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April 4, 2016

Pavlova Vitale, Sr. Environmental Scientist  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
[losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

**VIA EMAIL**

**Re: Comments on Draft TMDL-Specific IGP Requirements – San Gabriel River Watershed**

Dear Ms. Vitale,

On behalf of Heal the Bay, we submit the following comments on the *DRAFT TMDL-Specific Permit Requirements for the State Water Resources Control Board's Industrial General Storm Water Permit (San Gabriel River Watershed)* ("Draft Requirements"). Heal the Bay is an environmental organization with over 15,000 members dedicated to making the coastal waters and watersheds of greater Los Angeles safe, healthy, and clean. We appreciate the opportunity to provide comments on the above-referenced document.

First and foremost, as we discussed in our comments regarding the Los Angeles River Watershed and are likely to do in future comments, we want to bring attention to the use of Total Maximum Daily Load Action Limits (TALs). From our understanding, they serve as a pseudo "three strikes and you're out of compliance" scenario. Similar to Numeric Action Limits, they can be used to delay preventative measures from being taken by the noted 596 industrial facilities currently enrolled in the Industrial General Permitting system within the San Gabriel River Watershed and under the jurisdiction of the Los Angeles Board. To our understanding these Action Limits are *not enforceable* to any beneficial degree. Imposing unenforceable, and therefore optional, goals to permit holders will do little to alleviate the pollutant metals within the San Gabriel River watershed from entering our waterways. Further, the process outlined in the Draft Requirements serves to extend the timeline for permittees to achieve compliance. For example dry weather compliance is supposed to be received on permit achieved.

Thank you for your consideration of these comments. If you have any questions please feel free to contact us at (310) 451-1500.



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Sincerely,

A handwritten signature in black ink, appearing to read "Steven Johnson", followed by a horizontal line extending to the right.

Steven Johnson  
Water Resources Policy Analyst  
Heal the Bay

A handwritten signature in black ink, appearing to read "Rita Kampalath", followed by a horizontal line extending to the right.

Rita Kampalath, Ph.D., P.E.  
Science and Policy Director  
Heal the Bay



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April 14, 2016

Pavlova Vitale, Sr. Environmental Scientist  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
[losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

**VIA EMAIL**

**Re: Comments on Draft TMDL-Specific IGP Requirements – Ballona Creek and Marina del Rey Harbor Subwatersheds**

Dear Ms. Vitale,

On behalf of Heal the Bay, we submit the following comments on the *DRAFT TMDL-Specific Permit Requirements for the State Water Resources Control Board's ("The Board's") Industrial General Storm Water Permit (Ballona Creek and Marina del Rey Harbor Subwatersheds)* ("Draft Requirements"). Heal the Bay is an environmental organization with over 15,000 members dedicated to making the coastal waters and watersheds of greater Los Angeles safe, healthy, and clean. We appreciate the opportunity to provide comments on the above-referenced document.

First and foremost, and as we've mentioned in our previous comments, we want to bring attention to the use of Total Maximum Daily Load Action Limits (TALs). From our understanding, they serve as a pseudo "three-strikes and you're out of compliance" scenario. Similar to Numeric Action Limits, they can be used to delay preventative measures from being taken by the industrial facilities currently enrolled in the Industrial General Permitting system. To our understanding these Action Limits are *not enforceable* to any beneficial degree. Imposing unenforceable, and therefore optional, goals to permit holders will do little to alleviate pollutants, whether they are metals, toxic pollutants, or bacteria within the Ballona Creek and Marina del Rey Harbor (MDRH) subwatersheds from entering our waterways.

Further, the process outlined in the Draft Requirements serves to extend the timeline for permittees to achieve compliance. An example being that the compliance schedule for the Ballona Creek TMDL for Metals for wet-weather waste load allocations is set to be January 11, 2016 while dry-weather waste load allocations were to be achieved upon permit issuance.<sup>1</sup> Both of these deadlines have presumably passed.

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<sup>1</sup> Attachment A to Resolution No. R13-010, Amendment to the *Water Quality Control Plan for the Los Angeles Region* to incorporate the Ballona Creek Metals TMDL, p. 13-14



Below are additional comments specific to each TMDL.

### **Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacterial Indicator Densities TMDL**

The incorporation of the Bacterial Indicator Densities TMDL for Ballona Creek, Ballona Estuary, and Sepulveda Channel into the IGP is generally consistent with the TMDL. However, the monitoring requirement in the IGP for dischargers that identify potential sources of bacteria in their non-stormwater discharge is inadequate at two times during each reporting year. We recommend sampling of any non-stormwater discharge whenever it occurs or a minimum of monthly sampling in order to protect beneficial uses.

The Draft Requirements state on page 5 (page 7 of the entire document) that “the Industrial Storm Water General Permit only regulates discharges of non-storm water and storm water that are directly related to manufacturing, processing or raw materials storage areas from industrial activities in ten major categories of industries (Attachment A to Order No. R4-2014-0057-DWQ). These discharges are currently not expected to be a significant source of indicator bacteria.” We examined Attachment A and found that the ten major categories of industries include feedlots, fertilizer manufacturing, and sewage or wastewater treatment works. These industries all are very possible sources of indicator bacteria and we expect that these types of facilities would be considered Responsible Parties and already have indicator bacteria addressed in their Storm Water Pollution Prevention Plan (SWPPP). However, if not, we would recommend that these types of facilities be required to address indicator bacteria in their SWPPPs and to monitor for indicator bacteria.

### **Ballona Creek Estuary TMDL for Toxic Pollutants**

The TMDLs of concern for the Ballona Creek Estuary are of a different nature than a majority of the other TMDLs looked at in the LARWQCB’s permits. Because they involve predominantly hydrophobic molecules, it makes more sense, as the Board acknowledges, to be measured in Suspended Sediment Concentration (SSC). This is particularly relevant because these industrial permits deal in storm water runoff, and these pollutants tend to bind to sediments and other non-polar molecules. While this works to get a better measure of these pollutants, it also presents its own unique set of possibilities in relation to sampling.

Unlike some of the other pollutants, which are more likely to run-off with the water and call for sampling immediately following storm or non-storm water events, these pollutants will be in the water and will also remain and leave their fingerprints within the sediments after



the storm or non-storm runoff event. In this way simple sediment sampling bi-monthly will ascertain whether individual sources are in compliance with the state Industrial Storm Water General Permits, regardless of whether storm or non-storm water events have happened. Because it lacks the inconvenience of some of the other TMDLs in question, Heal the Bay feels that the sampling for SSC happening twice a year is far too seldom. Requesting a permit holder to sample every two months will speed up the ability of a permit holder to get into compliance within the slow-progressing nature of the TAL program currently proposed. This would be especially beneficial considering the toxicity of the pollutants in question.

### **Ballona Creek TMDL for Metals**

A large concern with the dry weather TALs is that the Ballona Creek Metals TMDL clearly states that “a waste load allocation of zero is assigned to all general construction and industrial storm water permittees during dry weather.”<sup>2</sup> Given that the TMDL does not allow loading of metals from dry weather discharges from industrial permittees, it is inappropriate to assign non-zero TALs for these discharges.

