attained.~~* *We also request that the following language from page 50 of the Sediment TMDL for Los Peñasquitos Lagoon Staff Report (February, 15, 2012) be added to page A-15 of Attachment A.* ***If insufficient acreage is available for remediation based on the results of future monitoring efforts or field investigations, the Lagoon numeric target may be adjusted according to the amount of areas that are present and feasible for restoration. Any revision to the Lagoon numeric target will require a Basin Plan Amendment.***	In regards to the requested change at A-15 of Attachment A, the lagoon numeric target is an interpretation of the water quality standard. Thus it is inappropriate to refer to achieving the Lagoon numeric target "or" the WLA. Both are incorporated as interpretations of the water quality standard. Additionally, the WLA is not a "watershed numeric target." In regards to the Basin Plan amendment: The TMDL as written provides ample time and opportunity (e.g. end of Phase I), for reconsiderations and modifications to be made to the TMDL. Thus this additional language is not needed. The language regarding the acreage is not necessary to provide clarification as the lagoon numeric target is a trend towards the acreage goal. Should the discharger(s) fail to demonstrate that the lagoon target is achieved, then the San Diego Water Board will evaluate additional actions necessary to ensure the lagoon numeric target is met, which will include an evaluation of compliance with the WLA, as well as other factors, some of which may be outside the scope of the dischargers control or responsibilities.

Number	Coded Comment ID	Comment	Response
		Additionally, the following language on page A-18, Item 12 at the bottom of the table: *Meet Final Milestone: Achieve* ***either*** *Lagoon Numeric Target* ***or Lagoon Watershed Numeric Target***	
39	D-6	The Responsible Parties have begun the development of a Comprehensive Load Reduction Plan (CLRP) for the Los Peñasquitos Watershed in response to Resolution No. R9-2010-0001 Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek) (Bacteria TMDL). The Bacteria TMDL contains recommended requirements for a CLRP. To prevent conflicting requirements and for transparency in implementation, we request that the CLRP requirement language included under the heading "Comprehensive Approach" on page A-11 be deleted and the "Load Reduction Plan Framework" section on page A-12 be deleted. The "Comprehensive Approach" language should be replaced with the following language from the Bacteria TMDL: ***Comprehensive Approach*** ***The comprehensive approach to the Load Reduction Plan allows the responsible parties to proactively address other listed impairments within the watershed. A comprehensive approach to the Load Reduction Plan is also consistent with implementation planning currently underway in compliance with Resolution No. R9-2010-0001 Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek) (San Diego Water Board, 2010).***	The San Diego Water Board does not agree with the proposed recommendation and will not make the recommended changes. The proposed language switches the comprehensive approach from a requirement to an option.

Number	Coded Comment ID	Comment	Response
40	D-9	Page 5 of the Resolution states "The ocean is a nonpoint source of sediment to the Lagoon and was assigned a load allocation (LA) of 9,780 tons/year. Because the ocean is a natural background source, load reductions are not required of the ocean". The Responsible Parties are not responsible for the LA and therefore, we request the following language on page 5 of the Resolution be revised accordingly: *Monitoring is required to assess progress towards achieving the wasteload and ~~load allocations~~ and numeric targets. Furthermore, the monitoring program must be capable of monitoring the effectiveness of implementation actions to improve water quality and saltmarsh habitat and remediation actions to remove sediment from the Lagoon.*	Please see response 30.
41	E-1	The City of San Diego, Transportation & Storm Water Department. (City) appreciates the opportunity to provide comments on the Los Penasquitos Lagoon Sedimentation TMDL. This TMDL and the associated Basin Plan Amendment address the impairment of the lagoon due to sediment-associated impacts. Los Penasquitos Lagoon and other coastal lagoons in southern California enhance the ecological diversity of the region and provide other important beneficial uses through their unique characteristics. Recognizing the importance of Los Penasquitos Lagoon, the City facilitated development of this third-party TMDL through a collaborative, stakeholder-led process. This successful TMDL effort included partnership with the Regional Board, EPA, California State Parks, the Los Pefiasquitos Lagoon Foundation, and Coastkeeper throughout the process. As a result, this TMDL represents the collective efforts of the key stakeholders to better understand the complex processes that have affected the lagoon over time and develop a meaningful TMDL that will provide clear direction for future implementation activities.	Comment Noted. The San Diego Water Board recognizes the role the City of San Diego played in the development of this third-party TMDL.

Number	Coded Comment ID	Comment	Response
42	E-2	The City is concerned about several fundamental changes inserted to the draft TMDL that are reflected in the Staff Report dated February 15, 2012. Several important changes lack the technical basis that underlies sediment Waste Load Allocation. Regional Board and EPA staff acknowledged these shortcomings at the stakeholder meeting held on February 9, 2012, and yet the latest version of the staff report does not adequately address the concerns raised at the stakeholder meeting. The City and other stakeholders also submitted written comments on the January 26, 2012 staff report version, which do not appear to have been considered in the latest draft. Many of those comments were included in this letter. Below is a summary of the most significant stakeholder consensus comments on the TMDL Staff Report, Tentative Resolution R9-2012-0033 (Basin Plan Amendment), and associated documentation. Additional details on these issues and other important considerations are included in the attached appendix table. This table includes cross-references to the applicable sections in the Staff Report and Basin Plan Amendment to assist the Regional Board in responding to these comments and questions.	The San Diego Water Board has considered comments submitted on the draft January 26, 2012 staff report that the City reviewed. However, the expectation by the City that the San Diego Water Board address informal written comments on a January 26, 2012, working draft version by the time of publication for written comments on February 13, 2012 is neither reasonable nor appropriate. Responses to those comments submitted formally are included in this response document.
43	E-T2 Note T denotes comment in a table Please See Table in Coded Comment Letters for Comment Citation	Staff Report Pages 2 and 32 Additional information is needed to understand how the 80% lagoon target was calculated. This target should take into account areas that cannot reasonably be recovered due to development or other constraints and the historical footprint of the various wetland types that will be encouraged for recovery of the lagoon.	Please see response number 24.

Number	Coded Comment ID	Comment	Response
44	E-T4	Staff Report Throughout Modeling for TMDL development was based on the most recent landuse coverage that was available at the time (SANDAG 2000). This time period represents current conditions, as limited development and other landuse changes have occurred since. Recommend updating the text to reference "current conditions" rather than "year 2000 conditions" for clarity. Specific details on the data used for modeling are referenced in the TMDL Technical Report and modeling appendix.	Previous comments on R9-2011-0021 specifically requested that the reference to the time state that the modeling did not use “current” because the data was from 2000. This was also the most accurate data available at the time the modeling was conducted. Thus, no changes have been made to the staff report.
45	E-T6	Staff Report Page 5 The TMDL compliance schedule should include the potential for flexibility in meeting the final Lagoon target given the breadth and scope of the problems and stressors affecting the Lagoon. An extension of the 20-year compliance may be needed considering the time lag between sediment reductions (and possible lagoon restoration activities) and long-term improvements in lagoon condition/beneficial uses. At a minimum, the possible need for an extension of the schedule should be noted based on activities completed and trends in the improvement of lagoon conditions	Please see response 28
46	E-T8	Staff Report Page 19 Similar language should be included throughout the Staff Report and BPA to identify historical and current factors/stressors that have impacted lagoon beneficial uses. Sediment is a significant factor, but not the only factor that has resulted in the lagoon impairment.	The comment does not provide the location at which the language should be inserted. Nor does the comment provide sufficient reasoning for including the language in other sections. The San Diego Water Board contends that “Impairment Description” is the appropriate place for the language to be located, and thus no changes are warranted.

Number	Coded Comment ID	Comment	Response
47	E-T9	Staff Report Page 27 Reductions in sediment loading alone will likely not improve all lagoon beneficial uses. In addition, the TMDL does not establish a link between sedimentation and several beneficial uses. This TMDL is limited to addressing sedimentation impacts based on the impairment listing to help meet the goal of improving habitat and related conditions within the lagoon.	The intent of the comment is not clear. This section describes applicable water quality standards for the lagoon. The narrative sediment water quality objective in the basin plan clearly states: "The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in a manner such as to cause nuisance or adversely affect beneficial uses."
48	E-T10	Staff Report Page 31 (Evaluation of Lagoon Conditions) This statement expresses limitations in this sediment TMDL. Other factors have also played a role in impacting beneficial uses over time through various mechanisms. It is important to note these limitations for clarity and to improve the success of future implementation activities to address sediment and associated watershed impacts	The statement is utilized to express limitations in the sediment TMDL to control sediment dynamics within the lagoon once the sediment has reached the lagoon from the upstream watersheds.
49	E-T11	Staff Report Page 32 Need to state the relationship between sediment and the lagoon target. Also, achievement of the lagoon target is limited to actions associated with reducing sedimentation impacts. Including a lagoon target helps provide flexibility in helping to restore beneficial uses associated with sedimentation impacts (through adaptive management), however, resolution of other confounding factors is outside the scope of this TMDL.	Section 4.4 of the Staff Report has been modified to reflect the link between sediment and the target. It is important to note that the responsible parties are not, as the comment implies, limited to taking actions only related to sediment. While sediment is the only pollutant under the TMDL, and actions therein are thus limited to sediment, the staff report and responsible parties have identified other discharges and physical restraints impacting the lagoon.

Number	Coded Comment ID	Comment	Response
50	E-T12	Staff Report Page 34 This study was funded by the City of San Diego. Please update the citation to: City of San Diego, 2011	The San Diego Water Board appreciates the clarification and the change has been made.
51	E-T13	Staff Report Page 34 De-emphasize "daily." Long-term sediment loading is important in this TMDL, not estimates of daily loads which can be episodic and not indicative of long-term trends. It's understood a daily load calculation is required for the TMDL expression, however, other references should focus on long- term sedimentation. Also, note that development of the railroad and other historical activities may have resulted in sediment deposits that have contributed to current lagoon conditions.	The use of “daily” is appropriate in the context of determining a loading for the areas in the referenced section. The requested information regarding historical activities is provided in section 3.4.2 of the staff report.
52	E-T16	Staff Report Page 34,36 The term "hungry" water is a non-traditional term and does not improve the understanding of flow and sediment dynamics. Suggest removing this paragraph and others for clarity.	The description and paragraphs regarding “hungry water” has been removed as requested and replaced with a description of hydromodification consistent with Phase I stormwater NPDES permits.
53	E-T18	Staff Report Page 38 Recommend change to "5.4 Quantification of Watershed Sediment Sources"	The requested change provides clarification regarding the modeling process and thus the change has been made.
54	E-T19	Staff Report Page 38 Include note that direct discharges of sediment (e.g. from sand mining operations) were not explicitly quantified in the modeling analysis .	The requested change provides clarification regarding the modeling process and thus the change has been made.

Number	Coded Comment ID	Comment	Response
55	E-T20	Staff Report Page 41, Basin Plan Amendment Page 4, A-6: "Because the Lagoon has been impacted by sediment accumulation over the last 40 years from watershed sediment loads, it cannot be assumed that the Lagoon, in the year 2010 condition, can assimilate the same elevated sediment loads." Comment Sufficient information is not available to evaluate the assumption about the lagoon's current assimilative capacity especially considering physical barriers and other factors that may have caused historical changes in assimilative capacity. Recommend deleting this statement to improve clarity in the discussion.	The San Diego Water Board appreciates this comment and understands its intent. The next statement in the staff report states: "Evaluation of the extent of vegetation types in the Lagoon provides the necessary tool to assess how the Lagoon responds to watershed sediment load reductions and to establish a target Lagoon condition under which the Lagoon can again assimilate the historic sediment loads." The mapping of vegetation prior to sedimentation impacts was done to determine the level of impacts that have occurred after the mid 1970's, which represents a time frame after many of the physical disturbances within the lagoon occurred, but prior to the extensive land development in the watershed. Even without detailed scientific studies to determine the impact of physical barriers on the overall assimilative capacity, 40 years of sediment accumulation and modified hydrologic inputs has resulted in documented changes, with vegetation conversion used as the indicative factor. Some additional clarifying language to this effect has been added to section 7.1. The type conversion of an estimated 168

Number	Coded Comment ID	Comment	Response
			acres of salt marsh means that the sediment discharged to the lagoon is not being assimilated to no effect, but is causing and/or contributing to the direct loss of habitat. In addition, these type changes in wetlands from salt marsh to freshwater wetland or riparian systems contain vegetation that naturally captures additional sediment by modifying flow distribution and velocity, causing additional sediment fallout from the water column. As such, the TMDL takes an adaptive management approach with a combination of lagoon vegetation monitoring and watershed load monitoring to evaluate the assimilation of sediment and vegetative response over an extended time period of twenty years.
56	E-T22	Staff Report Page 49 Restoration of 84 acres would require conversion of "Other Vegetation" types to "Saline Vegetation." Assuming the priority would be to convert the current 63 acres of Non-tidal Saltmarsh-Lolium perenne infested to endemic Non-tidal Saltmarsh, this leaves an additional 17 acres that would need to be converted, if necessary. Flexibility in selecting appropriate areas for restoration is needed to improve the chance of success and encourage efficient use of limited funding that may be available from the responsible parties for TMDL implementation.	The numeric target language provides sufficient flexibility for the responsible parties to meet the compliance dates. The final compliance is a positive trend and not achievement of the exact acreage.
57	E-T25	Staff Report Page 52 Change to "Load calculations for sediment were developed based on watershed modeling results and meteorological conditions..."	The requested change provides clarification regarding the modeling process and thus the change has been made.

Number	Coded Comment ID	Comment	Response
58	E-T26	Staff Report Page 53 Change to"... therefore, the TMDL results show reduced sediment deposition from tidal/oceanic input during the critical wet period under historical conditions because of complex lagoon deposition/erosion dynamics that are discussed in the TMDL Technical Report."	The requested change provides clarification regarding the modeling process and thus the change has been made.
59	E-T30	Staff Report Page 59,60 Basin Plan Amendment Page A-9 Connection between the phases and the compliance schedule has not been established.	The purposes of recognizing a phased approach and establishing interim milestones are distinct and a temporal connection is not necessary. The milestones are intended to ensure progress toward reducing waste loads and lagoon improvements, and serve as an incentive for responsible parties to progress from phase I to phase II, if necessary, in a timely manner.
60	E-T31	Staff Report Page 60 Lagoon specific actions that may be taken will focus on recovering beneficial uses that have been impacted by sedimentation per the focus of this sediment TMDL.	The San Diego Water Board understands that the comment is concerned with primarily conducting actions focused upon sedimentation impacts and impairment. It is important to note that, while outside the scope of the TMDL, the City retains legal authority and/or discretion to address other factors beyond those required of the TMDL. See response 83 for an example.
61	E-T45	Basin Plan Amendment Page 3, A-4 Include sand mining operations in the list of sediment sources.	The referenced description of sediment sources is a description of where sediment originates geologically. It is not a description of the cause of erosion, as the comment requests. The second sentence (staff report, section 3.4.2)

Number	Coded Comment ID	Comment	Response
			states how anthropogenic activities contribute: "Some of these processes are exacerbated by anthropogenic disturbances, such as urban development within the watershed." This second sentence has been modified to state: ""Some of these processes are exacerbated by anthropogenic disturbances, such as ~~urban~~ land development within the watershed." Land development also includes mining operations. Please see response 27.
62	F-1	The California Department of Transportation (Caltrans) appreciates the opportunity to comment on the proposed amendment to the Water Quality Control Plan for the San Diego Region (Basin Plan) to incorporate a Total Maximum Daily Load (TMDL) for Sediment in the Los Penasquitos Lagoon. Caltrans supports the Regional Board's efforts to protect human health and achieve the highest standard of water quality possible. The Caltrans statewide National Pollutant Discharge Elimination System (NPDES) permit is currently going through the process of being renewed (Tentative Order No. 2011- XX-DWQ; NPDES No. CAS000003). The Tentative Order and the State Construction General Permit (CGP) are the mechanisms for Caltrans to implement consistent sediment controls statewide. Caltrans has a stringent program in place to control sediment and to comply with the permit requirements. Caltrans has reviewed the TMDL and Basin Plan Amendment (BPA) and has concerns in the following areas.	Comment noted.