In addition we want to make clear, like stated above, we feel that twice yearly monitoring of non-storm water discharges is simply not sufficient. Ideally this would take place whenever it occurs, or at the very least, once a month to protect our waterways’ beneficial uses from metals known to do harm.

### **Marina del Rey Harbor Mothers’ Beach and Back Basins Bacteria TMDL**

Our comments regarding the incorporation of the Bacterial TMDL for Marina del Rey harbor Mothers’ Beach and Back Basins into the IGP are similar to those addressed above for Ballona Creek, Ballona Estuary, and Sepulveda Channel. As stated previously, we recommend sampling of any non-stormwater discharge whenever it occurs or a minimum of monthly sampling in order to protect beneficial uses.

Of particular concern is the statement in the Draft Requirements on page 5 (page 34 of the entire document) that “the bacterial loads associated with these [ten major categories of industries] are largely unknown, since most have not monitored for bacteria. However, these discharges are currently not generally expected to be a significant source of indicator bacteria.” These statements are contradictory; if the bacterial inputs are unknown, how do you know they are not a likely source? This statement requires further evidence and explanation. If the bacteria loads from industrial discharges are in fact largely unknown, we

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<sup>2</sup> Attachment A to Resolution No. R13-010, Amendment to the *Water Quality Control Plan for the Los Angeles Region* to incorporate the Ballona Creek Metals TMDL, p. 5



recommend that all industrial permittees monitor initially for bacteria and then, if they can justify reasoning for no longer monitoring bacteria, then bacterial monitoring could be potentially dropped. However, any industrial facilities that contain biological materials or are likely to have bacterial discharges need to monitor regularly for discharges of indicator bacteria, such as feedlots, fertilizer manufacturing, and sewage or wastewater treatment works.

### **Marina del Rey Harbor TMDL for Toxic Pollutants**

Similarly to what was suggested above for the toxic pollutants within the Ballona Creek Estuary Toxic Pollutants, we feel that more sampling should be done on the sediments within range of the storm and non-storm water runoffs at least every two months.

We also question why the wasteload allocation for polychlorinated biphenyls (1.3 mg/yr/ac) within Marina del Rey Harbor is more than four times the amount allotted for PCBs within Ballona Creek Estuary (0.28 mg/yr/ac). This is the sole toxic pollutant with this reverse trend, as most of the estuary's SSCs have concentrations greater than those in Marina del Rey Harbor. This could be as simple an explanation as PCBs being added to marine paint—and Marina del Rey Harbor has an abundance of boats. Regardless of why it's larger there's an argument that the SSC levels (and resulting TALs) of PCBs should be as low if not lower than they are within the Ballona Creek Estuary.

Thank you for your consideration of these comments. If you have any questions please feel free to contact us at (310) 451-1500.

Sincerely,

Steven Johnson  
Water Resources Policy Analyst  
Heal the Bay

Katherine M. Pease, Ph.D.  
Watershed Scientist  
Heal the Bay

Rita Kampalath, Ph.D., P.E.  
Science and Policy Director  
Heal the Bay



Port of  
**LONG BEACH**  
*The Green Port*

April 25, 2016

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Reference: Comments on Draft TMDL-Specific IGP Requirements –  
Dominguez Channel/LA Harbor Watershed

Dear Ms. Vitale:

The Port of Long Beach (Port) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ). The following comments relate specifically to the draft language for the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants (Harbor Toxics TMDL).

The Port covers 3,200 acres of leased and private land used for water-based goods movement. Many of the Port's tenants operate industrial facilities that discharge under the Industrial General Permit (IGP). The Port takes a proactive role in environmental stewardship often exceeding regulatory requirements, to protect the harbor waters and sediments from the impacts of stormwater runoff. Accordingly, we are supportive of environmental regulations designed to effectively eliminate polluted stormwater runoff.

The Port is supportive of scientifically based, technologically and economically feasible stormwater requirements. However, we are very concerned the TMDL-based Numeric Action Levels (NALs) (TMDL Action Levels or TALs) proposed in the Draft Harbor Toxics TMDL-specific permit requirements for Industrial General Permit discharges are not scientifically based and not technologically or economically feasible. As detailed in Specific Comment 13 (attached), there are currently no treatment nor source control best management

practices (BMPs) commercially available that are capable of achieving the draft TALs. In addition, current laboratory analytical techniques are not able to achieve detection limits at the TALs for some constituents (see Specific Comment 12, attached). TALs must be achievable and measurable with currently available technology to ensure that dischargers are not subject to unreasonable economic impacts and undue legal liability.

The Harbor Toxics TMDL water column targets were developed based on the California Toxics Rule (CTR). As stated in the EPA's Final Rule (40 CFR Part 131, Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California, CTR limits were developed for inland surface waters and enclosed bays and estuaries and are not appropriate to use in the development of stormwater discharge limits. Based on existing TMDL monitoring data, the Harbor receiving waters generally meet CTR limits, with the occasional exception of copper. If receiving water monitoring continues to demonstrate that zinc and lead are below CTR, it would be inappropriate for IGP dischargers be held to TALs if it has been demonstrated receiving waters are in compliance with CTR and the Harbor Toxics TMDL. Further, a linkage between the draft TALs for stormwater discharge and the existing sediment impairments has not been provided.

The Port therefore, respectfully requests that the draft TALs be reviewed and revised to ensure that the final TALs are scientifically based, technologically and economically feasible, and achievable. Specific technical comments are attached to assist in this effort. Furthermore, we request IGP discharges under the Harbor Toxics TMDL are provided with reasonable time frames to meet the new requirements.

Should you have any questions please contact Dylan Porter at 562-283-7100.

Sincerely,



Heather A. Tomley  
Director of Environmental Planning

Attachment: Specific comments on Draft TMDL-Specific IGP Requirements –  
Dominguez Channel/LA Harbor Watershed



Attachment 1

Specific Comments on Draft TMDL-Specific IGP Requirements – Dominguez Channel/LA Harbor Watershed

	Section	Comment
1	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – General Comment	General Comment. The SSC TMDL Action Level (TAL) of 1 mg/L is very restrictive. Stopping all sediment transport to the ocean would not be beneficial in the long term. Sediment transport is a natural and needed process. Therefore, limits should be placed on pollutants and not potentially unimpacted sediments. Putting aside the volume limit on sediment, the SSC method is more accurate than TSS when assessing mass loadings to downstream receiving waters.
2	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – General Comment	General Comment. Throughout the document where it specifies copper, lead, and zinc, it appears to imply that all three metals would be needed in combination to trigger the discharger to implement actions. We suggest that, where appropriate, the wording be changed to copper, lead, and/or zinc. Likewise, when the document refers to cadmium, chromium, mercury, PAHs, DDT, and PCBs it should use the term and/or to indicate it is not an all-inclusive list. Some may have one or more of these constituents.
3	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – General Comment	The term Discharger and Responsible Discharger should be defined. It is not clear what the difference is.
4	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – General Comment	The TALs for Cu, Pb, and Zn in the LA Harbor are based on California Toxic Rule (CTR) Saltwater Criterion Maximum Concentration (The dissolved metal concentration) multiplying conversion factors from CTR (CF for saltwater acute criteria) to the total recoverable metal concentrations. In general, the CTR default conversion factors overestimate the dissolved portion of metals in stormwater and have a tendency to be conservative. <sup>1</sup> As a result, the proposed TMDL-Based NALs for metals are over estimated and are not appropriate to be applied into the Industrial General Permit. EPA’s Metal Translator Guidance <sup>2</sup> indicates, “EPA encourages that site specific data be generated to develop site specific translators.” Based on the foregoing, the Water Board should allow dischargers the option to develop site-specific metal translators and not require all dischargers to use the default CTR values.
5	Dominguez Channel and Greater	Footnote 1 of the TMDL and Footnote 8 of the fact sheet

<sup>1</sup> Total Maximum Daily Loads for Metals Los Angeles River and Tributaries, U.S. Environmental Protection Agency Region 9, California Regional Water Quality Control Board Los Angeles Region, June 2005.

<sup>2</sup> The Metals Translator: Guidance For Calculating A Total Recoverable Permit Limit From A Dissolved Criterion, United States Environmental Protection Agency, Office Of Water (4305), EPA 823-B-96-007, June 1996.

	<b>Section</b>	<b>Comment</b>
	Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 1.	suggests that, “water not associated with industrial activities that is comingled with stormwater associated with industrial activities” would also need to be assessed. The footnote seems to be in conflict with the IGP that requires assessment of industrial activities. The footnote should be clarified as to the intent of what is to be assessed.
6	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 1.	Under the Required Actions, Second Bullet, “The discharger re-evaluates with the assistance of a QISP....” Please clarify if this is a requirement or a suggestion. Additionally, please consider clarifying the criteria for determining whether a discharge has the potential to contain copper, lead, or zinc. For example, any facility with a galvanized metal roof or zinc fencing has the potential to discharge zinc above the TAL. This is an architectural source and not an industrial source. Additionally, any facility with transportation or parking lots is likely to have copper associated with brake dust and zinc associated with tire wear. Again, these are transportation sources and not necessarily industrial sources. The TMDL should be explicit about sources that may contain the constituents of concern and should specify which industrial sources should be included (i.e., by SIC code).
7	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 2.	The paragraph after the bullets should be indented to reflect the bullets above. It is not clear what demonstrations are required to be submitted as it is presented as a standalone paragraph.
8	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 2.	The discussion of the ERA Level I and Level II Process appears to be out of sync with the IGP. The discussion of the ERA process should simply follow the recommendations listed on page 10 of the TMDL where it states, “...the Discharger shall commence the ERA process set forth in Section XII.”
9	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 2.	The application of the metals TALs is not consistent with other TMDLs for the region. Applying the same TALs for the estuaries as the upstream reaches is overly protective and not consistent with the TMDL for Calleguas Creek which has less stringent TALs for the upstream reaches. The appropriate CTR values should be applied for the reaches for which they discharge. For example, the fact sheet presents freshwater WLAs but does not consider this for applying to dischargers located upstream.
10	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 3.	There is a single sentence that is not clear why it is stated. “Comply with the conditions and requirements of this Industrial Storm Water General Permit....”  Also, in the third paragraph below the Test Method Tables, there is a statement that says, “...then Responsible Dischargers, as defined above....” There is no definition above for this term.

	Section	Comment												
		Also, in the same paragraph, where it states “...(Section X.I), shall be updated based on the results.” It is not clear what results are being referred to. Please clarify.												
11	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 3.	Footnote 7 of the fact sheet specifies “Either in the facility’s existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below.” No description is provided.												
12	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 3.	The discussion of SSC as an alternative to testing for cadmium, chromium, mercury, PAHs, DDT, and/or PCBs should be revised to allow dischargers the alternative to test for the individual parameters. Additionally, the corresponding SSC TAL value of 1 mg/L is too low and unrealistic. The TAL is just above the method detection limit for most laboratories that offer this analysis. Nearly all dischargers will have some sediment leaving their facility. The National Stormwater Quality Database (NSQD) with 3,390 TSS results had 99% of values detected above the reporting limit with nearly all results above 1 mg/L. This almost guarantees that all facilities testing for SSC will be in ERA Level I. If they are above the SSC value, they should be allowed to test for the individual analytes to demonstrate they are not contributing these pollutants above the mass load limits specified in the TMDL.												
13	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Pages 3 and 4.	<p>The Port supports the use of a BMP-based approach to meet TMDL-specific requirements proposed to be incorporated into the IGP. Our concern revolves around both the appropriateness and achievability of the proposed TALs for metals.</p> <p>To illustrate difficulties in meeting the proposed metals TAL values for Dominguez Channel/LA Harbor, we reviewed treatment system effectiveness data from industrial dischargers having installed advanced treatment systems (see footnote 4). Based on review of approximately 100 stormwater treatment system discharge results for sites with advanced stormwater treatment systems installed, the following summarizes the percentage of results that are above the proposed TAL values for copper (0.00373 mg/L), lead (0.00852 mg/L), and zinc (0.0856 mg/L):</p> <table border="1" data-bbox="703 1545 1474 1797"> <thead> <tr> <th>Parameter</th> <th>Average Post Treatment Concentration</th> <th>% of Results Above Proposed TAL</th> </tr> </thead> <tbody> <tr> <td>Copper</td> <td>0.102 mg/L</td> <td>82.5%</td> </tr> <tr> <td>Lead</td> <td>0.0229 mg/L</td> <td>47%</td> </tr> <tr> <td>Zinc</td> <td>0.111 mg/L</td> <td>43%</td> </tr> </tbody> </table> <p>*cadmium results were not available for analysis</p> <p>In addition, there have been studies performed showing</p>	Parameter	Average Post Treatment Concentration	% of Results Above Proposed TAL	Copper	0.102 mg/L	82.5%	Lead	0.0229 mg/L	47%	Zinc	0.111 mg/L	43%
Parameter	Average Post Treatment Concentration	% of Results Above Proposed TAL												
Copper	0.102 mg/L	82.5%												
Lead	0.0229 mg/L	47%												
Zinc	0.111 mg/L	43%												

	Section	Comment
		significant contribution of these same metals (particularly copper and zinc) from aerial deposition in the region. The TAL does not appear to account waste loads associated with these sources that are not under the control of industrial dischargers.
14	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 3.	<p>The Port environment is unique and many of the low impact development options available in other areas are not appropriate for the Port because of the potential for legacy soil contamination and high groundwater conditions. Port tenants will likely be required to install structural and treatment controls that are expensive, potentially unreliable, and do not appear to have the ability to meet proposed TAL values. The TAL essentially prohibits the discharge of any measureable sediment in stormwater from industrial sites, which is inconsistent and an order of magnitude lower than typical suspended solids NPDES discharge permit limits in the Los Angeles Region (for both General and Individual NPDES Permits) in the same watershed (typically range from 50-75 mg/l).</p> <p>Based on a review of stormwater treatment technology performance data from the International Stormwater BMP Database<sup>3</sup> that has been through rigorous quality assurance/ quality control protocols, there does not appear to be a treatment technology that can consistently meet the proposed SSC TAL value. While the International BMP Database only summarizes TSS results, we have assumed TSS and SSC concentration would be similar. Through method comparisons, we know that TSS typically underestimates the results compared to SSC. Therefore, the likelihood of BMPs being able to meet the 1 mg/L TAL would be even lower.</p> <p>In addition, we evaluated a compilation of stormwater analytical results for TSS from industrial dischargers having installed advanced stormwater treatment systems<sup>4</sup> (approximately 100 data points). Based on our analysis of TSS effluent concentrations from these advanced systems, more than 80% of results are at or above 1 mg/L, with an average effluent stormwater concentration of 21 mg/L. It should also be noted that based on analysis of TSS results submitted to SMARTS by industrial sites covered under the IGP in the Los Angeles Region, more than 95% of all results (more than 3,000 results as of April 15, 2016) are at or above 1 mg/L.</p>
15	Dominguez Channel and Greater	As a result of the technology limitations that limit the ability for