Number	Coded Comment ID	Comment	Response
63	F-12	Basin Plan Amendment Page A-13 Implement Load Reduction Plan. The TMDL Resolution requires that the Load Reduction Plan "be implemented within 30 days upon receipt of Water Board comments and recommendation, but in any event, no later than 60 days after submittal" The responsible parties to the TMDL will need time to address significant comments or recommendations from the Regional Board. Caltrans requests revising to allow the responsible parties to have 90 days after the receipt of comments and recommendations from the Regional Board to implement the plan.	The San Diego Water Board finds the time extension to be a reasonable request and the change has been made. Please see response 91 regarding the 60 day time changes.
64	G-1	Thank you for the opportunity to comment on the draft Sedimentation TMDL for Los Penasquitos Lagoon. This cover letter includes a list of consensus comments developed by the County of San Diego and the other TMDL Responsible Parties. In addition, the table attached includes extensive comments from County of San Diego staff on the Tentative Resolution (including Attachment A -the proposed Basin Plan Amendment) as well as the Draft Staff Report and Attachment 3 (Environmental Analysis and Checklist).	Comment noted.
65	G-T6	Staff Report Page 5 Compliance Schedule Delete," and provides adequate time to measure temporal disparities between reductions in upland loading and the corresponding Lagoon water quality response."	The comment provides no basis for this deletion. The timeframe presented is reasonable to meet the numeric target.

Number	Coded Comment ID	Comment	Response
66	G-T7	Staff Report Page 5 Compliance Schedule Please include the following changes in this section: 1) Delete "and other stakeholders" in second sentence, 2) Add "Comprehensive" before Load Reduction Plan,3) Delete: ",time needed" and 4) Add: "and saltmarsh" after water quality.	The request to delete “other stakeholders” is a reasonable request as the current wording is not accurate. It is unnecessary to add “Comprehensive” as it is inconsistent with the Resolution (e.g. at A-10). The deletion of “time needed” and addition of “and salt marsh” are not warranted and no reasoning is given.
67	G-T8	Staff Report Page 6 Third Paragraph Delete" (also referred to as Salicornia virginica)" it is not necessary to repeat this after every instance.	The San Diego Water Board appreciates the comment and the change has been made.
68	G-T11	Staff Report Page 12 Delete "the" before 54%.	The San Diego Water Board appreciates the comment and the typo has been corrected.
69	G-T12	Staff Report Page 28 Section 4.2 Should "Reference" be changed to Historic? Section refers to historic condition not "reference" or should include a statement that the "historic" (1973?) is considered the reference condition.	Reference condition, for the purpose of the TMDL, is the condition when water quality standards were being met (e.g. not impaired for sediment). This is consistent with USEPA’s “Guidance for Developing TMDLs in California” for the purposes of considering reference condition in the linkage analysis.
70	G-T13	Staff Report Page 30 Section 4.2 There is no time period identified in this section as the "reference." Are you refering to the 1970's or the figures 14 and 15?	The section has been revised to clarify the time period selection process.
71	G-T14	Staff Report Page 31 Section 4.3 Revise sentence: "The model determined that numeric target for the watershed sediment TMDL sbould be 12,360 tons... "	The proposed change is unnecessary as the previous sentence describes the model used.
72	G-T15	Staff Report Page 32 Section 4.4 first sentence Add: "The lagoon numeric target was based on an..."	The proposed change would not result in proper grammar. However, the section has been modified as the current sentence is unclear.

Number	Coded Comment ID	Comment	Response
73	G-T16	Staff Report Page 32 Section 4.4 The County supports the concept of “increasing trend.” Please revise as necessary other sections of Resolution, Basin Plan Amendment etc. to clarify that Lagoon Target is represented by an "increasing trend" and not the final endpoint of 346 acres.	The lagoon target is defined in the staff report. Additional explanation at every use is not warranted.
74	G-T18	Staff Report Page 34 Section 5.3.1 Definition does not include natural channels or sediment from sand mines directly entering natural channels and therefore should be regulated by the Regional Board.	An additional sentence has been added to the section for clarity.
75	G-T19	Staff Report Page 35 Section 5.3.1 The Sand Mines have been identified as a significant source of Sediment, these sources enter the lagoon mostly through direct deposit into natural channels that are not regulated by the MS4 permittees.	Please see response number 18
76	G-T20	Staff Report Page 35 Section 5.3.1 Please list the number of Phase II permits that exist in the Watershed.	There is one state-wide general NPDES permit (2003-0005-DWQ) for Phase II facilities. It is in the renewal process at the State Water Resources Control Board. Examples of Phase II facilities have been added to the staff report.
77	G-T44	Staff Report Page 66 Section 9.7 Responsible parties recognize the limitations of the available resources of the Regional Board; however, this should not limit the requirement that the Board implement BP amendments.	The section does not state that resources will limit the requirement that the Board implement amendments. The section is clarifying that due to limited resources, the development of evidence and documentation **to initiate** the process may be the responsibility of the dischargers and/or other parties. The Regional Board will prioritize Basin Plan

Number	Coded Comment ID	Comment	Response
			amendments during the triennial review process.
78	G-T52	Resolution Page 5 Finding 13 Delete "and load allocations" from second paragraph. End third paragraph after "to address multiple impairments." Delete the remaining portion.	Please see response to 30
79	GT-53	Resolution Page 5 Finding 14 Peer Review: County is disappointed that no effort was made to address or to identify where/how previous comments were/were not addressed. This section will need to be revised as the explicit MOS will be deleted.	The responses were included in the April 2011 release of R9-2011-0021, and can be found on the San Diego Water Board website. Please note the comment is incorrect as no reference to the MOS is in the finding.
80	H-1	Please accept the following comments on behalf of Coastal Environmental Rights Foundation (CERF). CERF is a nonprofit environmental organization founded by surfers in North San Diego County and active throughout California's coastal communities. CERF was established to aggressively advocate, including through litigation, for the protection and enhancement of coastal natural resources and the quality of life for coastal residents. CERF, through its representatives, has participated in the development of this Total Maximum Daily Load (TMDL) since its inception. After years of work, several Regional Board staff changes, and many meetings, CERF is glad to see adoption of the TMDL is finally a reality. This unique TMDL presents a significant opportunity to address the three main causes of impairment to Los Penasquitos Lagoon: 1) an increase in the volume and frequency of freshwater input; 2) an increase in sediment deposition; and 3) a decrease in the tidal prism. (Draft Staff Report, p. 9).	Comment noted

Number	Coded Comment ID	Comment	Response
81	H-2	**A. A Holistic, Watershed Approach is Required** Importantly, all three of the aforementioned causes are inter-related and share a common linkage: anthropogenic sources. "With increased urban development and inadequate management of runoff from impervious areas, increasing amounts of sediment are deposited into the Lagoon annually." (Tentative Resolution No. R9-2012-0033, Attachment A, p. A-12). "Urban development (MS4 contribution) is the primary source of anthropogenic sediment contribution above historical conditions. Development can expose sediment and contribute excessive amounts of sediment to the Lagoon. Additionally, increased imperviousness associated with development can lead to increased storm water runoff and soil erosion or gullying within the MS4 and receiving waters." (*Id*.). A recent study by the Southern California Coastal Water Research Project (SCCWRP) underscores this relationship between urban development, hydromodification, and sediment transport articulated in the Tentative Resolution: Urbanization can alter water quality, quantity and sediment delivery to wetlands and sensitive coastal ecosystems. Urbanization has led to loss or degradation of wetlands and estuaries as a result of 1) draining and conversion to agriculture (Dahl, 1997); 2) upstream alterations to flow and sediment regimes that can change the magnitude, frequency, timing, duration, and rate of change of estuarine salinity, turbidity, freshwater flooding, freshwater baseflow, and groundwater recharge dynamics (Azous and Horner 2001); and 3) contaminated runoff from urban areas (Paul and Meyer 2001, J Brown et al. 2010). (SCCWRP, Hydromodification Assessment and Management in California, p.18). "In sum, urbanization transforms watershed processes and flow paths that were once slow, circuitous, and disconnected into engineered and non-engineered systems that are highly efficient, direct, and connected."	The San Diego Water Board agrees that a watershed approach is prudent and necessary to address the impairment of the lagoon. The Los Penasquitos Lagoon TMDL Geomorphology & Sediment Transport Assessment clearly identifies hydromodification and the loss of floodplain as a source and transport mechanism of sediment. Additional language regarding hydromodification has been added to the staff report in sections 5.3.1 and 9.4.2. Please see response 27 regarding the term "urban development."

Number	Coded Comment ID	Comment	Response
		(*Id*. at p. 8). This Hydromodification study also notes the dual consequences of larger magnitude streamflow: First, the stream power and sediment-transport capacity of the stream increase significantly, potentially creating channel erosion and/or stressing instream biota. Second, the season of stormflow is likely to be extended. In undeveloped watersheds, early or late-season storms typically do not generate significant runoff because soils are dry, can effectively absorb most precipitation, and therefore do not generate overland flow or streamflow. Antecedent moisture conditions are less important in urban watersheds where overland flow is generated regardless, and streamflow is generated by even a small storm in a dry watershed. Through magnifying small and moderate storms, urbanization may increase the duration of sediment-transporting and habitat-disturbing flows by factors of 10 or more (Booth 1991, Booth and Jackson 1997). (*Id.* at p. 11).	

Number	Coded Comment ID	Comment	Response
82	H-3	This is particularly true here, where the Lagoon suffers from sediment flows and continued freshwater flows that feed the freshwater vegetation (which in turn traps more sediment). Because urban development has so significantly transformed the natural landscape in the Lagoon watershed, it is imperative compliance measures address this alteration in a meaningful way[1]. This TMDL provides considerable leeway for copermittees to do so through formulation of compliance measures with an emphasis on adaptive management. (*Id*. at A-16-18; Draft Staff Report, p. 5). CERF urges the Regional Board to underscore the importance of this opportunity for visionary, long-term planning and a holistic approach to meeting beneficial uses, and TMDL compliance. Indeed, one of the long-term SCCWRP Hydromodification study approaches is to "develop institution capacity to implement watershed-based hydromodification programs." (SCCWRP, Hydromodification Assessment and Management in California, p. ES-4). Hydromodification by definition results from alteration of watershed processes; therefore, correcting the root causes of hydromodification ought to be most effective if based on integrated watershed-scale solutions. To date, such a watershed approach has not been adopted in California; most hydromodification management plans simply consist of site-based runoff control with narrow, local objectives and little coordination between projects within a watershed.... Long-term reversal of hydromodification effects, however, will require movement away from reliance on such site-based approaches to more integrated watershed-based strategies. (SCCWRP, Hydromodification Assessment and Management in California, ES-1). To that end, CERF also strongly encourages the copermittees to think on a watershed scale, using techniques such as Low Impact Development (LID), retrofits, and onsite retention/conservation. "An effective management program will likely include combinations of on-site measures (e.g., low-impact development techniques, flow-control	Comment Noted

Number	Coded Comment ID	Comment	Response
		basins), in-stream measures (e.g., stream habitat restoration), floodplain and riparian zone actions, and off-site measures." (*Id*. at ES-3). Further, as recommended in the SCCWRP Hydromodification study, LID should be required at *all* new development sites, regardless of their size[2] or status as a priority development project. (*Id.* at p. 26). This holistic approach further requires a fundamental shift in the copermittees' approach to water, including storm water management, urban runoff, flood control, water supply and conveyance, and wastewater. Planning and maintenance in each of these areas cannot continue to be fragmented. For example, the City of San Diego is currently seeking approval for its Master Storm Water System Management Program, which embodies the type of disconnect between flood control and water quality of which environmental groups are wary. Although the City and other agencies[3] recognize the Sorrento Valley area is within the floodplain, the City's proffered response thus far has merely been more frequent clearing of the MS4.[4] Indeed, the City conducted "emergency" clearing in the Sorrento Valley area in 2010.[5] As environmental groups have consistently pointed out, however, flooding in the floodplain is not an unforseen "emergency". Further, clearing of the MS4 channels, by definition, involves removal of vegetation and accumulated sediment in order to *increase flows and velocity*: one of the major causes of hydromodification. Los Penasquitos Lagoon, in turn, becomes increasingly impaired as the downstream receiving water. In order to truly address water quality, water supply, and land use (i.e. flooding), the City (and other copermittees) must address the root cause of the problem instead of implementing short-term "fixes" that exacerbate water quality problems and do not address the underlying issues. CERF urges the Regional Board to require evaluation of long-term, holistic approaches in the TMDL implementation plan. With a 20-	

Number	Coded Comment ID	Comment	Response
		year TMDL, such a formulation is not only realistic, but also necessary.	
83	H-4	**B. Monitoring During Dry Weather Should Be Conducted** As part of a watershed-based, holistic approach to this TMDL, the implementation plan must address dry-weather flows. Such flows clearly contribute to the impairment of the Lagoon, as this constant source of freshwater sustains the freshwater vegetation, which then traps more sediment in the Lagoon. Copermittees must address these nuisance flows as well in order to restore the native Lagoon habitat. Again, this is not only a water quality issue, but a water supply issue as well. Half of all residential water use in the County is used on irrigation (and over-irrigation). Though the TMDL assumes zero dry-weather flows,[6] Copermittees and the Regional Board must acknowledge this year-round flow in restoring the Lagoon. Therefore, it is important to both monitor wet and dry weather flows in order to accurately account for sediment loading into the Lagoon, and to address the ongoing waste of potable drinking water on landscape irrigation. (Tentative Resolution No. R9-2012-0033, Attachment A, p. A-14).	Restoration or recovery of salt marsh habitat will be necessary to achieve compliance with the TMDL. The San Diego Water Board does not disagree with the comment regarding the impact of freshwater flows on vegetation within the lagoon (see staff report sections 2 and 3.4), especially where tributaries enter the lagoon. Prior NPDES permits issued by the San Diego Water Board have acknowledged this consideration: "Given the local Mediterranean climate, excessive perennial dry season stream flows are an unnatural hydrologic pattern, causing species shifts in local riparian communities and warm, unseasonal contaminated freshwater plumes in the near-shore marine environment." (R9-2009-0002). Addressing the freshwater flows during non-storm conditions is not within the scope of this TMDL as the 303(d) listing and TMDL are for sediment. It is important to note that current legislation already requires cities and counties to have an ordinance is place that prohibits over-irrigation. On September 28, 2006 Governor Arnold Schwarzenegger approved Assembly Bill 1881, The Water

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			Conservation in Landscaping Act (AB 1881, Laird). The act requires cities, counties, and charter cities and charter counties, to adopt landscape water conservation ordinances by January 1, 2010. Thus, the cities and county have a mechanism to address these non-storm water flows.
84	H-5	**C. Conclusion** CERF commends the Regional Board for its work in developing this stakeholder driven TMDL and looks forward to the implementation phase. We urge all interested parties to think holistically, and address the Lagoon impairment on a watershed scale through long-term adaptive management approaches that reflect an understanding of the interconnected nature of the movement of water.	Comment Noted
85	I-1	Thank you for the opportunity to provide comments on the "Tentative Resolution No. R9-2012-0033, A Resolution Amending the Water Quality Control Plan for the San Diego Basin (9) to Incorporate the Total Maximum Daily Load for Sedimentation in Los Penasquitos Lagoon" (the "Tentative Resolution"). The San Diego Gas & Electric Company provides transmission and distribution of natural gas and electricity throughout San Diego County and southern Orange County. Delivery of these essential public services requires routine and emergency construction activities of utility linear infrastructure. A primary mandate to utilities and other entities with linear facilities regulated by the California Public Utilities Commission and/or other state and federal regulatory agencies is to provide safe and reliable service. To comply with this mandate, construction activities conducted pursuant to the State Water Board's Construction Stormwater General NPDES Permit (the "CGP") may be necessary within the Los	Comment noted. The State Water Resources Control Board's General NPDES permits are expected to address adopted sediment TMDLs when they are renewed or amended.

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		Penasquitos Lagoon Watershed. These construction projects are critical to providing safe and reliable service. Further, linear construction activities typically result in relatively short term soil disturbances and do not create significant (if any) new impervious surfaces. As such they are distinct from traditional construction activities (e.g., residential developments, commercial parks) which occur over longer periods of time and create significant new areas of impervious surface.	

Number	Coded Comment ID	Comment	Response
86	I-2	**Consistency with the SWRCB Order 2009-0009-DWQ, as amended by Order 2010-0014-DWQ (General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities or "CGP")** 1. The State Water Resource Control Board's (SWRCB) CGP Fact Sheet states "Dischargers located within the watershed of a CWA § 303(d) impaired water body, for which a TMDL for sediment has been adopted by the Regional Water Board or US EPA, must comply with the approved TMDL if it identifies "construction activity" or land disturbance as a source of sediment" Although the Tentative Resolution identifies permittees under the CGP as "responsible parties", it does not specifically identify "construction activity" or land disturbance as a source of sediment. Rather, it refers to "urban development". **For consistency with the CGP we recommend that the description of Sources of Sediment in the Tentative Resolution on page 3 be revised to read as follows:** **Sources of Sediment:** Sources of sediment to the Lagoon include erosion of canyon banks, bluffs, scouring stream banks, and tidal influx. Some of these processes are exacerbated by anthropogenic disturbances, such as land construction activity associated with urban development within the watershed. Urban development transforms the natural landscape by converting pervious surfaces to impervious surfaces, which increases the volume and velocity of runoff resulting in scouring of sediment, primarily below storm water outfalls that discharge into canyon areas. Sediment loads are transported downstream to the Lagoon during storm events causing deposits on the salt flats and in Lagoon channels. These sediment deposits have gradually built-up over the years due to increased sediment loading and inadequate flushing, which directly and indirectly affects Lagoon functions and salt marsh characteristics. (Tentative Resolution, p. 3)	The Finding has been changed from “urban development” to “land devlopment” to provide clarity regarding sources. Please see response number 27 for further discussion. Construction as a sediment source is also discussed in the staff report in section 5.3.1 (Watershed Point Sources).