<sup>3</sup> [http://www.bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Addendum/BMP%20Database%20Categorical\\_StatisticalSummaryReport\\_December2014.pdf](http://www.bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Addendum/BMP%20Database%20Categorical_StatisticalSummaryReport_December2014.pdf)

<sup>4</sup> For the purposes of the data compilation and review, advanced stormwater treatment systems include system that typically include one or more of the following technologies: oil water separation/ solids settling, flocculation/ coagulation to enhance solids/ metals removal, bag filters (25- 100 micron), and/or media treatment (sand, enhanced sand mixtures, and/or carbon). The majority of the treatment system data reviewed represents systems utilizing several of these technologies in a “treatment train” approach.

	<b>Section</b>	<b>Comment</b>
	Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 3.	dischargers to meet the proposed TAL values described in comments 13 and 14 above, the Water Board should consider including specific language that compliance with the IGP and TMDLs can be achieved through an adaptive management approach consisting of implementing Water Board approved BMPs. This approach could be implemented within the framework of the existing IGP ERA process.
16	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 4.	The third bullet specifies that “U.S. EPA Approved Methods be used with appropriate method detection and reporting limits relative to copper, lead, zinc, and SCC.” We believe this is a typo and SCC should be revised to SSC. Also, please specify that ASTM Method D3977-97 is an Approved EPA Method for SSC?
17	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 4.	For the reference above to the ASTM Method – SSC is not listed in ELAPs fields of testing for wastewater. If SSC is the method of choice, then laboratories performing this method should be certified by undergoing performance testing and demonstration for appropriate quality control verifications. Please specify whether SSC will be added to the FOTs for laboratories to be certified for and if not, whether the Water Board has considered a waiver that laboratories are authorized to provide this analysis with general ELAP certification and that FOT specific certification does not exist at this time.
18	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 4.	In the second paragraph, the TMDL states “...to implement additional actions to reduce copper, lead, zinc, cadmium, chromium, mercury, PAHS, DDT, and PCBs....” Please clarify the actions the Water Board is referring to. Or, clarify this to refer to the ERA Process to implement BMPs to identify and reduce pollutants of concern.
19	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 4.	Under the Monitoring and Reporting Requirements, the draft requires sampling twice per year for authorized NSWDS. Please consider revising this to allow dischargers to analyze NSWDS for the appropriate parameters to characterize the discharges. Once they have been characterized, they do not need to be tested again if the source is known and it does not change. Only new unauthorized NSWDS that have not been characterized would require additional testing.
20	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 7.	The table listing Final Concentration-based Sediment WLA Assigned to Industrial General Permittees for Metals and Organic Compounds has values for mg/kg in dry sediment for Cadmium, Chromium, and Mercury. There are no organic compounds listed in the table. Please clarify whether these values can be used to demonstrate that if a site has soils below these levels, then they are not required to test for SSC or compare values to the SSC and could default back to the TSS NALs listed in the current IGP? Also, please clarify the intent of this table.
21	Dominguez Channel and Greater	Footnote 14 of the fact sheet specifies “Either in the facility’s

	<b>Section</b>	<b>Comment</b>
	Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 10.	existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below.” Please clarify, as there is no additional information below to refer to.



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May 18, 2016

Pavlova Vitale, Sr. Environmental Scientist  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
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[losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

**VIA EMAIL**

**Re: Comments on Draft TMDL-Specific IGP Requirements – Santa Monica Bay Watershed**

Dear Ms. Vitale,

On behalf of Heal the Bay, we submit the following comments on the *DRAFT TMDL-Specific Permit Requirements for the State Water Resources Control Board’s Industrial General Storm Water Permit (Santa Monica Bay Watershed)*. Heal the Bay is an environmental organization with over 15,000 members dedicated to making the coastal waters and watersheds of greater Los Angeles safe, healthy, and clean. We appreciate the opportunity to provide comments on the above-referenced document.

First and foremost, and as we’ve mentioned in our previous comments, we want to bring attention to the use of Total Maximum Daily Load Action Limits (TALs). From our understanding, they serve as a pseudo “three strikes and you’re out of compliance” scenario. Similar to Numeric Action Limits, they can be used to delay preventative measures from being taken by the industrial facilities currently enrolled in the Industrial General Permitting system. In addition to delaying protective action, these Action Limits are *not enforceable* to any beneficial degree. Imposing unenforceable, and therefore optional, goals to permit holders will do little to alleviate pollutants, whether they are plastic pellets, toxic pollutants, or any form of debris within the Santa Monica Bay Watershed from entering our waterways.

**Santa Monica Bay Nearshore and Offshore Debris TMDL**

After reviewing the State Water Board’s analysis of the release of nearshore and offshore debris, in this case plastic pellets, we commend the Board for choosing a TAL of zero pellets being allowed for discharge. As the Board is quite aware, plastic pollution is becoming more and more ubiquitous within our environment. This is coupled with our increasing awareness as a society of the dangers plastics pose, regardless of their shape and size.



Still, there is one aspect regarding the monitoring of plastic pollution that causes concern. Within the monitoring section of the “Monitoring and Reporting Requirements” on page 6, dischargers are asked to evaluate whether plastic pellets are entering the environment by making visual observations. This can be problematic because the plastic pellets in question can be quite small: less than 5mm.<sup>1</sup> This is especially true when considering the possibility of plastic pellets being transparent, making them all the more invisible and likely to escape notice of the naked eye.

Considering this dilemma, we feel the State Water Board should double down on efforts to successfully implement the non-structural best management practice (BMP) known as Operation Clean Sweep. Discussed thoroughly in the *Santa Monica Bay Nearshore and Offshore Debris TMDL (2010)*, this BMP focuses on zero pellet loss by implementing training and education for industry employees that works alongside proper sweeping and vacuuming equipment and well positioned catch trays to minimize plastic pellet loss.<sup>2</sup>

There is also a possible language ambiguity on page 4 paragraph 3 under the “Required Actions” heading of the Nearshore and Offshore Debris TMDL. Currently, the two methods of defining dischargers in question is first by Standard Industrial Classification (SIC) code and the second is any “industrial facilities with the term ‘plastic’ in the facility or operator name, regardless of the SIC code, that have the potential to discharge plastic pellets and discharge non-storm water and/or storm water associated with industrial activities to Santa Monica Bay . . .” We recommend taking out language of needing a facility or operator to have the word “plastic” in their title, and just defining them as “any facility or operator that has the potential to discharge plastic pellets.” The language as is sounds like a facility might get away with discharging plastic pellets as long as the facility is not identified with a SIC code and they don’t have the word “plastic” somewhere in their name.

Thank you for your consideration of these comments. If you have any questions please feel free to contact me at (310) 451-1500.

Sincerely,

Steven Johnson

Water Resources Policy Analyst  
Heal the Bay

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<sup>1</sup> Santa Monica Bay Nearshore and Offshore Debris TMDL (Oct 2010), California Regional Water Quality Control Board. p.25

<sup>2</sup> Santa Monica Bay Nearshore and Offshore Debris TMDL (Oct 2010), California Regional Water Quality Control Board. p.64





**March 30, 2016**

Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street  
Los Angeles, CA 90013

Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

**RE: Comments on Draft TMDL-Specific IGP Requirements- Ventura County TMDLs**

Dear Ms. Vitale:

Wishtoyo Foundation and its Ventura Coastkeeper Program (“VCK”) thank you for the opportunity to comment on the proposed Tributaries and Mugu Lagoon TMDL for Metals; Calleguas Creek Watershed Boron, Chloride, Sulfate, and Total Dissolved Solids (Salts) TMDL; TMDLs for Pesticides, PCBs, and Sediment Toxicity in Oxnard Drain 3; Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL; Santa Clara River TMDL for Nitrogen Compounds; Santa Clara River Reach 3 Chloride TMDL, and Harbor Beaches of Ventura County Bacteria TMDL (altogether “Ventura County TMDLs”) incorporation into NPDES Permit CAS000001 (“the Industrial General Permit” or “IGP”).

Our overarching request to sufficiently protect water quality and to ensure the Draft Incorporation of Ventura County TMDLs’ Waste Load Allocations (“WLAs”) into the IGP comply with the Clean Water Act and are otherwise legally adequate, is that the Draft Incorporation of Ventura County TMDLs’ Waste Load Allocations into the IGP includes stand alone effluent limitation requiring dischargers to demonstrate that their BMPs are sufficient to achieve compliance with WLAs from the TMDLs, and that that this demonstration would be made by sampling.

The following describes why anything less violates state and federal law.

VCK supports the importation of the numeric Waste Load Allocations (“WLAs”) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice. However, the proposed incorporation of the WLAs as “TMDL Action Levels” (“TALS”), rather than water quality based effluent limitations (WQBELs), is inconsistent with the requirements of the Clean Water Act and its implementing regulations. VCK requests that the Regional Board apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that

permittees implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs.

Because the WLAs are incorporated as triggers for an adaptive management process eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation, the proposed incorporation creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. While the current proposal to develop a trigger for an adaptive management process leading to additional BMPs might ultimately play some useful role in implementing the TMDLs, it cannot be the exclusive approach taken, as is now the case. The TALs are not lawful substitutes for WQBELs.

Further to the point that using NALs (or TALs) for the WLA creates an illegal compliance schedule that is not authorized by the Basin Plan, Clean Water Act, and other applicable laws, for metals and toxics, no compliance schedule in the IGP is allowed for CTR listed constituents. The CTR prohibits all compliance schedules for metals with CTR water quality objectives.

#### Environmental Review Process Issues

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal. We urge the Water Boards to prepare a Substitute Environmental Document (“SED”) that, at a minimum, programmatically examines incorporation of the Ventura County TMDLs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in a the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the TMDLs would clearly modify the underlying permit, since currently the TMDLs are not incorporated into the General Permit, so most of the reasoning and case authorities in the attached letter remain on point here.

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should look at WLAs that do not include Water Effects Ratios, which have the potential to lead to dramatic changes undermining the underlying standards. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

WLAs. Currently, data is lacking as to whether the BMPs eventually required will achieve compliance with the WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs.

More information is also needed on the Water Effects Ratios included as part of the WLAs. The Regional Board Notices states that:

The copper TALs for Mugu Lagoon and Calleguas Creek below Potrero Road are calculated using approved site-specific Water Effects Ratios (WERs) of 1.51 and 3.69, respectively. Site-specific WERs have not been approved for other reaches in the Calleguas Creek Watershed; therefore, the other copper TALs are based on the default WER value of 1.0.

The inclusion of WERs raises several questions. Are site-specific values reasonably foreseeable possible in the future? If no, why include WERs at all? If yes, what process would be followed to approve non-default WERs, and what would be the geographic reach of each WER? What is the relationship to the WERs included in the WLAs to the WERs recently approved for the Calleguas Creek System as part of a process of developing site specific water quality objectives for copper?

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs, and Incorporation of Ventura County TMDLs' WLAs

We are concerned that the use of "TMDL Action Levels" as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NDPES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as "Numeric Action Levels" ("NALs"). (Regional Board Notice, footnote 10, p.8.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after a minimum of 10 months past incorporation must a discharger demonstrate that the facility's Stormwater Pollution Prevention Plan ("SWPPP") is revised to include BMPs to prevent an exceedance of the TAL. Using TALs is also needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs. Furthermore, the Draft Incorporation of Ventura County TMDLs' Waste Load Allocations impermissibly fails to include data and analysis establishing that the BMPs in the IGP will achieve WLAs.

Using TALs to trigger an adaptive management program leading to SWPPP revisions and an eventual requirement for prevention of exceedances of the TAL also effectively creates a compliance schedule for metals regulated by the California Toxics Rule (“CTR”). Such compliance schedules are not permitted beyond 2005 (or 2010 at the latest in a few cases).

The lack of WQBELs also means that the proposed monitoring program must be revised to include monitoring sufficient to adequately determine compliance with a WLA based WQBEL.

The Numeric Limits Should be Incorporated as WQBELs, not TALs.

In conclusion, while the use of TALs might be an appropriate adaptive management measure, TALs can never be the sole, or even primary, approach to incorporating WLAs for Ventura County TMDL constituents into the General Permit, as WQBELs must be an element of the WLAs. We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that permittees implement BMPs necessary to achieve the numeric effluent limitations.

Direct incorporation of a WQBEL is much simpler, more direct, has much less potential for confusion than the current proposal, and is legally required.

Thank you for the opportunity to comment.

Sincerely,



Jason Weiner  
General Counsel and Water Initiative Director  
Wishtoyo Foundation and its Ventura Coastkeeper Program

Attachment



April 14, 2016

Los Angeles Regional Water Quality Control Board  
Attn: Pavlova Vitale

**Subject: Comments on Draft TMDL-Specific Industrial General Permit Requirements –  
Ballona Creek and Marina del Rey Harbor Subwatersheds  
Los Angeles County Coastal Streams Watershed  
Machado Lake Subwatershed  
Dominguez Channel/Los Angeles Harbor Watershed**

Dear Ms. Vitale:

The California Stormwater Quality Association (CASQA) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ), hereafter Industrial General Permit or IGP.

The CASQA Industrial Subcommittee includes a broad representation of the entities that will be affected by the Industrial General Permit, including municipalities, regulated industries, stormwater professionals, academics, and attorneys. CASQA has been involved with each issuance of California's Industrial General Permit, and has been an advocate for industrial stormwater permits that protect water quality and are practical for industrial operations.

The process of amending the Industrial General Permit to address each of the thirty-five TMDLs listed in Attachment E to the permit is multifaceted and complex. CASQA is providing comments on the following general topics, suggesting overarching principles for incorporating TMDL-based requirements into the IGP, rather than complete, detailed comments on each proposal. A limited number of illustrations of the general topics linked to specific TMDLs are provided within or following the general principles.