Number	Coded Comment ID	Comment	Response
87	I-3	2. The State Water Resource Control Board's (SWRCB) CGP Fact Sheet requires that construction projects covered under the CGP must comply with TMDLs established for sediment and states" ... in the instance where an approved TMDL has specified a general waste load allocation to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL, dischargers must consult with the state TMDL authority to confirm that adherence to a SWPPP that meets the requirements of the General Permit will be consistent with the approved TMDL." The Tentative Resolution does identify a general waste load requirement to sources that includes permittees under the CGP. Further, to address the compliance with the TMDL by permittees under the CGP, **in Section 9.8.3 of the Staff Report, it states that**: " ... Construction ... NPDES Permittees are assumed to be in compliance with the TMDL and their contribution to the total WLA if they are enrolled and in compliance with their respective general statewide permit, and are found to not contribute to the sediment impairment in the Lagoon through monitoring data and/or inspections". **We request this same language be included in the Tentative Resolution on page A-11 in the first full paragraph which addresses SWPPPs for Construction Permittees.** The above changes will provide consistency with the CGP and facilitate construction activities.	The San Diego Water Board appreciates the comment and the recommended changes will be made.

Number	Coded Comment ID	Comment	Response
88	I-4	**Waste Load Allocations, Load Reduction Plans Preparation, Approval, Implementation** 1. The Tentative Resolution identifies responsible parties and an overall waste load allocation for the responsible parties. The responsible parties include construction projects that are covered under the CGP. However, other short term projects that required Clean Water Act Section 401 water quality certifications are not listed as a responsible party. The Tentative Resolution needs to identify how these projects will obtain a waste load allocation**. We request that the Tentative Resolution address how these projects will obtain a waste load allocation or confirm that no such waste load allocation is needed.**	Section 401 of the Clean Water Act requires that any person applying for a federal permit or license, which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. Thus, water quality certifications obtained from the San Diego Water Board or State Water Board will contain requirements that condition any project within the watershed to meet the water quality standard through implementation of mitigation measures, BMPs, and potentially effluent limitations.
89	I-5	2. The Tentative Resolution on page A-11 specifies that the Storm Water Pollution Prevention Plans (SWPPPs) prepared by Construction Permittees pursuant to the CGP fulfills the responsibility of CGP permittees to prepare a Load Reduction Plan. This makes sense for construction projects (and especially for short term utility linear construction projects) which are required under the CGP to develop SWPPPs that are protective of water quality**. We concur with this implementation approach.**	Comment Noted

Number	Coded Comment ID	Comment	Response
90	I-6	3. The Tentative Resolution states that the San Diego Water Board Executive Officer will review the Load Reduction Plans within 6 months of submittal. However, on page A-13, the Load Reduction Plan Implementation section states that "The Load Reduction Plan must be implemented within 30 days upon receipt of San Diego Water Board comments and recommendation, but in any event, no later than 60 days after submittal". Since the Regional Water Board has six months in which to comment on the Load Reduction Plan, it is unlikely the plan can be implemented within " ... 60 days of submittal". **For clarity, we request the last phrase in the Load Reduction Plan Implementation section be revised to read:** **" ...but in any event, no later than 60 days after ~~submittal~~ receipt.**	The submittal requirements and timeframes Section 9.5 of the staff report and page A-13 of the tentative resolution have been updated to reflect the timeframe in the Compliance schedule.
91	I-7	**4.** The Tentative Resolution provides time frames within which existing CGP projects must update their SWPPP. However, there is no description of the process for new CGP projects that commence construction after the effective date of the draft TMDL. **We request that this process be made clear in the Tentative Resolution.**	The San Diego Water Board does not agree that the requested change be made. The requested change is not needed as the San Diego Water Board may determine compliance of the SWPPP with the TMDL at such time the SWPPP is submitted for review. If revisions are needed the San Diego Water Board will notify the project proponent at that time.
92	I-8	5. Unlike some of the other Responsible Parties that have long-term responsibilities under the Tentative Resolution, utility linear CGP construction projects will have relatively short-term responsibilities *(i.e.,* SWPPP implementation) due to the short durations of these projects. **Consequently, we request that it be acknowledged in the Tentative Resolution that the participation of utility linear construction projects in the TMDL process ends when their construction is completed and their CGP coverage is terminated.**	The San Diego Water Board appreciates this comment and its intent. However, the San Diego Water Board does not agree with the requested change as it is not needed. Upon approval of a Notice of Termination for coverage under the CGP the discharger's responsibility for participation in the TMDL as a construction site operator will cease.

Number	Coded Comment ID	Comment	Response
93	I-9	**6.** The Tentative Resolution on p A-9 states that Phase I of the TMDL includes several elements, including "Incorporate interim limits into WDRs and NPDES permits". However, the Tentative Resolution does not identify how these limits will be developed or what the process will be for incorporating them into current or future NPDES permits or WDRs. Absent any description or discussion of this proposed action in the Tentative Resolution and its supporting documents, there is no reasonable opportunity to review and comment on how this activity will occur. **We request that the process for developing and incorporating interim limits into WDRs and NPDES permits be provided and an opportunity to comment be made available to the public.**	The San Diego Water Board appreciates this comment and its intent. However, the San Diego Water Board does not agree with the requested change as it is not needed. The San Diego Water Board will follow existing requirements to provide the opportunity for the public to participate in the adoption of WDR and NPDES permits. The opportunity for public participation is posted on our website.

Attachment A: Coded Comment Letters

Comment Letter A

Chad Loflen - Los Penasquitos Lagoon Sediment TMDL

From: "Zacks, Steve (Oxnard) NA" <Steve.Zacks@hanson.biz>
To: "cloflen@waterboards.ca.gov" <cloflen@waterboards.ca.gov>
Date: 4/1/2012 11:17 AM
Subject: Los Penasquitos Lagoon Sediment TMDL
CC: "Thompson, Ron (Lakeside) NA" <Ron.Thompson@hanson.biz>

Chad,
Comments on Attachment A of the proposed TMDL are as follows:

1

1. Page A-6, TMDL, Allocations and Load Reductions, Wasteload Allocations to Watershed = 1,962 tons/year: "a wasteload allocation (WLA) of 1,962 tons/year was
assigned to the responsible parties"
Comment/ Questions:

- Would it be possible to meet this standard if there is extraordinary extended rainfall in consecutive wet seasons?
- What are the consequences of exceeding the 1,962 tons/year WLA in an extraordinary rain period?
- Could complying with the WLA be more dependant on rainfall amount than the effectiveness of BMP's?
- Would an operation be expected to meet the 20 NTU basin standard during an extraordinary rain event?

2

2. Page A-10, Implementation Actions, Develop and Submit a Load Reduction Plan: " Responsible parties are required to prepare and submit for San Diego Water Board review, comment and revision, a Load Reduction Plan that demonstrates how they will comply with this TMDL".
Comment/ Questions:

- An initial ballpark estimate indicated the cost to treat runoff at a mining operation to meet the 20 NTU standard in the basin plan could be roughly $25,000- $30,000/month to rent a filtration system. This cost does not include a flocculent system. Will cost/ benefit analysis be considered when developing BMP's for meeting the TMDL?
- A question previously was submitted on the 4/22/2011 draft is if a site is assigned a limit/ allocation, then how will run-on from offsite properties be accounted for? The response in the RWQCB staff Meeting Notes is in part "Measure incoming and outgoing loads, difference is your contribution. Regional Board also considers discharger's actions in determining compliance". How will this method for differentiating onsite and incoming sediment contributions be incorporated into the Load Reduction Plan?

Regards,

Steve Zacks
Environmental Manager

Lehigh Hanson
West Region
681 Aspen Circle
Oxnard, CA 93030

Cell: 805 748-0128
Steve.Zacks@Hanson.com

Comment Letter B

April 2, 2012

Ms. Cathryn Henning
California Regional Water Quality Control Board,
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Subject: Comments on Substitute Environmental Documents For Tentative Resolution # R9-2012-0033, An Amendment to the Water Quality Control Plan for the San Diego Basin (Basin Plan) Incorporating a Sediment Total Maximum Daily Load (TMDL) for Los Peñasquitos Lagoon, San Diego, CA.

Dear Ms. Henning,

The California Department of Fish and Game (Department) has reviewed the Substitute Environmental Documents (SED) dated February 15, 2012, for Tentative Resolution # R9-2012-0033, An Amendment to the Water Quality Control Plan for the San Diego Basin (Basin Plan) Incorporating a Sediment Total Maximum Daily Load (TMDL) for Los Peñasquitos Lagoon. The comments provided herein are based on information provided in the SED (including the Project Description and Attachment #3: Environmental Checklist), our knowledge of sensitive and declining vegetation communities in the County of San Diego, and our participation in regional conservation planning efforts.

1

The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; §§15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA; Fish and Game Code §2050 et seq.) and other sections of the Fish and Game Code. The Department also administers the Natural Community Conservation Planning (NCCP) program. While the Department acknowledges that the San Diego Water Board (Board) is not a signatory to the NCCP, the project site is located within the approved boundaries of the City of San Diego Multiple Species Conservation Program Subarea Plan.

The Department has identified biological resources issues which are of potential concern. Activities that are not described in detail in the SED, such as minor construction, earthmoving operations, and erosion control best management practices may directly impact (or indirectly impact through habitat disturbance) species protected under the NCCP or the CESA. In addition, these activities may have direct or indirect impacts to migratory birds which are under the protection of the Migratory Bird Treaty Act.

2

Due to the nature of the SED, we do not have any specific comments at this time; however, we request the opportunity to comment on these activities as they become specifically described by the Board so that we may assist the Board in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources, as well as ensure that the project is consistent with ongoing regional habitat conservation planning efforts.

Comment Letter B

3 We appreciate the opportunity to comment on the SED for this project and to assist the Board in further minimizing and mitigating project impacts to biological resources. If you should have any questions or comments regarding this letter please contact Jennifer Edwards at (858)467-2717 or via email at JEdwards@dfg.ca.gov.

Sincerely,

Jennifer Edwards
Environmental Scientist

Comment Letter C

CITY OF POWAY

March 29, 2012

Electronic Delivery to: cloflen@waterboards.ca.gov

Chad Loflen
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Re: Tentative Resolution No. R9-2012-0033 to Adopt a Basin Plan Amendment to Incorporate a Sediment TMDL for Los Peñasquitos Lagoon

Dear Mr. Loflen:

1 The City of Poway has been an active participant in the third-party development of the TMDL for Sedimentation in Los Peñasquitos Lagoon since 2009. Having reviewed Tentative Resolution No. R9-2012-0033 and its attached documents, the City would like to submit the following comments for the Regional Board's consideration:

2 1. TMDL Scope and Beneficial Uses. The Staff Report and Basin Plan Amendment should clearly and consistently state this TMDL was developed to address the listed sediment/siltation impairment with the goal to restore beneficial uses that have been directly affected by anthropogenic sources of excessive sedimentation. The Problem Statement included in the TMDL Technical Report was developed by the stakeholders through an iterative process in collaboration with the Regional Board. This section only lists estuarine habitat (EST) as the beneficial use most sensitive to sedimentation. Please clarify the rationale for including BIOL in the updated Staff Report description and the linkage to sedimentation. In addition, the TMDL does not establish a link between sedimentation and other beneficial uses. Please consistently note other factors that can also affect lagoon beneficial uses, such as the railroad berm, confinement of the lagoon

Comment Letter C

mouth, nuisance dry weather flows, and other factors. The City recommends that only the EST beneficial use be used in this TMDL, as agreed upon by the third-party stakeholders, which included the Regional Board, EPA, California State Parks, the Los Peñasquitos Lagoon Foundation, and Coastkeeper.

2. Lagoon Target. The lagoon numeric target is expressed as an "increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres". It is understood that compliance with the TMDL will be based on demonstrating an "increasing trend" over the 20-year compliance period through BMP implementation and restoration efforts, as appropriate, to address sedimentation impacts. The Staff Report acknowledges that impacts to beneficial uses caused by sediment have not been explicitly differentiated from those impacts caused by other factors. In particular, the Staff Report states best professional judgment was used to determine the amount of habitat loss due to historic sediment discharges and calculate the target acreage. An adaptive management approach will be used to determine if adjustments to the numeric targets may be needed in the future. The City recommends that all Staff Report and Basin Plan Amendment lagoon target references state "The lagoon numeric target is expressed as an increasing trend in the total area of tidal salt marsh and non-tidal salt marsh toward 346 acres", and make clear that compliance will be achieved by demonstrating this increasing trend.

3

3. Responsible Parties. The TMDL list of responsible parties should include California State Parks (the lagoon landowner), the Railroad Authority, the Regional Board, and EPA given the inclusion of the lagoon numeric target and other stressors that are outside the control of the watershed responsible parties. The City therefore recommends that California State Parks, the Railroad Authority, the Regional Board, and EPA be added as responsible parties in this TMDL.

4

4. MS4 Responsibility. Phase I MS4s are not responsible for controlling the discharge of sediment and other pollutants by other NPDES permit holders within the watershed (e.g. Phase II dischargers, Industrial and Construction general permits), especially discharges that are not routed through the MS4 storm drain system. According to the Staff Report, the MS4 collection system is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters,

5

Comment Letter C

ditches, man-made channels, or storm drains). Repeated statements in the Staff Report and Basin Plan Amendment that the MS4s are the "primary and ultimate point sources of sediment to the lagoon" appear to be based on the incorrect assumption that natural stream channels are themselves part of the MS4 system. Based on this definition, sand mining operations that discharge directly to surface waters should be specifically named in this TMDL and issued investigative orders to help determine current and historical sedimentation impacts that may have resulted from these operations. The City also recommends that all Phase II dischargers be enrolled with the Regional Board.

5. Margin of Safety (MOS). The City worked with Regional Board staff and other stakeholders on the development of the implicit MOS for this TMDL. An explicit MOS is not necessary due to several significant conservative assumptions that were included in the modeling approach and TMDL calculation, as described in the TMDL Technical Report. In addition, the inclusion of a lagoon target in the current Staff Report provides a direct assessment of lagoon conditions relative to beneficial uses versus the watershed loading target. Including a lagoon target minimizes the need to include an additional, explicit MOS because the Waste Load Allocation, and associated load reduction, only provides a gauge for the amount of sediment loading that will help support long-term lagoon beneficial uses. An adaptive management approach will be used to determine the acceptable balance of sediment loading relative to progress in achieving and maintaining lagoon beneficial uses and other factors. This approach will ultimately determine the actual sediment load reduction requirement. The City therefore recommends the removal of the explicit MOS.

6

6. Lagoon Monitoring. The lagoon monitoring schedule should be consistent with the TMDL compliance schedule. Annual monitoring is not necessary given the time lag between implementation actions and measurable changes in lagoon condition. In addition, limited resources are available to conduct long-term monitoring; therefore, monitoring requirements should be carefully considered. The City recommends monitoring one year prior to each interim compliance date, and the final compliance date, to detect changes in lagoon condition and measure compliance with the lagoon target.