1. Maintain consistency with the IGP pollutant source assessment process.
2. Provide a clear statement of required actions, especially actions that go beyond the requirements of the IGP.
3. Establish how compliance with the TMDL-related requirements will be determined.
4. Establish that compliance with TMDL-related requirements is compliance with receiving water limitations for the applicable pollutant.
5. Provide options for compliance paths that may offer equivalent or more appropriate forms of control, particularly for pollutants that cannot be reasonably controlled via source controls or treatment systems, such as:
  - a. Onsite volume reductions of stormwater to reduce pollutant loads.

- b. Participation in watershed plans (Water Quality Improvement Plans (WQIPs), Watershed Management Plans (WMPs), Enhanced Watershed Management Plans (EWMPs), Green Infrastructure (GI) Plans) or watershed/waterbody restoration plans.

In addition to these overarching comments, CASQA provides some illustrations of how the general comments apply to some specific aspects of TMDL-specific proposals. These illustrations are attached to this letter.

**1. Maintain consistency with the IGP pollutant source assessment process.**

The IGP applies to a wide variety of industrial facilities that have different industrial pollutant sources specific to their operations. The IGP recognizes that not all potential industrial pollutants are present in the industrial operations of all facilities and requires dischargers to conduct a pollutant source assessment of the industrial operations and industrial materials and wastes (X.G). Based upon this assessment, BMPs are selected and implemented (X.H) and a monitoring program (X.I) is designed for the industrial pollutants identified.

*CASQA recommends that the TMDL language follow this industrial pollutant source assessment process and limit the application of the pollutant specific TMDL-based requirements to those IGP facilities that identify the presence of the TMDL pollutant(s) in their pollutant source assessment.*

**2. A clear statement of required actions, especially actions that go beyond the requirements of the IGP.**

*CASQA recommends that in cases where a Basin Plan Amendment and assumptions in the TMDL staff report require actions beyond those required in the IGP to be consistent with the assumptions underlying TMDL waste load allocations, these additional requirements need to be clearly and explicitly defined in the TMDL-related language and supported in the Permit fact sheet.*

*CASQA recommends General Permit language, which affects a large number of dischargers, provide clear direction to dischargers and establish a common understanding of the compliance expectations for dischargers, regulators, and other stakeholders.*

**3. Establish how compliance with the TMDL-related requirements and any interim milestones will be determined.**

*CASQA recommends that each set of TMDL-related requirements incorporated into the IGP have a statement of how compliance will be assessed. Compliance with the waste load allocations should be based upon control measure or BMP-based approaches coupled with numeric action levels (NALs). Exceedances of TMDL-based NALs would be addressed through the Exceedance Response Action (ERA) process defined in the IGP (XII).*

*CASQA recommends that where the Regional Water Board establishes a TMDL-based NAL, consistent and distinct terminology should be used to distinguish it from the IGP NALs in Table 2, and to clearly articulate that the numeric criteria are modified NALs derived from TMDLs and are intended to be used in lieu of existing NALs for the purpose of IGP compliance at facilities subject to the pollutant specific TMDL.*

Consistent use of this terminology would also clearly establish that the numeric criteria in the TMDL-related requirements are intended to modify NALs and are not numeric standards (actual or *de facto* numeric effluent limitations) intended to determine whether discharges have exceeded Receiving Water Limitations (Section VI).

The adoption of the TMDL-based NAL during the middle of the IGP reporting year could lead to ambiguity regarding determining compliance with the NALs for that reporting year.

*CASQA recommends that the use of a new TMDL-based NAL to commence with the beginning of the IGP reporting year. Each TMDL-related requirement incorporated into the IGP needs to clearly define how compliance with the IGP will be determined for both (1) the reporting year in which the requirement is adopted, and (2) subsequent reporting years.*

**4. Establish that compliance with IGP TMDL-related requirements is compliance with IGP receiving water limitations for the applicable pollutant.**

TMDL-based permit requirements are intended to satisfy Clean Water Act requirements for provisions necessary to attain water quality objectives. As is recognized in other California NPDES permits, compliance with the TMDL-based permit requirements satisfies receiving water limits for the relevant constituent.

*CASQA recommends that the TMDL-related language state that compliance with these TMDL-related requirements constitutes compliance with Receiving Water Limitations of IGP Section VI.A, as well as Effluent Limitation Section V.C, with respect to the particular constituent involved.*

**5. Provide alternative compliance paths for pollutants that may not reasonably be controlled via source controls or treatment systems.**

Many stormwater pollutants are not easy to control through traditional stormwater source control or treatment control practices. Stormwater programs implemented by industrial facilities can go a long way in reducing pollutant concentrations in stormwater but may not completely eliminate the pollutant or reduce the concentration to the NAL concentrations.

CASQA is concerned with the achievability of some of the TMDL-based NALs, where neither treatment control nor source control best management practices (BMPs) appear to be available, feasible, or capable of achieving the NAL concentrations. There is a larger issue of the appropriateness of these levels as NALs measured against varying and periodic stormwater discharges. Ideally, achieving these levels in-stream should be harmonized with the pollutant load reduction measures in watershed planning at the municipal level.

*CASQA recommends that the Regional Water Board think broadly about how industrial facilities can achieve compliance consistent with assumptions underlying TMDL waste load allocations. One compliance path would be to allow facilities credit for volume reduction BMPs, when comparing sample results to NALs or other performance measures.*

Significant load reductions can be achieved by sites that have the ability to collect, infiltrate, use stormwater and not discharge it or that can discharge to sewer systems the runoff volumes from most events, or a large proportion of runoff volumes from events. For sites that can reduce the load of pollutants, concentration TMDL-based NALs may not be appropriate.

*CASQA recommends that compliance options also include the option for industrial facilities to coordinate with municipal permittees' watershed planning efforts, including WMPs,*

## CASQA Comments on Proposed TMDL-Specific Industrial General Permit Requirements

*EWMPs, and/or watershed/waterbody restoration plans and regional BMPs that are designed to achieve load reductions at the watershed level.*

A watershed level compliance option may be particularly useful where waste load allocations have not been disaggregated amongst the responsible parties (that is, a single waste load allocation is collectively applied to all permittees in a watershed, e.g., the Los Peñasquitos Lagoon Sediment TMDL assigns 2,580 tons/wet season collectively to all identified responsible parties in the watershed). A compliance option that engages responsible parties in the restoration plan for the waterbody may well achieve better outcomes than efforts to reduce pollutants at specific facilities.

The details of such a plan are difficult to develop in this format.

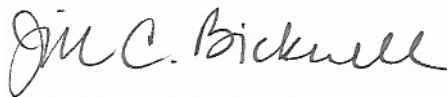
*CASQA encourages the Regional Water Board to include language that allows for this option and leaves the details of such a plan to be developed and submitted for approval. To this end we suggest the following language:*

*The Regional Water Board may approve proposals to substitute an acceptable watershed-based program if it determines that participation in a watershed-based program will provide customized strategies, control measures, and BMPs that would be implemented in coordination with municipalities and/or TMDL responsible parties to achieve the required load reductions at a watershed scale. Dischargers participating in a watershed-based TMDL compliance program shall continue to implement the site specific BMPs and monitoring program in compliance with the requirements of this General Permit.*

*The Regional Water Board may approve proposals for appropriate site-specific pollutant load reduction programs that provide load reductions credits achieved by reducing stormwater and non-stormwater runoff volume through collection and infiltration, use, or diversion to sanitary sewers.*

In closing, CASQA would like to thank the Regional Water Board for the opportunity to comment on the proposed TMDL-specific Industrial General Permit Requirements that are under consideration. Feel free to contact our Executive Director Geoff Brosseau with any questions at (650) 365-8620.

Sincerely,



Jill Bicknell, Chair  
California Stormwater Quality Association

cc: Laurel Warddrip, State Water Board  
CASQA Board of Directors and Executive Program Committee

Attachment: Proposed TMDL-Specific Illustrations of General Comments on Industrial General Permit Requirements



No.	TMDL	Comment
1.	<ul style="list-style-type: none"> <li>• Colorado Lagoon Organochlorine Pesticides, PCBs, PAHs, Metals and Sediment Toxicity</li> <li>• Los Angeles Harbor Bacteria</li> <li>• Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters for Toxic Pollutants</li> <li>• Machado Lake Nutrients</li> <li>• Machado Lake Pesticides and PCBs</li> <li>• Ballona Creek, Estuary, Sepulveda Channel Bacterial Indicator Densities</li> <li>• Ballona Creek Estuary Toxic Pollutants</li> <li>• Ballona Creek Metals</li> <li>• Marina del Rey Harbor Mother's Beach and Back Basins Bacteria</li> <li>• Marina del Rey Toxic Pollutants</li> </ul>	<p>Consistent with CASQA Comment 1, CASQA recommends the Regional Water Board clarify that only those sites that have identified on-site industrial sources of the TMDL-related pollutants be required to collect samples and analyze for those pollutants.</p> <p>Footnotes 1 in the noted draft TMDL-specific IGP requirements appear to incorporate non-industrial stormwater as part of the pollutant source assessment. The footnotes confuse the determination of which dischargers must perform the Required Actions, by implying permittees must determine potential for specific pollutants to be in stormwater that is <u>not</u> associated with industrial activities. Such pollutants are not regulated by the IGP, except insofar that they are commingled with industrial stormwater discharges. The IGP does not require that dischargers separately evaluate or independently control non-industrial sources of pollutants in stormwater.</p> <p>CASQA requests that language in each set of requirements be revised to be consistent with the IGP pollutant assessment process, which is the IGP's foundation for establishing BMPs, monitoring, and for conducting the NAL Exceedance Response Action (ERA) process.</p>
2.	<ul style="list-style-type: none"> <li>• Colorado Lagoon Organochlorine Pesticides, PCBs, PAHs, Metals and Sediment Toxicity</li> <li>• Los Angeles Harbor Bacteria</li> <li>• Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters for Toxic Pollutants</li> <li>• Machado Lake Nutrients</li> <li>• Machado Lake Pesticides and PCBs</li> <li>• Ballona Creek, Estuary, Sepulveda Channel Bacterial</li> </ul>	<p>The TMDL-specific language and discussions in the Fact Sheets contain references to "complying with TALs". CASQA requests that this language be modified to be consistent with the discussion of NAL exceedances in the IGP. The NAL and ERA processes are designed to assess performance not compliance.</p> <p>As noted in the IGP (Provision M, item 61), NALs are part of a multiple objective performance measurement system. The NALs are not a test of compliance (Provision M 63) in and of themselves but trigger a series of actions, through ERA levels, to assess pollutant sources and enhance BMPs. References to compliance with TALs or waste load allocations (WLAs) expressed as TALs may lead to a misunderstanding of the use of the action levels. WLAs and TALs are not permit limitations to be "complied with" directly. Rather language should express the need to compare sample results with the TALs to determine if the TALs have been exceeded, which would trigger the ERA process.</p>

No.	TMDL	Comment
	Indicator Densities <ul style="list-style-type: none"> <li>• Ballona Creek Estuary Toxic Pollutants</li> <li>• Ballona Creek Metals</li> <li>• Marina del Rey Harbor Mother’s Beach and Back Basins Bacteria</li> <li>• Marina del Rey Toxic Pollutants</li> </ul>	Suggested Alternative Language Example: <i>“Responsible Dischargers shall <del>comply with the</del> perform sampling and analysis and compare the results with the TALs, expressed as instantaneous maximum values, in the tables below, to determine if the TAL have been exceeded by the applicable parameter.</i>
3.	<ul style="list-style-type: none"> <li>• Colorado Lagoon Organochlorine Pesticides, PCBs, PAHs, Metals and Sediment Toxicity</li> <li>• Los Angeles Harbor Bacteria</li> <li>• Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters for Toxic Pollutants</li> <li>• Machado Lake Nutrients</li> <li>• Machado Lake Pesticides and PCBs</li> <li>• Ballona Creek, Estuary, Sepulveda Channel Bacterial Indicator Densities</li> <li>• Ballona Creek Estuary Toxic Pollutants</li> <li>• Ballona Creek Metals</li> <li>• Marina del Rey Harbor Mother’s Beach and Back Basins Bacteria</li> <li>• Marina del Rey Toxic Pollutants</li> </ul>	<p>The Required Actions conclusion statement of each Fact Sheet states that the State and/or Regional Water Board retains authority to require additional actions “if it is determined ... that a discharger may be causing or contributing to an exceedance of a WLA.” The Order language on this subject states that “The State and/or Regional Water Board may require industrial stormwater dischargers to implement additional actions... based on, but not limited to, monitoring data and comparison to applicable TALs, visual observations, discharger reports, or site-specific inspections and/or investigations.”</p> <p>The phrase “<u>causing or contributing to an exceedance of WLA</u>” is inappropriate and confusing, in that it seems to confuse WLAs with water quality objectives, and suggests that dischargers may be subjected to new, additional and undefined IGP obligations upon a vague determination by the Regional Water Board or State Water Board.</p> <p>Instead, CASQA suggests that the proposed language simply recognize existing IGP Sections XIX.C and XIX.D regarding Regional Water Board authorities.</p>
4.	<ul style="list-style-type: none"> <li>• Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters for Toxic</li> </ul>	TMDL-based numeric action levels (“TALs”) are expressed as instantaneous maximum values, and the draft TMDL-specific language specifies that if the sampling results indicate a TAL