7

Comment Letter C

7. Watershed Monitoring. Watershed monitoring should focus on detecting long-term changes in sediment load contributions to the lagoon. Suspended sediment monitoring is not a good indicator of watershed sediment transport because of the episodic nature of storms. The focus should be on quantifying overall sediment transport, including bedload calculations and field measurements that better detect trends, rather than episodic flow events. Additional details should not be included at this stage, given future development of a load reduction plan that will address the specific TMDL monitoring requirements. The City recommends that a combination of bedload and field measurements be used to assess watershed contributions. 8

8. Basin Plan Update/TMDL Reopener. The criteria for when the Regional Board will initiate a basin plan update should be revised to clarify what is meant by "sufficient data." Given that the responsible parties have the burden to provide all of the materials and supporting documentation for the basin plan update, the text should be updated to include a more firm commitment from the Regional Board that the update will be processed in a timely fashion. In addition, the City supports language in the TMDL regarding reopeners/reconsideration given the possible need to update the TMDL based on additional information in the future. The TMDL should be updated to allow for Regional Board consideration of a reopener request at any point given there may be future changes to important policies, additional studies, and other information that may warrant reconsideration of key components of the TMDL. The City recommends the Regional Board provide a clear definition of "sufficient data" to solidify the minimum requirements for future special studies that can be performed to provide updates and modifications to the TMDL Waste Load Allocation, numeric targets, and/or the compliance schedule. 9

9. Comprehensive Load Reduction Plan (CLRP) Development. The time allowed for development of the CLRP should be 18 months rather than 12 months, consistent with other TMDLs in the region and limited resources available to the responsible parties. The process for developing a Memorandum of Understanding (MOU) among all the responsible parties typically requires many months to complete. A separate MOU would need to be developed to address the requirements of this TMDL. In addition, the TMDL 10

Comment Letter C

should not add new CLRP requirements to avoid potential conflicting requirements and conditions with the recently approved Bacteria TMDL for Beaches and Creeks in San Diego.

10. CEQA. The CEQA document should evaluate the impacts of the lagoon restoration that may be required to meet the lagoon target, and the economic analysis of the cost of achieving the lagoon target. The City recommends a full and thorough CEQA analysis be performed.

11

12 The City appreciates the opportunity to provide comments on the Tentative Resolution. It is our understanding that additional oral comments will be accepted at the public hearing on May 9, 2012.

Sincerely,

Robert J. Manis
Director of Development Services

Comment Letter D

City of Del Mar

April 2, 2012
Via e-mail

Mr. Chad Loflen
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

City of Del Mar Comments on Tentative Resolution No. R9-2012-0033, to Amend the Water Quality Control Plan for the San Diego Basin (9) to Incorporate the Total Maximum Daily Load for Sedimentation in Los Peñasquitos Lagoon

Dear Mr. Loflen:

The City of Del Mar (City) appreciates the opportunity to provide comments on the Tentative Resolution No. R9-2012-0033 (Resolution) to amend the San Diego Basin Plan to incorporate the Total Maximum Daily Loads (TMDL) for Sedimentation in Los Peñasquitos Lagoon (Lagoon) being considered by the San Diego Regional Water Quality Control Board (Regional Board) on May 9, 2012. The City understands the importance of this TMDL, and is especially cognizant of the importance of water quality protections.

1

The City has participated in the three-year collaborative third party effort to develop the TMDL. At the request of the Regional Board, the City of San Diego led and funded the effort, with input from other Responsible Parties, and guidance from the Regional Board, US Environmental Protection Agency, and other stakeholders. The Responsible Parties (City of San Diego, County of San Diego, City of Poway, Caltrans, and the City of Del Mar) dedicated staff time to the development of the TMDL by preparing and reviewing documents and attending frequent meetings. The City is submitting the following comments for consideration by the Regional Board and its staff. The strikethrough text represents recommended deletions and the underlined bolded text represents recommended additions.

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1) The implementation of this TMDL, once adopted, has the potential to significantly impact jurisdictional funding and resources. The CEQA analysis for the TMDL states "The overall project costs arising from lagoon restoration activities and pollutant loading reduction in storm water could be in a range of $116.2 million to $185.2 million". The City wants to ensure that we have the ability to identify and prioritize where our limited funding and resources are focused to maximize environmental protection. As such, the City requests that the following language, similar to page A55 of Resolution No. R9-2010-0001 (Bacteria TMDL), be added to this TMDL on page A-8 after the third full paragraph under the "Responsible Parties Identification" heading:

2

"The municipal MS4s may demonstrate that their discharges are not causing the exceedances or sediment issues in the lagoon by providing data from their discharge points to the lagoon, by providing data collected at jurisdictional boundaries, and/or by using other methods accepted by the San Diego Water Board. Additionally, Phase II MS4s, agricultural dischargers, and other sources that are identified as significant sources

(i.e. causing or contributing exceedances in the receiving waters) will also be responsible for compliance with the TMDL."

3

2) As part of the third party TMDL effort for the Los Peñasquitos Lagoon, stakeholders developed a Problem Statement through a collaborative and iterative process with Regional Board staff. The Problem Statement included in the proposed TMDL on pages A-2 thru A-3 of Attachment A has been altered from what was originally developed by stakeholders. Page A-3 states, "the beneficial uses that are most sensitive to increased sedimentation are estuarine habitat (EST) and preservation of biological habitats of special significance (BIOL)". The problem statement developed by the stakeholders listed only estuarine habitat. Please provide an explanation for the addition of preservation of biological habitats of special significance as a beneficial use that is most sensitive to increased sedimentation.

4

3) The stakeholders and Regional Board staff conducted field visits to the lagoon as part of the development of the TMDL. Through the field visits it is evident that there are factors outside of the Responsible Parties control that have (or can) impacted lagoon beneficial uses and increased ground surface elevation. These factors include but are not limited to: 1) the North County Transit District Railroad Berm 2) previous construction conducted in the lagoon; and 3) constraints at the lagoon mouth. Considering there are additional factors we request the following language on page 2, Item 5, of the Resolution be revised as follows:

5. Water Quality Impairment of Los Peñasquitos Lagoon: *As required by CWA section 303(d), the Los Peñasquitos Lagoon (Lagoon) was placed on the 1996 List of Water Quality Limited Segments due to sedimentation and siltation loads that exceeded water quality objectives. The beneficial uses that are most sensitive to increased sedimentation are estuarine habitat and preservation of biological habitats of special significance.* ~~*Deposition of watershed sediment contributes to elevation increases within the Lagoon, which is a critical variable that determines the productivity and stability of these uses.*~~ *Other Beneficial Uses listed in the Basin Plan for the Lagoon include contact water recreation, non-contact water recreation, wildlife habitat, rare, threatened or endangered species, marine habitat, migration of aquatic organisms, spawning, reproduction and/or early development, and shellfish harvesting.*

5

4) The watershed numeric target should be used to measure compliance with the sediment TMDL with the understanding that monitoring data will be collected to assess progress toward achieving the lagoon target relative to sediment reductions. Page 19 of the Sediment TMDL for Los Peñasquitos Lagoon Staff Report (February 15, 2012) states that "Impacts due to sedimentation are not clearly differentiated from the impacts associated from other stressors on the Lagoon such as freshwater inputs and physical barriers within the Lagoon". Given the complexity of the Lagoon habitat and other confounding factors, the lagoon target is not a reliable surrogate for measuring compliance with the sediment TMDL. Therefore, the TMDL should require the attainment of either the Lagoon target or the Watershed target.

We request the language on page A-15 of Attachment A be revised as follows:

At the end of the TMDL compliance schedule, as outlined in Table {insert table number}, waters must meet the Lagoon's sediment water quality standard ~~*and therefore,*~~ ***or*** *the Lagoon numeric target. If at any point during the implementation plan, monitoring data or special studies indicate that* ***a Basin Plan Amendment is needed to revise the requirements***

***and/or provisions for implementing the TMDL, the San Diego Water Board will work with the Responsible Parties to ensure the Basin Plan Amendment is completed in a timely manner*. ~~, WLAs or LAs will be attained but the Lagoon numeric target may not be achieved, the San Diego Water Board shall reconsider the TMDL to modify WLAs and Las to ensure that the Lagoon numeric target is attained.~~**

We also request that the following language from page 50 of the Sediment TMDL for Los Peñasquitos Lagoon Staff Report (February, 15, 2012) be added to page A-15 of Attachment A.

If insufficient acreage is available for remediation based on the results of future monitoring efforts or field investigations, the Lagoon numeric target may be adjusted according to the amount of areas that are present and feasible for restoration. Any revision to the Lagoon numeric target will require a Basin Plan Amendment.

Additionally, the following language on page A-18, Item 12 at the bottom of the table:

Meet Final Milestone: Achieve ***either*** *Lagoon Numeric Target* ***or Lagoon Watershed Numeric Target***

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5) The Responsible Parties have begun the development of a Comprehensive Load Reduction Plan (CLRP) for the Los Peñasquitos Watershed in response to Resolution No. R9-2010-0001 Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek) (Bacteria TMDL). The Bacteria TMDL contains recommended requirements for a CLRP. To prevent conflicting requirements and for transparency in implementation, we request that the CLRP requirement language included under the heading "Comprehensive Approach" on page A-11 be deleted and the "Load Reduction Plan Framework" section on page A-12 be deleted. The "Comprehensive Approach" language should be replaced with the following language from the Bacteria TMDL:

6

Comprehensive Approach

The comprehensive approach to the Load Reduction Plan allows the responsible parties to proactively address other listed impairments within the watershed. A comprehensive approach to the Load Reduction Plan is also consistent with implementation planning currently underway in compliance with Resolution No. R9-2010-0001 Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek) (San Diego Water Board, 2010).

---

6) The Lagoon monitoring schedule should be consistent with the TMDL compliance schedule. Annual monitoring is not necessary due to the time needed between implementation actions and measurable changes in the lagoon condition. The lagoon monitoring should occur prior to each interim compliance date and the final compliance date.

We request the following changes on page A-14 of Attachment A:

7

Lagoon Monitoring

The responsible parties shall monitor the Lagoon ***prior to each interim compliance date and final compliance date*** ~~*annually in the Fall for*~~ ***to identify*** *changes in extent of the vegetation types. Aerial photos of the Lagoon must be acquired, digitized onscreen (at an approximate 1:2,500 scale), interpreted, and mapped into generalized classifications. Vegetation types must be classified as saltmarsh, non-tidal saltmarsh, freshwater marsh, non-tidal saltmarsh – Lolium perrene infested, freshwater marsh, southern willow scrub/mulefat scrub,*

herbaceous wetland, or upland land cover (urban, beach, dune, upland vegetation, etc.). Vegetation type classifications are described in the Sediment TMDL for Los Penasquitos Lagoon Staff Report. Ground truthing may be performed after aerial photo interpretation to distinguish between vegetation types.

8

7) The finalization of the establishment of the lagoon target occurred outside of the third party TMDL process. More detailed information on the lagoon numeric target is needed in Attachment A. Page A-3 of Attachment A includes a description of acreages for certain habitat types in the lagoon that do not match with the acreages presented on page 49 of the Staff Report. Additional clarification and information is needed to understand the assumptions used to develop the lagoon target. Furthermore, this target should take into account areas that cannot reasonably be recovered due to constraints.

9

8) Page 5 of the Resolution states "The ocean is a nonpoint source of sediment to the Lagoon and was assigned a load allocation (LA) of 9,780 tons/year. Because the ocean is a natural background source, load reductions are not required of the ocean". The Responsible Parties are not responsible for the LA and therefore, we request the following language on page 5 of the Resolution be revised accordingly:

Monitoring is required to assess progress towards achieving the wasteload ~~and load~~ allocations and numeric targets. Furthermore, the monitoring program must be capable of monitoring the effectiveness of implementation actions to improve water quality and saltmarsh habitat and remediation actions to remove sediment from the Lagoon.

10

9) During the third party TMDL development process it was determined that the implicit Margin of Safety was satisfactory for the Los Peñasquitos Lagoon TMDL. The Los Peñasquitos Lagoon TMDL Technical Report explains the conservative assumptions utilized in the development of the TMDL. The conservative assumptions as noted on page 56 of the Technical Report include:

- Critical condition: The wet season that includes the 1993 El Nino storm events (10/1/92 – 4/30/93) was selected as the critical condition time period for TMDL development. This is one of the wettest periods on record over the past several decades. Because of the large amount of rainfall, sediment loads were significant higher during this period than in other years with less rainfall.
- Soil composition: Soils that are more easily transported typically have higher proportions of smaller particles sizes (silt and clay fractions), as compared to local parent soils, because of differences in settling rates and other sediment transport characteristics. To account for these differences in the model, soils transported by surface runoff were assumed to be composed of 5 percent sand, twice as much clay as the percentage of clay within each hydrologic soil group, and the remainder assigned to the silt fraction.
- Numeric target: The historical analysis involved an extensive literature search and technical analysis in order to identify an appropriate time period for development of the numeric sediment target. This comprehensive 'weight of evidence' analysis considered all available information regarding urbanization and lagoon impacts over time in order to identify a conservative reference condition.

Comment Letter D

- Critical location: TMDL load reductions are based on meeting the numeric target across the entire Lagoon (lagoon channels and marsh areas). This approach ensures protection of beneficial uses throughout the lagoon. .

Additionally, the inclusion of a lagoon numeric target for the TMDL provides a direct assessment of lagoon conditions which also addresses uncertainties in the data or calculations used to link sediment sources to water quality impairments.

Based on the conservative assumptions already included within the TMDL development along with the lagoon numeric target that has been incorporated, there is no need to also include an explicit margin of safety.

We request that the explicit margin of safety (5%) be removed from the TMDL. We also request that the implicit margin of safety be discussed on page 5 of the resolution and pages A-6 and A-7 of Attachment A.

If you should have any questions regarding these comments please contact me directly at (619) 994-7074, or by email at cleanwater@delmar.ca.us.

Sincerely,

Mikhail Ogawa
Clean Water Manager
City of Del Mar

KB:MO

0 Attachment(s)
cc:
File

THE CITY OF SAN DIEGO

April 2, 2012

Electronic Delivery: cloflen@waterboards.ca.gov

Mr. Chad Loflen
California Regional Water Quality Control Board,
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Subject: Comment Letter Regarding the Los Peñasquitos Lagoon Sedimentation TMDL

Dear Mr. Loflen:

1 The City of San Diego, Transportation & Storm Water Department (City) appreciates the opportunity to provide comments on the Los Peñasquitos Lagoon Sedimentation TMDL. This TMDL and the associated Basin Plan Amendment address the impairment of the lagoon due to sediment-associated impacts. Los Peñasquitos Lagoon and other coastal lagoons in southern California enhance the ecological diversity of the region and provide other important beneficial uses through their unique characteristics. Recognizing the importance of Los Peñasquitos Lagoon, the City facilitated development of this third-party TMDL through a collaborative, stakeholder-led process. This successful TMDL effort included partnership with the Regional Board, EPA, California State Parks, the Los Peñasquitos Lagoon Foundation, and Coastkeeper throughout the process. As a result, this TMDL represents the collective efforts of the key stakeholders to better understand the complex processes that have affected the lagoon over time and develop a meaningful TMDL that will provide clear direction for future implementation activities.

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2 The City is concerned about several fundamental changes inserted to the draft TMDL that are reflected in the Staff Report dated February 15, 2012. Several important changes lack the technical basis that underlies sediment Waste Load Allocation. Regional Board and EPA staff acknowledged these shortcomings at the stakeholder meeting held on February 9, 2012, and yet the latest version of the staff report does not adequately address the concerns raised at the stakeholder meeting. The City and other stakeholders also submitted written comments on the January 26, 2012 staff report version, which do not appear to have been considered in the latest draft. Many of those comments were included in this letter.

DIVERSITY

Transportation & Storm Water Department
9370 Chesapeake Drive, Suite 100, MS 1900 • San Diego, CA 92123
Hotline (619) 235-1000 Fax (858) 541-4350

Comment Letter E

Chad Loflen
April 2, 2012

Below is a summary of the most significant stakeholder consensus comments on the TMDL Staff Report, Tentative Resolution R9-2012-0033 (Basin Plan Amendment), and associated documentation. Additional details on these issues and other important considerations are included in the attached appendix table. This table includes cross-references to the applicable sections in the Staff Report and Basin Plan Amendment to assist the Regional Board in responding to these comments and questions.

3

1. **TMDL Scope and Beneficial Uses**. The Staff Report and Basin Plan Amendment should clearly and consistently state this TMDL was developed to address the listed sediment/siltation impairment with the goal to restore beneficial uses that have been directly affected by anthropogenic sources of excessive sedimentation. The Problem Statement included in the TMDL Technical Report was developed by the stakeholders through an iterative process in collaboration with the Regional Board. This section only lists estuarine habitat (EST) as the beneficial use most sensitive to sedimentation. Please clarify the rationale for including BIOL in the updated Staff Report description and the linkage to sedimentation. In addition, the TMDL does not establish a link between sedimentation and other beneficial uses. Please consistently note other factors that can also impact lagoon beneficial uses, such as the railroad berm, confinement of the lagoon mouth, nuisance dry weather flows, and other factors. The City recommends that only the EST beneficial use be used in this TMDL, as agreed upon by the third-party stakeholders, which included the Regional Board, EPA, California State Parks, the Los Peñasquitos Lagoon Foundation, and Coastkeeper.

4

2. **Lagoon Target**. The lagoon numeric target is expressed as an "increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres". It is understood that compliance with the TMDL will be based on demonstrating an "increasing trend" over the 20-year compliance period through BMP implementation and restoration efforts, as appropriate, to address sedimentation impacts. The Staff Report acknowledges that impacts to beneficial uses caused by sediment have not been explicitly differentiated from those impacts caused by other factors. In particular, the Staff Report states best professional judgment was used to determine the amount of habitat loss due to historic sediment discharges and calculate the target acreage. An adaptive management approach will be used to determine if adjustments to the numeric targets may be needed in the future. The City recommends that all Staff Report and Basin Plan Amendment lagoon target references state "The lagoon numeric target is expressed as an increasing trend in the total area of tidal salt marsh and non-tidal salt marsh toward 346 acres", and make clear that compliance will be achieved by demonstrating this increasing trend.

5

3. **Responsible Parties.** The TMDL list of responsible parties should include California State Parks (the lagoon landowner), the Railroad Authority, the Regional Board, and EPA given the inclusion of the lagoon numeric target and other stressors that are outside the control of the watershed responsible parties. The City, therefore, recommends that California State Parks, the Railroad Authority, the Regional Board, and EPA be added as responsible parties in this TMDL.

4. **MS4 Responsibility**. Phase I MS4s are not responsible for controlling the discharge of sediment and other pollutants by other NPDES permit holders within the watershed (e.g. Phase II dischargers, Industrial and Construction general permits), especially discharges that are not routed through the MS4 storm drain system. According to the Staff Report, the MS4 collection system is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) (San Diego Water Board, 2007). Repeated statements in the Staff Report and Basin Plan Amendment that the MS4s are the "primary and ultimate point sources of sediment to the lagoon" appear to be based on the incorrect assumption that natural stream channels are themselves part of the MS4 system. Based on this definition, sand mining operations that discharge directly to surface waters should be specifically named in this TMDL and issued investigative orders to help determine current and historical sedimentation impacts that may have resulted from these operations. The City also recommends that all Phase II dischargers be enrolled with the Regional Board.

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5. **Margin of Safety (MOS)**. The City worked with the Regional Board and other stakeholders on the development of the implicit MOS for this TMDL. An explicit MOS is not necessary due to several significant conservative assumptions that were included in the modeling approach and TMDL calculation, as described in the TMDL Technical Report. In addition, the inclusion of a lagoon target in the current Staff Report provides a direct assessment of lagoon conditions relative to beneficial uses versus the watershed loading target. Including a lagoon target minimizes the need to include an additional, explicit MOS because the Waste Load Allocation, and associated load reduction, only provides a gauge for the amount of sediment loading that will help support long-term lagoon beneficial uses. An adaptive management approach will be used to determine the acceptable balance of sediment loading relative to progress in achieving and maintaining lagoon beneficial uses, and other factors. This approach will ultimately determine the actual sediment load reduction requirement. The City, therefore, recommends the removal of the explicit MOS.

7

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6. **Lagoon Monitoring**. The lagoon monitoring schedule should be consistent with the TMDL compliance schedule. Annual monitoring is not necessary given the time lag between implementation actions and measurable changes in lagoon condition. In addition, limited resources are available to conduct long-term monitoring, therefore, monitoring requirements should be carefully considered. The City recommends monitoring one year prior to each interim compliance date, and the final compliance date, in order to detect changes in lagoon condition and measure compliance with the lagoon target.

8

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7. **Watershed Monitoring**. Watershed monitoring should focus on detecting long-term changes in sediment load contributions to the lagoon. Suspended sediment monitoring is not a good indicator of watershed sediment transport because of the episodic nature of storms. The focus should be on quantifying overall sediment transport, including bedload calculations and field measurements that better detect trends, rather than episodic flow events. Additional details should not be included at this stage, given future development of a load reduction plan that will address the specific TMDL monitoring requirements. The City

9

recommends that a combination of bedload and field measurements be used to assess watershed contributions.

10

8. **Basin Plan Update/TMDL Reopener**. The criteria for when the Regional Board will initiate a basin plan update should be revised to clarify what is meant by "sufficient data." Given that the responsible parties have the burden to provide all of the materials and supporting documentation for the basin plan update, the text should be updated to include a more firm commitment from the Regional Board that the update will be processed in a timely fashion. In addition, the City supports language in the TMDL regarding reopeners/reconsideration given the possible need to update the TMDL based on additional information in the future. The TMDL should be updated to allow for Regional Board consideration of a reopener request at any point given there may be future changes to important policies, additional studies, and other information that may warrant reconsideration of key components of the TMDL. The City recommends the Regional Board provide a clear definition of "sufficient data" to solidify the minimum requirements for future special studies that can be performed to provide updates and modifications to the TMDL Waste Load Allocation, numeric targets, and/or the compliance schedule.

11

9. **Comprehensive Load Reduction Plan (CLRP) Development**. The time allowed for development of the CLRP should be 18 months rather than 12 months, which is consistent with other TMDLs in the region and limited resources available to the responsible parties. The process for developing a Memorandum of Understanding (MOU) among all the responsible parties typically requires many months to complete. A separate MOU would need to be developed to address the requirements of this TMDL. In addition, the TMDL should not add new CLRP requirements to avoid potential conflicting requirements and conditions with the recently approved Bacteria TMDL for Beaches and Creeks in San Diego. The Bacteria TMDL load reduction plan is currently being developed. The City recommends that the CLRP development timeframe be expanded to 18 months.

12

10. **CEQA**. The CEQA document should evaluate the impacts of the lagoon restoration that may be required to meet the lagoon target, and the economic analysis of the cost of achieving the lagoon target. The City recommends a full and thorough CEQA analysis be performed.

13

We look forward to reviewing the Regional Board's responses to these comments and our previously submitted comments regarding the April 2011 Staff Report and subsequent revisions. If you have additional questions, please contact Ruth Kolb at (858) 541-4328 or at rkolb@sandiego.gov.

Sincerely,

Kris McFadden
Deputy Director

Comment Letter E

KM\rk

Attachment: City of San Diego Comment Table

cc: Almis Udrys, Deputy Director, Office of the Mayor
Garth K. Sturdevan, Interim Director, Transportation & Storm Water Department
Ruth Kolb, Program Manager, Transportation & Storm Water Department
Drew Kleis, Program Manager, Transportation & Storm Water Department
Cindy Lin, US Environmental Protection Agency, Region 9 Southern CA Office
600 Wilshire Blvd, Ste 1460, Los Angeles, CA 90017

Comment Letter E

Appendix A – City of San Diego Detailed TMDL Comments

Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
1	Staff Report	various	The beneficial uses that are most sensitive to increased sedimentation are estuarine habitat (EST) and preservation of biological habitats of special significance (BIOL)	The Problem Statement included in the TMDL Technical Report was developed by the stakeholders through an iterative process in collaboration with the Regional Board. This section only lists estuarine habitat (EST) as the beneficial use most sensitive to sedimentation. Please clarify the rationale for including BIOL in the Staff Report description and the linkage to sedimentation. Note other factors that can also impact lagoon beneficial uses. Recommend that only the EST beneficial use be used in this TMDL, as agreed upon by the third-party stakeholders, which included the Regional Board, EPA, California State Parks, the Los Peñasquitos Lagoon Foundation, and Coastkeeper	1
	Basin Plan amendment	various			
2	Staff Report	2,32	This target acreage represents 80 percent of the total acreage of tidal and non-tidal saltmarsh present in 1973	Additional information is needed to understand how the 80% lagoon target was calculated. This target should take into account areas that cannot reasonably be recovered due to development or other constraints and the historical footprint of the various wetland types that will be encouraged for recovery of the lagoon	2
3	Staff Report	various	Responsible parties include the following...	It is necessary to include California State Parks, the Railroad Authority, the San Diego Regional Board, EPA, and others, as applicable, given the lagoon target and potential restoration efforts	3
	Basin Plan amendment	various			
4	Staff Report	various	...year 2000 conditions...	Modeling for TMDL development was based on the most recent landuse coverage that was available at the time (SANDAG 2000). This time period represents current conditions, as limited development and other landuse	--

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Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
	Basin Plan amendment	various		changes have occurred since. Recommend updating the text to reference "current conditions" rather than "year 2000 conditions" for clarity. Specific details on the data used for modeling are referenced in the TMDL Technical Report and modeling appendix.	
5	Staff Report	4	An explicit margin of safety (MOS) of 5 percent...	An explicit MOS was determined to not be necessary during development of the TMDL Technical Report based on collaboration between the stakeholders and Regional Board. In addition, inclusion of a Lagoon target further reduces the need to include additional MOS factors. Delete reference to an explicit MOS and update associated WLA and % reduction calculations. Include summary of implicit MOS factors	5
	Basin Plan amendment	5,A-6,A-7			
6	Staff Report	5	Full implementation of the TMDL for sediment must be completed within 20 years from the effective date of the Basin Plan amendment	The TMDL compliance schedule should include the potential for flexibility in meeting the final Lagoon target given the breadth and scope of the problems and stressors affecting the Lagoon. An extension of the 20-year compliance may be needed considering the time lag between sediment reductions (and possible lagoon restoration activities) and long-term improvements in lagoon condition/beneficial uses. At a minimum, the possible need for an extension of the schedule should be noted based on activities completed and trends in the improvement of lagoon conditions	--
7	Staff Report	8	The Lagoon's 565 acres include 262 acres of tidal saltmarsh...	Area estimates in this paragraph were updated from the Problem Statement that was included in the TMDL Technical Report. Please include the original estimates for consistency and note any updated values based on information provided by California State Parks	1

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Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
8	Staff Report	19	Impacts due to sedimentation are not clearly differentiated from the impacts associated other stressors on the Lagoon such as freshwater inputs and physical barriers within the Lagoon	Similar language should be included throughout the Staff Report and BPA to identify historical and current factors/stressors that have impacted lagoon beneficial uses. Sediment is a significant factor, but not the only factor that has resulted in the lagoon impairment.	1
9	Staff Report	27	Compliance with WQOs must be assessed and maintained throughout the waterbody to protect all beneficial uses. While the estuarine (EST) and preservation of biological habitats of special significance (BIOL) beneficial uses are the most sensitive to increased sedimentation, the narrative sediment WQO is applied to all beneficial uses	Reductions in sediment loading alone will likely not improve all lagoon beneficial uses. In addition, the TMDL does not establish a link between sedimentation and several beneficial uses. This TMDL is limited to addressing sedimentation impacts based on the impairment listing to help meet the goal of improving habitat and related conditions within the lagoon.	1
10	Staff Report	31	These factors are important to understand in order to effectively manage and improve conditions within the Lagoon, but they are outside the scope of the sediment TMDL analysis	This statement expresses limitations in this sediment TMDL. Other factors have also played a role in impacting beneficial uses over time through various mechanisms. It is important to note these limitations for clarity and to improve the success of future implementation activities to address sediment and associated watershed impacts	1
11	Staff Report	32	Lagoon Numeric Target	Need to state the relationship between sediment and the lagoon target. Also, achievement of the lagoon target is limited to actions associated with reducing sedimentation impacts. Including a lagoon target helps provide flexibility in helping to restore beneficial uses associated with sedimentation impacts (through adaptive management), however, resolution of other confounding factors is outside the scope of this TMDL.	1,2
12	Staff Report	34	In 2010, a geomorphic assessment of the Peñasquitos watershed was conducted	This study was funded by the City of San Diego. Please update the citation to: City of San Diego, 2011	--

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Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
13	Staff Report	34	These physical impediments do not directly contribute a sediment load to the Lagoon; therefore a daily sediment load for these structures cannot be calculated	De-emphasize "daily". Long-term sediment loading is important in this TMDL, not estimates of daily loads which can be episodic and not indicative of long-term trends. It's understood a daily load calculation is required for the TMDL expression, however, other references should focus on long-term sedimentation. Also, note that development of the railroad and other historical activities may have resulted in sediment deposits that have contributed to current lagoon conditions	1
14	Staff Report	34,38	Sediment contributions from the Pacific Ocean are considered background sources and are presented as the Load Allocation (LA)	Change to "Sediment contributions from the Pacific Ocean are considered **natural** background sources and are presented as the Load Allocation (LA)."	--
15	Staff Report	34,35,37, 58	This is the case because virtually the entire Los Peñasquitos watershed is drained through the Phase I MS4 collection systems. The MS4 collection system is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) (San Diego Water Board, 2007). For this reason the Phase I MS4s can be thought of as the primary and ultimate point sources of sediment to the Lagoon	Phase I MS4s are not responsible for controlling the discharge of sediment and other pollutants by other NPDES permit holders within the watershed (e.g. Phase II dischargers, Industrial and Construction general permits), especially discharges that are not routed through the MS4 storm drain system (discharges to natural stream channels are not part of the MS4 conveyance system per the definition included in the excerpt statement). In particular, the sand mining operations along Carroll Canyon Creek should be specifically named in this TMDL based on current and historical sediment discharges that may have contributed to lagoon impacts. All Phase II dischargers should be enrolled with the Regional Board.	4
	Basin Plan amendment	A-8			
16	Staff Report	35,36	Runoff from urbanized areas into the Phase I MS4s can often be characterized by the term hungry water	The term "hungry" water is a non-traditional term and does not improve the understanding of flow and sediment dynamics. Suggest removing this paragraph and others for clarity	--

Comment Letter E

Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
17	Staff Report	36	As of June 2010, there were 76 industrial facilities covering 1,304 acres enrolled under the general industrial storm water permit in in the Los Peñasquitos watershed	Sand mining facilities should be specifically named in the TMDL based on current and historical sediment discharges that may have contributed opt lagoon impacts.	4
18	Staff Report	38	5.4 Quantification of Sediment Sources	Recommend change to "5.4 Quantification of **Watershed** Sediment Sources"	--
19	Staff Report	38	The sediment load contributed by each land-use type was calculated using the LSPC model	Include note that direct discharges of sediment (e.g. from sand mining operations) were not explicitly quantified in the modeling analysis	--
20	Staff Report	41	Because the Lagoon has been impacted by sediment accumulation over the last 40 years from watershed sediment loads, it cannot be assumed that the Lagoon, in the year 2010 condition, can assimilate the same elevated sediment loads	Sufficient information is not available to evaluate the assumption about the lagoon's current assimilative capacity, especially considering physical barriers and other factors that may have caused historical changes in assimilative capacity. Recommend deleting this statement to improve clarity in the discussion.	--
	Basin Plan amendment	4,A-6			
21	Staff Report	49,50	The Lagoon numeric target is expressed as an increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres. This target acreage represents 80 percent of the total acreage of tidal and non-tidal saltmarsh present in 1973	80 percent of the of the total acreage of tidal and non-tidal saltmarsh present in 1973 equals 344 acres (not 346). This differs with the calculation presented in the 2nd paragraph on Page 50. Additional information is needed to understand the assumptions used to develop the lagoon target (restoration of 84 acres). This target should take into account areas that cannot reasonably be recovered due to development or other constraints and the historical footprint of the various wetland types that will be encouraged for recovery of the lagoon.	2
	Basin Plan amendment	A-4			

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Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
22	Staff Report	49	Table 3	Restoration of 84 acres would require conversion of "Other Vegetation" types to "Saline Vegetation". Assuming the priority would be to convert the current 63 acres of Non-tidal Saltmarsh-Lolium perenne Infested to endemic Non-tidal Saltmarsh, this leaves an additional 17 acres that would need to be converted, if necessary. Flexibility in selecting appropriate areas for restoration is needed to improve the chance of success and encourage efficient use of limited funding that may be available from the responsible parties for TMDL implementation	2
23	Staff Report	51	The watershed and Lagoon numeric targets were determined using modeling and Lagoon mapping under historical (mid-1907s) conditions	Change 1907s to 1970s	--
24	Staff Report	52	An explicit MOS was incorporated for this TMDL	See Comment #5	5
25	Staff Report	52	Load calculations for sediment were developed using land-use based generation rates...	Change to "Load calculations for sediment were developed based on watershed modeling results and meteorological conditions..."	--
26	Staff Report	53	...therefore, the TMDL results show that a net decrease in oceanic loads occurs during the critical wet period under historical land-use conditions	Change to "... therefore, the TMDL results show reduced sediment deposition from tidal/oceanic input during the critical wet period under historical conditions because of complex lagoon deposition/erosion dynamics that are discussed in the TMDL Technical Report"	--
27	Staff Report	54	Tables 4 & 5	Update these tables to delete explicit the MOS load and corresponding changes in the WLA and Percent Reduction Required	5
28	Staff Report	54	8.11 Margin of Safety	Update this section to delete the explicit MOS reference and include a summary of the implicit MOS factors	5

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Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
29	Staff Report	56	Compliance with this sediment TMDL shall be based on achieving the Lagoon numeric target within the compliance timeframe	The lagoon numeric target is expressed as an "increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres". It is understood that compliance with the TMDL will be based on demonstrating an "increasing trend" through BMP implementation and restoration efforts, as appropriate, to address sedimentation impacts.	2
	Basin Plan amendment	A-4			
30	Staff Report	59,60	9.3 Phased Implementation via the Adaptive Management Approach	Connection between the phases and the compliance schedule has not been established	--
	Basin Plan amendment	A-9			
31	Staff Report	60	Phase II includes the implementation of additional watershed actions that are targeted to reducing sediment loads from high priority areas, as well as lagoon specific actions that may be needed to facilitate recovery of beneficial uses that have been affected by various complex processes, including sedimentation, nuisance flows, reduced tidal circulation, and other factors	Lagoon specific actions that may be taken will focus on recovering beneficial uses that have been impacted by sedimentation per the focus of this sediment TMDL	1
32	Staff Report	61	The Load Reduction Plan shall be submitted to the San Diego Water Board within 12 months of the TMDL effective date	An 18 month timeframe is recommended for development of the Load Reduction Plan consistent with the other regional TMDLs	9
33	Staff Report	61	Storm Water Pollution Prevention Plans (SWPPPs) prepared by Phase II MS4s, Industrial Permittees, and Construction Permittees pursuant to their respective statewide general NPDES permits fulfill these entities responsibility to prepare a Load Reduction Plan	The TMDL should state that the Regional Board will issue investigative orders to the 2 sand mining operations to determine their historical and current sediment contribution	4

Comment Letter E

Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
34	Staff Report	62	With increased urban development and inadequate management of runoff from impervious areas, increasing amounts of sediment are deposited into the Lagoon annually	Change to "With increased urban development and inadequate management of runoff from impervious areas **and other sources**, increasing amounts of sediment are deposited into the Lagoon annually	1,2
35	Staff Report	62	Retrofitting, New Development, & Site Management: Urban development (MS4 contribution) is the primary source of anthropogenic sediment contribution above historical conditions	Change to "Retrofitting, New Development, & Site Management: Urban development (MS4 contribution) **and other watershed sources** are the primary source of anthropogenic sediment contribution above historical conditions" This recognizes possible sediment loading from the industrial sand mining operations and other possible watershed sources that are not contributed MS4s	1,4
36	Staff Report	65	Responsible parties must conduct suspended sediment, bedload, and flow monitoring...	Suspended Sediment monitoring is not a good indicator or watershed sediment transport. Watershed monitoring should focus on detecting long-term changes in sediment load contributions to the lagoon.	7
37	Staff Report	65	The responsible parties shall monitor the Lagoon monitored annually in the fall for changes in extent of the vegetation types	Lagoon monitoring schedule should be consistent with the compliance schedule – perform one year prior to each interim compliance date, and the final compliance date, in order to detect changes in lagoon condition. Annual monitoring is not necessary given the time lag between implementation actions and changes improvements in lagoon condition	6
	Basin Plan amendment	A-14			
38	Staff Report	67	The expected timeframe to achieve the required reduction in sediment loading is 20 years following TMDL approval	The TMDL compliance schedule should include the potential for flexibility in meeting the final Lagoon target given the breadth and scope of the problems and stressors affecting the Lagoon. An extension of the 20-year compliance may be needed considering the time lag between sediment reductions (and possible lagoon restoration activities) and	2

Comment Letter E

Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
	Basin Plan amendment	A-15		long-term improvements in lagoon condition/beneficial uses. At a minimum, the possible need for an extension of the schedule should be noted based on activities completed and trends in the improvement of lagoon conditions	
39	Staff Report	68	At the end of the TMDL compliance schedule, as outlined in Table 6, waters must meet the Lagoon's sediment water quality standard and therefore, the Lagoon numeric target	See Comment #'s 29 and 38	2
40	Staff Report	68	Table 6	See Comment #'s 29 and 38	2
41	Staff Report	71	9.8.3 Compliance for Phase II MS4s, Construction Permittees, and Industrial Permittees	All Phase II dischargers should be enrolled with the Regional Board	4
42	Staff Report	71	As discussed in Section 9.2 above, it is the responsibility of the Phase I MS4 copermittees to assume the lead role in coordinating and carrying out the necessary actions, monitoring requirements, and successful implementation of the adaptive management framework required as part of this TMDL	See Comment #15	4
43	Basin Plan amendment	3	...when the numeric targets are met, the TMDL should be met, WQOs should be met and the beneficial uses should be restored	Change to "...when the numeric targets are met, the TMDL should be met, WQOs should be met and the beneficial uses should be restored. **Note that recovery of beneficial uses is limited to addressing sediment-related impacts per this TMDL.**"	2

Comment Letter E

Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
44	Basin Plan amendment	3	Lagoon mapping was used to establish the Lagoon numeric target, which is expressed as an increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres. This target acreage represents 80 percent of the total acreage of tidal and non-tidal saltmarsh present in 1973	See Comment #'s 21 and 29	2
45	Basin Plan amendment	3,A-4	Sources of sediment to the Lagoon include erosion of canyon banks, bluffs, scouring stream banks, and tidal influx	Include sand mining operations in the list of sediment sources	4
46	Basin Plan amendment	5	Monitoring is required to assess progress towards achieving the wasteload and load allocations and numeric targets	Change to "Monitoring is required to assess progress towards achieving the wasteload allocation and numeric targets". Monitoring of the load allocation (natural ocean contribution) is not necessary to assess progress in meeting the TMDL	--
47	Basin Plan amendment	5	Full implementation of the TMDL for sediment must be completed within 20 years from the effective date of the Basin Plan amendment	See Comment #38	2
48	Basin Plan amendment	5	As a result of the peer review process, changes were made to the TMDL including inclusion of an explicit margin of safety and revision of the adaptive management approach	See Comment #5	5

Comment Letter F

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Flex your power!
Be energy efficient!

April 2, 2012

ATTENTION: **Cathryn Henning**
California Regional Water Quality Control Board
San Diego Region
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San Diego, CA 92123-4340
Fax: (858) 636-3161
E-mail: chenning@waterboards.ca.gov

Subject: Comments on Basin Plan Amendment to Incorporate Sediment Total Maximum Daily Load (TMDL) for Los Peñasquitos Lagoon

The California Department of Transportation (Caltrans) appreciates the opportunity to comment on the proposed amendment to the Water Quality Control Plan for the San Diego Region (Basin Plan) to incorporate a Total Maximum Daily Load (TMDL) for Sediment in the Los Peñasquitos Lagoon. Caltrans supports the Regional Board's efforts to protect human health and achieve the highest standard of water quality possible. The Caltrans statewide National Pollutant Discharge Elimination System (NPDES) permit is currently going through the process of being renewed (Tentative Order No. 2011-XX-DWQ; NPDES No. CAS000003). The Tentative Order and the State Construction General Permit (CGP) are the mechanisms for Caltrans to implement consistent sediment controls statewide. Caltrans has a stringent program in place to control sediment and to comply with the permit requirements. Caltrans has reviewed the TMDL and Basin Plan Amendment (BPA) and has concerns in the following areas. 1

General Comments

1. **TMDL Scope and Beneficial Uses**. The Staff Report and Basin Plan Amendment should clearly and consistently state this TMDL was developed to address the listed sediment/siltation impairment with the goal to restore beneficial uses that have been directly affected by anthropogenic sources of excessive sedimentation. The Problem Statement included in the TMDL Technical Report was developed through an iterative process by the stakeholders in collaboration with the Regional Board. This section only lists estuarine habitat (EST) as the beneficial use most sensitive to sedimentation. Please clarify the rationale for including preservation of biological habitats of special significance (BIOL) in the updated Staff Report description and the linkage to sedimentation. In addition, the TMDL does not establish a link between sedimentation and other beneficial uses. Please note other factors that can also impact lagoon beneficial uses, such as the railroad berm, confinement of the lagoon mouth, nuisance dry weather flows, and other factors. 2
   Caltrans recommends that only the Estuarine Habitat beneficial use be used in this TMDL, as agreed upon by the third-party stakeholders, included the Regional Board.

---

2. **Lagoon Target**. The lagoon numeric target is expressed as an "increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres." It is understood that compliance with the TMDL will be based on demonstrating an "increasing trend" over the 20-year 3

compliance period through BMP implementation and restoration efforts, as appropriate, to address sedimentation impacts. The Staff Report acknowledges that impacts to beneficial uses caused by sediment have not been explicitly differentiated from those impacts caused by other factors. In particular, the Staff Report states best professional judgment was used to determine the amount of habitat loss due to historic sediment discharges and calculate the target acreage.

Caltrans recommends that all Staff Report and Basin Plan Amendment lagoon target references state "The lagoon numeric target is expressed as an increasing trend in the total area of tidal salt marsh and non-tidal salt marsh toward 346 acres," and clarify that compliance will be achieved by demonstrating this increasing trend.

4

3. **Responsible Parties.** The TMDL list of responsible parties should include additional lagoon stake-holders, given the numeric target and other stressors that are outside the control of the identified watershed responsible parties.

Caltrans recommends that additional responsible parties be added to this TMDL.

5

4. **MS4 Responsibility**. Phase I MS4s are not responsible for controlling the discharge of sediment and other pollutants by other NPDES permit holders within the watershed (e.g., Phase II dischargers, Industrial and Construction general permits), especially discharges that are not routed through the MS4 storm drain system. According to the Staff Report, the MS4 collection system is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) (San Diego Water Board, 2007). Repeated statements in the Staff Report and Basin Plan Amendment that the MS4s are the "primary and ultimate point sources of sediment to the lagoon" appear to be based on the assumption that natural stream channels are themselves part of the MS4 system.

Caltrans suggests industrial operations that discharge directly to surface waters should be investigated to help determine current and historical sedimentation impacts that may have resulted from these operations and specifically named in this TMDL. Caltrans also recommends that all Phase II dischargers be enrolled with the Regional Board.

6

5. **Margin of Safety (MOS)**. The City worked with the Regional Board and other stakeholders on the development of the implicit MOS for this TMDL. An explicit MOS is not necessary due to several significant conservative assumptions that were included in the modeling approach and TMDL calculation, as described in the TMDL Technical Report. In addition, the inclusion of a lagoon target in the current Staff Report provides a direct assessment of lagoon conditions relative to beneficial uses versus the watershed loading target. Including a lagoon target minimizes the need to include an additional, explicit MOS, because the Waste Load Allocation, and associated load reduction, only provides a gauge for the amount of sediment loading that will help support long-term lagoon beneficial uses.

Caltrans recommends the removal of the explicit MOS from the TMDL Resolution and Basin Plan Amendment.

6. **Lagoon Monitoring**. The lagoon monitoring schedule should be consistent with the TMDL compliance schedule. Annual monitoring is not necessary given the time lag between implementation actions and measurable changes in lagoon condition.

7

Caltrans recommends monitoring one year prior to each interim compliance date, and the final compliance date, in order to detect changes in lagoon condition and measure compliance with the lagoon target.

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7. **Watershed Monitoring**. Watershed monitoring should focus on detecting long-term changes in sediment load contributions to the lagoon. Suspended sediment monitoring is not a good indicator of watershed sediment transport because of the episodic nature of storms. The focus should be on quantifying overall sediment transport, including bedload calculations and field measurements that better detect trends, rather than episodic flow events. Additional details should not be included at this stage, given future development of a load reduction plan that will address the specific TMDL monitoring requirements.

8

Caltrans recommends that a combination of bedload and field measurements be used to assess watershed contributions.

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8. **Basin Plan Update/TMDL Reopener.** The criteria for when the Regional Board will initiate a basin plan update should be revised to clarify what is meant by "sufficient data." Given that the responsible parties have the burden to provide all of the materials and supporting documentation for the basin plan update, the text should be updated to include a more firm commitment from the Regional Board that the update will be processed in a timely fashion. In addition, Caltrans supports language in the TMDL regarding reopeners/reconsideration given the possible need to update the TMDL based on additional information in the future. The TMDL should be updated to allow for Regional Board consideration of a reopener request at any point given there may be future changes to important policies, additional studies, and other information that may warrant reconsideration of key components of the TMDL.

9

Caltrans recommends the Regional Board provide a clear definition of "sufficient data" to solidify the minimum requirements for future special studies that can be performed to provide updates and modifications to the TMDL Waste Load Allocation, numeric targets, and/or the compliance schedule.

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9. **Comprehensive Load Reduction Plan (CLRP) Development**. The time allowed for development of the CLRP should be 18 months rather than 12 months, consistent with other TMDLs in the region and limited resources available to the responsible parties. The process for developing a Memorandum of Understanding (MOU) among all the responsible parties typically requires many months to complete. A separate MOU would need to be developed to address the requirements of this TMDL. In addition, the TMDL should not add new CLRP requirements to avoid potential conflicting requirements and conditions with the recently approved Bacteria TMDL for Beaches and Creeks in San Diego. The Bacteria TMDL load reduction plan is currently being developed.

10

Caltrans recommends that the CLRP development timeframe be expanded to 18 months.

Comment Letter F

11 **10. CEQA.** The CEQA document should evaluate the impacts of the lagoon restoration that may be required to meet the lagoon target.

Caltrans recommends that the potential impacts of lagoon restoration be addressed in the TMDL.

Please find the additional specific comments included in Attachment I to this letter. We hope these comments are helpful. If you have any questions or concerns, please contact Keith Jones at (916) 653-4947.

G. Scott McGowen
Chief Environmental Engineer
Division of Environmental Analysis

cc: Joyce Brenner, Keith Jones
Department of Transportation Headquarters Division of Environmental Analysis

Constantine Kontaxis
Department of Transportation, District 11

Comment Letter F

Attachment: Additional Comments

12

1. **Implement Load Reduction Plan.** The TMDL Resolution requires that the Load Reduction Plan "be implemented within 30 days upon receipt of Water Board comments and recommendation, but in any event, no later than 60 days after submittal". The responsible parties to the TMDL will need time to address significant comments or recommendations from the Regional Board.

   Caltrans requests revising to allow the responsible parties to have 90 days after the receipt of comments and recommendations from the Regional Board to implement the plan.

13

2. **Lagoon 80% target.** The TMDL does not provide an explanation of how the 80% lagoon target was chosen. This target must take into account areas where development or other constraints may make recovery more difficult. In addition, the target should also take into account the historical footprint of the various wetland types that will be encouraged for recovery of the lagoon (Draft Staff Report, Pages 2 and 32).

   Caltrans requests that the Regional Board include a clear explanation of how the 80% target was obtained in the TMDL.

14

3. **Lagoon Acres.** The TMDL Staff Report dated February 15, 2012 includes an estimate of 565 acres of wetland. This is inconsistent with other documents and previous versions of the TMDL Staff Report. For example, Attachment I to Tentative Resolution No. R9-2012-0033 (dated February 13, 2012) and the TMDL Staff Report dated April 22, 2011 include estimates of 510 acres.

   Please make sure that documents are consistent and clarify how the acreage was estimated. In addition, note the data on which the estimates were based and the information provided by California State Parks.

15

4. **Pacific Ocean Load Allocations:** Please revise the draft staff report released on February 15, 2012 to state, "The sediment contributions from the Pacific Ocean are considered a **natural** background source and are presented as the Load Allocation (LA)" (Pages 3 and 34).

16

5. **Numeric Targets:** Revise Section 8.2 of the Draft TMDL Staff Report to state that "…Lagoon mapping under historical (mid-19~~07~~**70**s)" (Draft Staff Report Page 51).

17

6. **Load Reduction Plan Framework:** Revise section 9.4.2 of the Draft TMDL Staff Report to state that "With increased urban development and inadequate management of runoff from impervious areas **and other sources**, increasing amounts of sediment are deposited into the Lagoon annually" (Page 62). Also revise "Retrofitting, New Development, & Site Management: Urban development (MS4 contribution) **and other watershed sources** are the primary source of anthropogenic sediment contribution above historical conditions" (Draft Staff Report Page 62). This recognizes possible sediment loading from the industrial sand mining operations and other possible watershed sources that are not contributed by a MS4.

18

7. **Numeric Targets:** Revise the TMDL Resolution to state "…when the numeric targets are met, the TMDL should be met, WQOs should be met and the beneficial uses should be restored.

Note that recovery of beneficial uses is limited to addressing sediment-related impacts per this TMDL" (Resolution No. R9-2012-0033 Page 3).

19

8. **TMDL Monitoring:** Revise the TMDL Resolution to state ""Monitoring is required to assess progress towards achieving the wasteload ~~and load~~ allocation and numeric targets" (Resolution No. R9-2012-0033 Page 5). Monitoring of the load allocation (natural ocean contribution) is not necessary to assess progress in meeting the TMDL.

Comment Letter G

County of San Diego

DEPARTMENT OF PUBLIC WORKS

RICHARD E. CROMPTON
DIRECTOR

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April 2, 2012

Dave Gibson, Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego CA 92123-4340

SEDIMENT TMDL FOR LOS PENASQUITOS LAGOON

Dear Mr. Gibson:

1 Thank you for the opportunity to comment on the draft *Sedimentation TMDL for Los Peñasquitos Lagoon*. This cover letter includes a list of consensus comments developed by the County of San Diego and the other TMDL Responsible Parties. In addition, the table attached includes extensive comments from County of San Diego staff on the Tentative Resolution (including Attachment A – the proposed Basin Plan Amendment) as well as the Draft Staff Report and Attachment 3 (Environmental Analysis and Checklist).

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2 1. **TMDL Scope and Beneficial Uses**. The Staff Report and Basin Plan Amendment should clearly and consistently state that this TMDL was developed to address the listed sediment/siltation impairment with the goal of restoring lagoon beneficial uses that have been directly affected by anthropogenic sources of excessive sedimentation. The Problem Statement included in the TMDL Technical Report was developed by the stakeholders through an iterative process in collaboration with the Regional Board and only lists estuarine habitat (EST) as the beneficial use most sensitive to sedimentation. Please clarify the rationale for including the BIOL beneficial use in the updated Staff Report description and the linkage to sedimentation. The TMDL does not establish a link between sedimentation and beneficial uses other than EST. Please consistently note other factors that can also impact lagoon beneficial uses, such as the railroad berm, confinement of the lagoon mouth, nuisance dry weather flows, and other factors. The County of San Diego recommends that only the EST beneficial use be used in this TMDL, as agreed upon by the third-party stakeholders, which included the Regional Board, EPA, California State Parks, the Los Peñasquitos Lagoon Foundation, and Coastkeeper.

Comment Letter G

2. **Lagoon Target.** The lagoon numeric target is expressed as an "increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh toward 346 acres". It is understood that compliance with the TMDL will be based on demonstrating an "increasing trend" over the 20-year compliance period through BMP implementation and restoration efforts, as appropriate, to address sedimentation impacts. The County of San Diego recommends clarification of this interpretation in the TMDL documents.

3

3. **Responsible Parties.** The TMDL list of Responsible Parties should include California State Parks (the lagoon landowner), the Railroad Authority, the Regional Board, and EPA given the inclusion of the lagoon numeric target and other stressors that are outside the control of the watershed Responsible Parties. The County of San Diego, therefore, recommends that California State Parks, the Railroad Authority, the Regional Board, and EPA be added as responsible parties in this TMDL.

4

4. **MS4 Responsibility.** Phase I MS4s are not responsible for controlling the discharge of sediment and other pollutants by other NPDES permit holders within the watershed (e.g. Phase II dischargers, Industrial and Construction general permits), especially discharges that are not routed through the MS4 storm drain system. According to the Staff Report, the MS4 collection system is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) (San Diego Water Board, 2007). Repeated statements in the Staff Report and Basin Plan Amendment that the MS4s are the "primary and ultimate point sources of sediment to the lagoon" appear to be based on the incorrect assumption that natural stream channels are themselves part of the MS4 system. Based on this definition, sand mining operations that discharge directly to surface waters should be specifically named in this TMDL and issued investigative orders to help determine current and historical sedimentation impacts that may have resulted from these operations. The County of San Diego also recommends that all Phase II dischargers be enrolled with the Regional Board as soon as possible.

5

5. **Margin of Safety (MOS).** The Responsible Parties worked with the Regional Board and other stakeholders on the development of an "implicit" MOS for this TMDL. An "explicit" MOS is not necessary due to several significant conservative assumptions that were included in the modeling approach and TMDL calculation, as described in the TMDL Technical Report. In addition, the inclusion of a lagoon target in the current Staff Report provides a direct assessment of lagoon conditions relative to beneficial uses versus the watershed loading target. Including a lagoon target minimizes the need to include an additional "explicit" MOS because the Waste Load Allocation, and associated load reduction, only provides a gauge for the amount of sediment loading that will help support long-term lagoon beneficial uses. An adaptive management approach will be used to determine the acceptable balance of sediment loading relative to progress in achieving and maintaining lagoon beneficial

6

uses, and other factors. This approach will ultimately determine the actual sediment load reduction requirement. The County of San Diego, therefore, recommends the removal of the "explicit" MOS.

7

6. **Lagoon Monitoring.** The lagoon monitoring schedule should be consistent with the TMDL compliance schedule. Annual monitoring is not necessary given the time lag between implementation actions and measurable changes in lagoon condition. In addition, limited resources are available to conduct long-term monitoring; therefore, monitoring requirements should be carefully considered. The County of San Diego recommends monitoring one year prior to each interim compliance date and the final compliance date in order to detect changes in lagoon condition and measure compliance with the lagoon target.

8

7. **Watershed Monitoring.** Watershed monitoring should focus on detecting long-term changes in sediment load contributions to the lagoon. Suspended sediment monitoring is not a good indicator of watershed sediment transport because of the episodic nature of storms. The focus should be on quantifying overall sediment transport, including bedload calculations and field measurements that better detect trends, rather than episodic flow events. Additional details should not be included at this stage, given future development of a load reduction plan that will address the specific TMDL monitoring requirements. The County of San Diego recommends that a combination of bedload and field measurements be used to assess watershed contributions.

9

8. **Basin Plan Update/TMDL Reopener.** The criteria for when the Regional Board will initiate a Basin Plan update should be revised to clarify what is meant by "sufficient data." Given that the responsible parties have the burden to provide all of the materials and supporting documentation for the Basin Plan update, the text should be updated to include a more firm commitment from the Regional Board that the update will be processed in a timely fashion. In addition, the County of San Diego supports language in the TMDL regarding reopeners/reconsideration given the possible need to update the TMDL based on additional information in the future. The TMDL should be updated to allow for Regional Board consideration of a reopener request at any point given there may be future changes to important policies, additional studies, and other information that may warrant reconsideration of key components of the TMDL. The County of San Diego recommends the Regional Board provide a clear definition of "sufficient data" to solidify the minimum requirements for future special studies that can be performed to provide updates and modifications to the TMDL Waste Load Allocation, numeric targets, and/or the compliance schedule.

10

9. **Comprehensive Load Reduction Plan (CLRP) Development.** The time allowed for development of the CLRP should be 18 months rather than 12 months, consistent with other TMDLs in the region and the limited resources available to the responsible parties. The process for developing a Memorandum of Understanding (MOU) among the Responsible Parties typically requires many months to complete.

Comment Letter G

A separate MOU would need to be developed to address the requirements of this TMDL. In addition, the TMDL should not add new CLRP requirements to avoid potential conflicting requirements and conditions with the recently approved Bacteria TMDL for Beaches and Creeks in San Diego. The Bacteria TMDL load reduction plan is currently being developed. The County of San Diego recommends that the CLRP development timeframe be expanded to 18 months.

---

10. **CEQA.** The County of San Diego recommends a full and thorough CEQA analysis be performed. Furthermore, per CEQA §21092.5, §150880 the County requests that the Regional Board respond to all public comments for purposes of inclusion in the public record.

11

Please contact Todd Snyder, Watershed Planning Manager, at (858) 694-3482 or todd.snyder@sdcounty.ca.gov, with questions about these comments.

Sincerely,

CID TESORO, LUEG Program Manager
Department of Public Works

CT:ti

Comment Letter G

Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
1	Staff Report	2 & 49	The estimated saltmarsh coverage in 1973 estimated as 430 ac.	80% of 430 is 344 not 346	1
2	Staff Report	2	This target acreage represents 80 percent of the total acreage of tidal and non-tidal saltmarsh present in 1973	Please provide additional detail (Linkage Analysis) regarding how this percentage was selected?	1
3	Staff Report	3	Responsible Parties	Since there is a Lagoon Target you need to include others as Responsible Parties including California State Parks, the sand mining operators and the owners of the Rail Line.	8, 10
4	Staff Report	4	MOS of 5%	Previous meeting with the Regional Baord & EPA indicated that this was not necessary.	12
5	Staff Report	5	Monitoring Program	Why is there a need to monitor load allocations which are background (natural sources)? Delete "and Load Allocations" in the first sentence and delete "and remediation actions to remove sediment from the lagoon" from the last sentence. Remediation not required at this time; therefore, monitoring should not be required at this time.	1
6	Staff Report	5	Compliance Schedule	Delete ", and provides adequate time to measure temporal disparities between reductions in upland loading and the corresponding Lagoon water quality response."	1
7	Staff Report	5	Compliance Schedule	Please include the following changes in this section: 1) Delete "and other stakeholders" in second sentence, 2) Add "Comprehensive" before Load Reduction Plan, 3) Delete: ",time needed" and 4) Add: "and saltmarsh" after water quality.	1
8	Staff Report	6	Introduction Last Paragraph	Delete " (also referred to as Salicornia virginica)" it is not necessary to repeat this after every instance.	
9	Staff Report	9	Lagoon Description	This paragraph is from the Tetra Tech Technical Report but has changed the acreage amounts for vegetation types within the lagoon. This needs to be explained. Furthermore, this is different from the acreage of habitat types identified under State Parks Vegetation Mapping excercise.	2
10	Staff Report	9	"132" acres of freshwater Marsh,...	Based on Table 3 Section 7, these habitat types total 236 acres not 132.	2
11	Staff Report	12	3rd Paragraph second sentence	Delete "the" before 54%.	
12	Staff Report	28	Section 4.2 Determining "Reference" Condition.	Should "Reference" be changed to Historic? Section refers to historic condition not "reference" or should include a statement that the "historic" (1973?) is considered the reference condition.	2,6
13	Staff Report	30	Section 4.2 - "This time period defines the "reference " condition..	There is no time period identified in this section as the "reference ". Are you refering to the 1970's or the figures 14 and 15?	2,6
14	Staff Report	31	Section 4.3 - "This historic ...represents the sediment TMDL"	Revise sentence: "The model determined that numeric target for the watershed sediment TMDL should be 12,360 tons..."	2
15	Staff Report	32	Section 4.4 First sentence	Add: "The lagoon numeric target was based on an..."	2
16	Staff Report	32	Section 4.4 The County supports the concept of "increasing trend"	Please revise as necessary other sections of Resoulution, Basin Plan Amendment etc. to clarify that Lagoon Target is represented by an "increasing trend" and not the final endpoint of 346 acres.	2
17	Staff Report	34	Section 5.1 2010 Geomorphic Assessment	This section should emphasize which segments contribute high sediment amounts. This may provide evidence in support the issuance of investigative orders.	7
18	Staff Report	34	Section 5.3.1 MS4 Definition	Definition does not include natural channels or sediment from sand mines directly entering natural channels and therefore should be regulated by the Regional Board.	7
19	Staff Report	35	Section 5.3.1 Phase I Municipal MS4	The Sand Mines have been identified as a significant source of Sediment, these sources enter the lagoon mostly through direct deposit into natural channels that are not regulated by the MS4 permittees.	3
20	Staff Report	35	Section 5.3.1 Phase II MS4	Please list the number of Phase II permits that exist in the Watershed.	3

Comment Letter G

Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
42	Staff Report	65	Section 9.6.1 Watershed Monitoring	Suspended Sediment monitoring is not a good indicator or watershed sediment transport. Watershed monitoring should focus on detecting long-term changes in sediment load contributions to the lagoon.	2,6
43	Staff Report	65	Section 9.6.2 Lagoon Monitoring	Lagoon monitoring schedule should be consistent with the compliance schedule – perform one year prior to each interim compliance date, and the final compliance date, in order to detect changes in lagoon condition. Annual monitoring is not necessary given the time lag between implementation actions and anticipated improvements in lagoon condition.	2,6
44	Staff Report	66	Section 9.7 Reconsiderations	Responsible parties recognize the limitations of the available resources of the Regional Board; however, this should not limit the requirement that the Board implement BP amendments.	9
45	Staff Report	67	Section 9.7 Reconsiderations	Further recognition that the Reponsible Parties carry the burden of providing substantial evidence and supporting documentation to request a reconsideration, the Regional Board should provide, in this section, a definition of what would be considered as "sufficient data".	9
46	Staff Report	67	Section 9.8 Compliance Schedule	The Compliance Schedule should provide flexibility on the 20-year timeframe based on extent of the problems and stressors (not just sediment) affecting the lagoon. For example, an extension may be warranted considering the time lag between sediment reductions and observable positive changes to the lagoon condition. At a mimimum, if "increasing trends" are verified, possible extension would be warranted.	9
47	Staff Report	68	Table 6 - 3a	It is recommended that this should be 18 months. See previous comment.	9
48	Staff Report	70	Table 6 - 12	Final Milestone: this should reflect that the final target is an "increasing trend" towards 346 acres and may not specifically meet 346 acres.	9
49	Staff Report	68-70	Table 6	Schedule should include date for "Investigative Orders" to be issued to the industrial permittees to define historic and current sediment loads.	9
50	Staff Report	70	Section 9.8.2 Phase I Compliance	Acheivement of the sediment water quality standard will not restore "all" the beneficial uses and may only partially restore the beneficial uses most significantly impacted by sediment.	
51	Resolution	5	Item 12 TMDL Allocations and Reductions	This section may need to be updated based on changes to the MOS "explicit" vs. "implicit".	5
52	Resolution	5	Item 13 TMDL Implementation	Delete "and load allocations" from second paragraph. End third paragraph after "to address multiple impairments." Delete the remaining portion.	6,7
53	Resolution	5	Item 14 Scientific Peer Review	County is disappointed that no effort was made to address or to identify where/how previous comments were/were not addressed. This section will need to be revised as the explicit MOS will be deleted.	9
54	Resolution	6	Item 15 CEQA	CEQA §21092.5, §150880 require that public comments be responded to in the public record. No attempt currently has been made to address previous comments. Significantly revising documents used in this TMDL does not obviate the requirement to address previous concerns. At a minimum, the Regional Board should identify where previous specific comments were addressed and provide explanations for comments not specifically addressed.	10
55	Resolution	7	Item 17 CEQA Findings	It is not enough to state that feasible mitigation exists. It needs to be specifically identified in the CEQA document.	10
56	Resolution	7	Item 18 Overriding Considerations	Regional Board must make specific findings related to significant impacts that cannot be fully mitigated. Restating the requirements is not sufficient. What are the relevant specific findings, what are they based on and where are located in the attached documents?	10

Comment Letter G

Comment	Document	Page(s)	Excerpt/Topic	Comments/Proposed Changes	Associated Consensus Comment(s)
71	Attchment 3 EA & Checklist	3-59	Item XVIII.a Mandatory Findings of Significance	The no impact finding is not appropriate given the findings of Item V Cultural Resources which have potentially significant impacts for three of the four findings.	10
72	Attchment 3 EA & Checklist	3-60	Section 3.8 Economic Factors	While the information provided in this section provides a range of potential costs for implementing foreseeable compliance measures, it provides little to no analysis on what impact these costs would have on the local jurisdictions, especially in light of multiple TMDLS in this watershed.	10
73	Attchment 3 EA & Checklist	3-66	Section 3.9 Resonable Alternatives	Section only provides discussion of three alternatives two of which are TMDLS and the No Project Alternative. This does not include alternatives to the TMDL approach, such as the efforts Regional Board is pursuing for Lake San Marcos and the Tijuana River Valley. Both of these other water bodies are on the State's 303(d) list and both potentially will be protected through alternative methods other than through development of TMDL.	10
74	Attchment 3 EA & Checklist	3-77	Section 3.9.2 US EPA TMDL	The analysis for this alternative states that it would be speculation on the Regional Board's part to identify potential environmental impacts associated with this alternative; however, in the discussion of selecting the preferred alternative, it is stated that the EPA TMDL may have greater impacts than the SD Water Board TMDL. If it is speculative to assume what impacts are, then it is speculative to assume they would be more significant under an EPA TMDL. Furthermore, the Overriding Considerations (pg 3-37) states that the EPA TMDL would be significantly more severe. How was this determined?	10
75	Attchment 3 EA & Checklist	3-68	Section 3.10.1 Cummulative Impacts	The Regional Board should include in the list of projects for Cumulative Review projects being undertaken by the water board including additional approved and proposed TMDL's especially those that have been adopted for this watershed.	10
76	Attchment 3 EA & Checklist	3-68	Section 3.10.1 Cummulative Impacts	Cumulative Impacts should include an analysis of potential impacts to all resources regardless of project specific findings of significance to Cultural Resources.	10
77	Attchment 3 EA & Checklist	3-72	Section 3.11 Statement of Overriding Considerations	This section should cite specific conclusions related to the economic, legal, social, and technological benefits of the Project that support the statement. For example, this section states that the "EPA TMDL would be significantly more severe" but the alternatives analysis stated that the impacts of the EPA TMDL would be speculative and were not analyzed.	10

Comment Letter H

COASTAL ENVIRONMENTAL RIGHTS FOUNDATION

April 2, 2012

Mr. Chad Loflen
Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

Via Electronic Mail
cloflen@waterboards.ca.gov

Re: Los Penasquitos Total Maximum Daily Load
Support for Adoption and Adaptive Management Approach

Dear Mr. Loflen:

Please accept the following comments on behalf of Coastal Environmental Rights Foundation (CERF). CERF is a nonprofit environmental organization founded by surfers in North San Diego County and active throughout California's coastal communities. CERF was established to aggressively advocate, including through litigation, for the protection and enhancement of coastal natural resources and the quality of life for coastal residents.

1

CERF, through its representatives, has participated in the development of this Total Maximum Daily Load (TMDL) since its inception. After years of work, several Regional Board staff changes, and many meetings, CERF is glad to see adoption of the TMDL is finally a reality. This unique TMDL presents a significant opportunity to address the three main causes of impairment to Los Penasquitos Lagoon: 1) an increase in the volume and frequency of freshwater input; 2) an increase in sediment deposition; and 3) a decrease in the tidal prism. (Draft Staff Report, p. 9).

A. A Holistic, Watershed Approach is Required

Importantly, all three of the aforementioned causes are inter-related and share a common linkage: anthropogenic sources. "With increased urban development and inadequate management of runoff from impervious areas, increasing amounts of sediment are deposited into the Lagoon annually." (Tentative Resolution No. R9-2012-0033, Attachment A, p. A-12). "Urban development (MS4 contribution) is the primary source of anthropogenic sediment contribution above historical conditions. Development can expose sediment and contribute excessive amounts of sediment to the Lagoon. Additionally, increased imperviousness associated with development can lead to increased storm water runoff and soil erosion or gullying within the MS4 and receiving waters." (*Id.*).

2

A recent study by the Southern California Coastal Water Research Project (SCCWRP) underscores this relationship between urban development, hydromodification, and sediment transport articulated in the Tentative Resolution:

> Urbanization can alter water quality, quantity and sediment delivery to wetlands and sensitive coastal ecosystems. Urbanization has led to loss or degradation of wetlands and estuaries as a result of 1) draining and conversion to agriculture (Dahl, 1997); 2) upstream alterations to flow and sediment regimes that can change the magnitude, frequency, timing, duration, and rate of change of estuarine salinity, turbidity, freshwater flooding, freshwater baseflow, and groundwater recharge dynamics (Azous and Horner 2001); and 3) contaminated runoff from urban areas (Paul and Meyer 2001, J Brown et al. 2010). (SCCWRP, Hydromodification Assessment and Management in California, p. 18).

"In sum, urbanization transforms watershed processes and flow paths that were once slow, circuitous, and disconnected into engineered and non-engineered systems that are highly efficient, direct, and

connected." (*Id*. at p. 8). This Hydromodification study also notes the dual consequences of larger magnitude streamflow:

> First, the stream power and sediment-transport capacity of the stream increase significantly, potentially creating channel erosion and/or stressing instream biota. Second, the season of stormflow is likely to be extended. In undeveloped watersheds, early or late-season storms typically do not generate significant runoff because soils are dry, can effectively absorb most precipitation, and therefore do not generate overland flow or streamflow. Antecedent moisture conditions are less important in urban watersheds where overland flow is generated regardless, and streamflow is generated by even a small storm in a dry watershed. Through magnifying small and moderate storms, urbanization may increase the duration of sediment-transporting and habitat-disturbing flows by factors of 10 or more (Booth 1991, Booth and Jackson 1997). (*Id.* at p. 11).

This is particularly true here, where the Lagoon suffers from sediment flows and continued freshwater flows that feed the freshwater vegetation (which in turn traps more sediment). Because urban development has so significantly transformed the natural landscape in the Lagoon watershed, it is imperative compliance measures address this alteration in a meaningful way[1]. This TMDL provides considerable leeway for copermittees to do so through formulation of compliance measures with an emphasis on adaptive management. (*Id*. at A-16-18; Draft Staff Report, p. 5). CERF urges the Regional Board to underscore the importance of this opportunity for visionary, long-term planning and a holistic approach to meeting beneficial uses, and TMDL compliance. Indeed, one of the long-term SCCWRP Hydromodification study approaches is to "develop institution capacity to implement watershed-based hydromodification programs." (SCCWRP, Hydromodification Assessment and Management in California, p. ES-4).

> Hydromodification by definition results from alteration of watershed processes; therefore, correcting the root causes of hydromodification ought to be most effective if based on integrated watershed-scale solutions. To date, such a watershed approach has not been adopted in California; most hydromodification management plans simply consist of site-based runoff control with narrow, local objectives and little coordination between projects within a watershed.... Long-term reversal of hydromodification effects, however, will require movement away from reliance on such site-based approaches to more integrated watershed-based strategies. (SCCWRP, Hydromodification Assessment and Management in California, ES-1).

3

To that end, CERF also strongly encourages the copermittees to think on a watershed scale, using techniques such as Low Impact Development (LID), retrofits, and onsite retention/conservation. "An effective management program will likely include combinations of on-site measures (e.g., low-impact development techniques, flow-control basins), in-stream measures (e.g., stream habitat restoration), floodplain and riparian zone actions, and off-site measures." (*Id*. at ES-3). Further, as recommended in the SCCWRP Hydromodification study, LID should be required at *all* new development sites, regardless of their size[2] or status as a priority development project. (*Id.* at p. 26).

[1] "Precipitation that is not intercepted enters the drainage system. Thus, the mere reduction in interception in urban areas may produce the hydrologic equivalent of a storm that is 10-30% larger." (SCCWRP, Hydromodification Assessment and Management in California, p. 6).

[2] "The exemption of many small projects from hydromodification controls can result in cumulative impacts to downstream waterbodies (see Booth and Jackson, 1997, for an example from western Washington of the cumulative effects of a small-project exemption); a move to include LID requirements that apply to all projects, regardless of size, is a positive development to begin to address this issue. There is usually also an exemption for projects discharging to hardened channels or waterbodies; however these exemptions may not be supportive of future stream restoration possibilities, and do not address the impacts of

This holistic approach further requires a fundamental shift in the copermittees' approach to water, including storm water management, urban runoff, flood control, water supply and conveyance, and wastewater. Planning and maintenance in each of these areas cannot continue to be fragmented.

For example, the City of San Diego is currently seeking approval for its Master Storm Water System Management Program, which embodies the type of disconnect between flood control and water quality of which environmental groups are wary. Although the City and other agencies[3] recognize the Sorrento Valley area is within the floodplain, the City's proffered response thus far has merely been more frequent clearing of the MS4.[4] Indeed, the City conducted "emergency" clearing in the Sorrento Valley area in 2010.[5] As environmental groups have consistently pointed out, however, flooding in the floodplain is not an unforseen "emergency". Further, clearing of the MS4 channels, by definition, involves removal of vegetation and accumulated sediment in order to *increase flows and velocity*: one of the major causes of hydromodification. Los Penasquitos Lagoon, in turn, becomes increasingly impaired as the downstream receiving water.

In order to truly address water quality, water supply, and land use (i.e. flooding), the City (and other copermittees) must address the root cause of the problem instead of implementing short-term "fixes" that exacerbate water quality problems and do not address the underlying issues. CERF urges the Regional Board to require evaluation of long-term, holistic approaches in the TMDL implementation plan. With a 20-year TMDL, such a formulation is not only realistic, but also necessary.

B. Monitoring During Dry Weather Should Be Conducted

As part of a watershed-based, holistic approach to this TMDL, the implementation plan must address dry-weather flows. Such flows clearly contribute to the impairment of the Lagoon, as this constant source of freshwater sustains the freshwater vegetation, which then traps more sediment in the Lagoon. Copermittees must address these nuisance flows as well in order to restore the native Lagoon habitat. Again, this is not only a water quality issue, but a water supply issue as well. Half of all residential water use in the County is used on irrigation (and over-irrigation).

4

Though the TMDL assumes zero dry-weather flows,[6] Copermittees and the Regional Board must acknowledge this year-round flow in restoring the Lagoon. Therefore, it is important to both monitor wet and dry weather flows in order to accurately account for sediment loading into the Lagoon, and to address the ongoing waste of potable drinking water on landscape irrigation. (Tentative Resolution No. R9-2012-0033, Attachment A, p. A-14).

C. Conclusion

CERF commends the Regional Board for its work in developing this stakeholder driven TMDL and looks forward to the implementation phase. We urge all interested parties to think holistically, and address the Lagoon impairment on a watershed scale through long-term adaptive management approaches that reflect an understanding of the interconnected nature of the movement of water.

5

hydromodification on lentic and coastal waterbodies (as yet not fully understood)." (SCCWRP, Hydromodification Assessment and Management in California, p. 26).

[3] http://www.fox5sandiego.com/news/kswb-flooding-halts-coastal-train-s-122210,0,386432.story [December 2010, Coaster and Amtrak services cancelled due (in part) to flooding at Sorrento Valley]

[4]http://waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/updates032212/File4.pdf

[5]http://www.sandiego.gov/stormwater/services/channels/sorrento.shtml

[6] With limited exceptions, dry-weather (urban runoff) flows are prohibited by the MS4 Permit.

Comment Letter H

Thank you in advance for your consideration of our comments.

Sincerely,

COASTAL ENVIRONMENTAL RIGHTS FOUNDATION

Livia Borak
Legal Advisor

Comment Letter I

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Emailed to chenning@waterboards.ca.gov on Monday April 2, 2012

Re: Tentative Resolution No. R9-2012-0033, A Resolution Amending the *Water Quality Control Plan for the San Diego Basin (9)* to Incorporate the Total Maximum Daily Load for Sedimentation in Los Penasquitos Lagoon

Dear Ms. Henning,

Thank you for the opportunity to provide comments on the "*Tentative Resolution No. R9-2012-0033, A Resolution Amending the Water Quality Control Plan for the San Diego Basin (9) to Incorporate the Total Maximum Daily Load for Sedimentation in Los Penasquitos Lagoon*" (the "Tentative Resolution").

1 The San Diego Gas & Electric Company provides transmission and distribution of natural gas and electricity throughout San Diego County and southern Orange County. Delivery of these essential public services requires routine and emergency construction activities of utility linear infrastructure. A primary mandate to utilities and other entities with linear facilities regulated by the California Public Utilities Commission and/or other state and federal regulatory agencies is to provide safe and reliable service. To comply with this mandate, construction activities conducted pursuant to the State Water Board's Construction Stormwater General NPDES Permit (the "CGP") may be necessary within the Los Penasquitos Lagoon Watershed. These construction projects are critical to providing safe and reliable service.

Further, linear construction activities typically result in relatively short term soil disturbances and do not create significant (if any) new impervious surfaces. As such they are distinct from traditional construction activities (*e.g.*, residential developments, commercial parks) which occur over longer periods of time and create significant new areas of impervious surface.

We believe the issues below need to be clarified in the Tentative Resolution prior to its adoption.

Consistency with the SWRCB Order 2009-0009-DWQ, as amended by Order 2010-0014-DWQ (General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities or "CGP")

2 1. The State Water Resource Control Board's (SWRCB) CGP Fact Sheet states "Dischargers located within the watershed of a CWA § 303(d) impaired water body, for which a TMDL for sediment has been adopted by the Regional Water Board or USEPA, must comply with the approved TMDL if it identifies "construction activity" or land disturbance as a source of sediment".

   Although the Tentative Resolution identifies permittees under the CGP as "responsible parties", it does not specifically identify "construction activity" or land disturbance as a source of sediment. Rather, it refers to "urban development". **For consistency with the CGP we recommend that the description of Sources of Sediment in the Tentative Resolution on page 3 be revised to read as follows**:

   Sources of Sediment: Sources of sediment to the Lagoon include erosion of canyon banks, bluffs, scouring stream banks, and tidal influx. Some of these processes are exacerbated by anthropogenic disturbances, such as land construction activity associated with urban development within the

watershed. Urban development transforms the natural landscape by converting pervious surfaces to impervious surfaces, which increases the volume and velocity of runoff resulting in scouring of sediment, primarily below storm water outfalls that discharge into canyon areas. Sediment loads are transported downstream to the Lagoon during storm events causing deposits on the salt flats and in Lagoon channels. These sediment deposits have gradually built-up over the years due to increased sediment loading and inadequate flushing, which directly and indirectly affects Lagoon functions and salt marsh characteristics. (Tentative Resolution, p. 3)

2. The State Water Resource Control Board's (SWRCB) CGP Fact Sheet requires that construction projects covered under the CGP must comply with TMDLs established for sediment and states "...in the instance where an approved TMDL has specified a general waste load allocation to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL, dischargers must consult with the state TMDL authority[10] to confirm that adherence to a SWPPP that meets the requirements of the General Permit will be consistent with the approved TMDL".

3

The Tentative Resolution does identify a general waste load requirement to sources that includes permittees under the CGP. Further, to address the compliance with the TMDL by permittees under the CGP, in Section 9.8.3 of the Staff Report, it states that:

> "... Construction...NPDES Permittees are assumed to be in compliance with the TMDL and their contribution to the total WLA if they are enrolled and in compliance with their respective general statewide permit, and are found to not contribute to the sediment impairment in the Lagoon through monitoring data and/or inspections".

We request this same language be included in the Tentative Resolution on page A-11 in the first full paragraph which addresses SWPPPs for Construction Permittees.

The above changes will provide consistency with the CGP and facilitate construction activities.

Waste Load Allocations, Load Reduction Plans Preparation, Approval, Implementation

1. The Tentative Resolution identifies responsible parties and an overall waste load allocation for the responsible parties. The responsible parties include construction projects that are covered under the CGP. However, other short term projects that required Clean Water Act Section 401 water quality certifications are not listed as a responsible party. The Tentative Resolution needs to identify how these projects will obtain a waste load allocation. **We request that the Tentative Resolution address how these projects will obtain a waste load allocation or confirm that no such waste load allocation is needed.**

4

2. The Tentative Resolution on page A-11 specifies that the Storm Water Pollution Prevention Plans (SWPPPs) prepared by Construction Permittees pursuant to the CGP fulfills the responsibility of CGP permittees to prepare a Load Reduction Plan. This makes sense for construction projects (and especially for short term utility linear construction projects) which are required under the CGP to develop SWPPPs that are protective of water quality. **We concur with this implementation approach.**

5

3. The Tentative Resolution states that the San Diego Water Board Executive Officer will review the Load Reduction Plans within 6 months of submittal. However, on page A-13, the Load Reduction Plan Implementation section states that "The Load Reduction Plan must be implemented within 30 days upon receipt of San Diego Water Board comments and recommendation, but in any event, no later than 60 days after submittal". Since the Regional Water Board has six months in which to comment on the Load Reduction Plan, it is unlikely the plan can be implemented within "...60 days of submittal".

6

For clarity, we request the last phrase in the Load Reduction Plan Implementation section be revised to read:

> **"...but in any event, no later than 60 days after ~~submittal~~ receipt.**

7

4. The Tentative Resolution provides time frames within which existing CGP projects must update their SWPPP. However, there is no description of the process for new CGP projects that commence construction after the effective date of the draft TMDL. **We request that this process be made clear in the Tentative Resolution.**

8

5. Unlike some of the other Responsible Parties that have long-term responsibilities under the Tentative Resolution, utility linear CGP construction projects will have relatively short-term responsibilities (*i.e.,* SWPPP implementation) due to the short durations of these projects. **Consequently, we request that it be acknowledged in the Tentative Resolution that the participation of utility linear construction projects in the TMDL process ends when their construction is completed and their CGP coverage is terminated.**

9

6. The Tentative Resolution on p.A-9 states that Phase I of the TMDL includes several elements, including "Incorporate interim limits into WDRs and NPDES permits". However, the Tentative Resolution does not identify how these limits will be developed or what the process will be for incorporating them into current or future NPDES permits or WDRs. Absent any description or discussion of this proposed action in the Tentative Resolution and its supporting documents, there is no reasonable opportunity to review and comment on how this activity will occur. **We request that the process for developing and incorporating interim limits into WDRs and NPDES permits be provided and an opportunity to comment be made available to the public.**

Please call Fred Jacobsen at 858-637-3723 if you would like to discuss these comments.

Sincerely,

Scott Pearson