No.	TMDL	Comment
	Pollutants <ul style="list-style-type: none"> <li>• Ballona Creek Metals</li> </ul>	<p>exceedance, the Discharger shall commence the level 2 ERA process.</p> <p>The draft TMDL-specific language is unclear as to the timing associated with entering ERA Level 2. CASQA recommends that the Regional Board clarify that the timelines for conducting the ERA process with respect to TALs will be consistent with the timelines in the IGP for conducting the ERA process with respect to NALs.</p>
5.	<ul style="list-style-type: none"> <li>• Colorado Lagoon Organochlorine Pesticides, PCBs, PAHs, Metals and Sediment Toxicity</li> <li>• Los Angeles Harbor Bacteria</li> <li>• Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters for Toxic Pollutants</li> <li>• Machado Lake Nutrients</li> <li>• Ballona Creek, Estuary, Sepulveda Channel Bacterial Indicator Densities</li> <li>• Ballona Creek Estuary Toxic Pollutants</li> <li>• Marina del Rey Harbor Mother's Beach and Back Basins Bacteria</li> <li>• Marina del Rey Toxic Pollutants</li> </ul>	<p>Consistent with the IGP NALs and to appropriately account for the variability associated with stormwater monitoring data, annual averages rather than instantaneous values of stormwater sample results should be incorporated into the draft TMDL-specific IGP requirements.</p>
6.	<ul style="list-style-type: none"> <li>• Colorado Lagoon Organochlorine Pesticides, PCBs, PAHs, Metals and Sediment Toxicity</li> <li>• Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters for Toxic Pollutants</li> <li>• Machado Lake Pesticides and</li> </ul>	<p>The TMDL-specific language identifies that the appropriate Responsible Parties must sample discharges for Suspended Sediment Concentration (SSC). SSC is not an EPA-approved method as indicated in the fact sheet.</p> <p>The availability of commercial laboratories that can perform the SSC method remains limited although the number has increased slightly since CASQA looked into this during the Construction General Permit reissuance process. At that time, CASQA was able to identify only one commercial laboratory.</p> <p>In natural water sampling situations, one of the main advantages of SSC over Total Suspended</p>

No.	TMDL	Comment
	PCBs <ul style="list-style-type: none"> <li>• Ballona Creek Estuary Toxic Pollutants</li> <li>• Marina del Rey Toxic Pollutants</li> </ul>	Solids is that SSC provides a better measurement of the larger particulates (sand) in the water column. When samples contain finer material (0.062 mm) TSS and SSC results are more or less similar. <sup>1</sup> Given that pollutants of concern in this TMDL are more likely to adhere to smaller particulates and that industrial stormwater effluent sampling is more similar to wastewater sampling than sampling natural waters, the use of more common EPA-approved laboratory methods such as TSS or turbidity should be used for this surrogate screening. CASQA recommends that the SSC method not be prescribed in the TMDL-specific requirements.
7.	<ul style="list-style-type: none"> <li>• Colorado Lagoon Organochlorine Pesticides, PCBs, PAHs, Metals and Sediment Toxicity</li> <li>• Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters for Toxic Pollutants</li> <li>• Machado Lake Pesticides and PCBs</li> <li>• Ballona Creek Estuary Toxic Pollutants</li> <li>• Marina del Rey Toxic Pollutants</li> </ul>	Consistent with CASQA comment 5, the achievability of a TAL of 1 mg of sediment per liter of water is unlikely through source and treatment control BMPs. A review of the International Stormwater BMP Database data shows that effluent from most treatment BMPs would exceed the proposed TAL (assuming SSC and TSS concentrations would be similar <sup>2</sup> ). Excerpt attached.

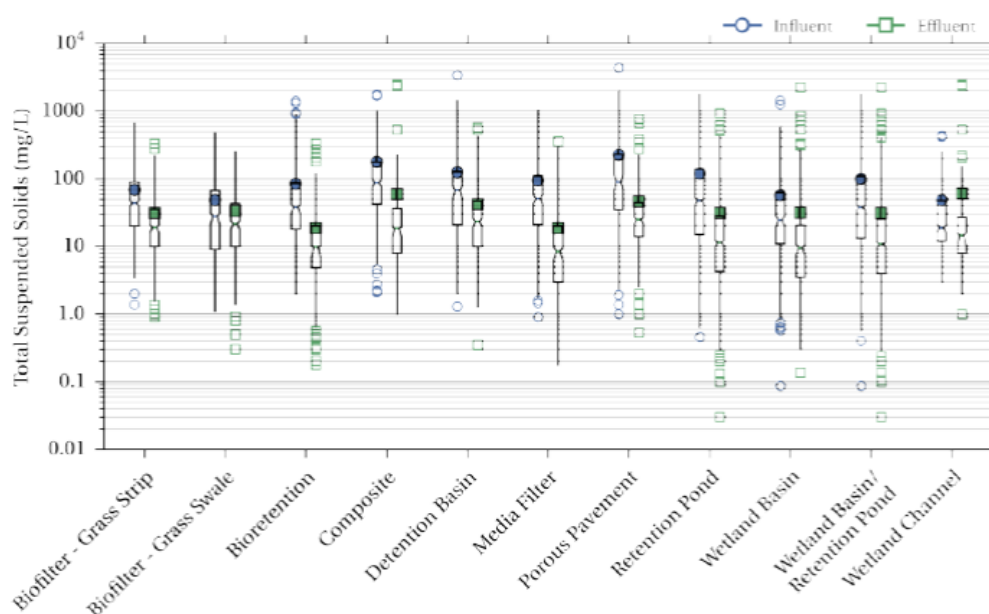
<sup>1</sup> See Comparability of Suspended-Sediment Concentration and Total Suspended Solids Data, USGS 2000, WRIR 00-4191

<sup>2</sup> Stormwater monitoring traditionally tests for TSS; relevant SSC data are not available.

Excerpt from International Stormwater Best Management Practices (BMP) Database Pollutant Category Statistical Summary Report, December 2014.

[http://bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Addendum/BMP%20Database%20Categorical\\_StatisticalSummaryReport\\_December2014.pdf](http://bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Addendum/BMP%20Database%20Categorical_StatisticalSummaryReport_December2014.pdf)

**Figure 2. Box Plots of Influent/Effluent TSS Concentrations**



**Table 2. Influent/Effluent Summary Statistics for TSS (mg/L)**

BMP Type	Count of Studies and EMCs		25th Percentile		Median (95% Conf. Interval)*		75th Percentile	
	In	Out	In	Out	In	Out	In	Out
Biofilter - Grass Strip	19; 361	19; 282	20.0	10.0	44.1 (39, 48)	<b>19 (15.9, 21)**</b>	90.0	35.0
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NA – not available or less than 3 studies for BMP/constituent.

\*Computed using the BCA bootstrap method described by Efron and Tibishirani (1993).

\*\*Hypothesis testing in Attachment 1 shows statistically significant decreases for this BMP category.



May 13, 2016

Los Angeles Regional Water Quality Control Board

Attn: Pavlova Vitale

**Subject: Comments on Draft TMDL-Specific Industrial General Permit Requirements –  
Los Angeles Area Lakes (including Peck Road Park Lake, Echo Park Lake, and  
Puddingstone Reservoir)  
Santa Monica Bay Watershed**

Dear Ms. Vitale:

The California Stormwater Quality Association (CASQA) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ), hereafter Industrial General Permit or IGP.

The CASQA Industrial Subcommittee includes a broad representation of the entities that will be affected by the Industrial General Permit, including municipalities, regulated industries, stormwater professionals, academics, and attorneys. CASQA has been involved with each issuance of California's Industrial General Permit, and has been an advocate for industrial stormwater permits that protect water quality and are practical for industrial operations.

The process of amending the Industrial General Permit to address each of the thirty-five TMDLs listed in Attachment E to the permit is multifaceted and complex. CASQA is providing comments on the following general topics, suggesting overarching principles for incorporating TMDL-based requirements into the IGP, rather than complete, detailed comments on each proposal. A limited number of illustrations of the general topics linked to specific TMDLs are provided within or following the general principles.

1. Maintain consistency with the IGP pollutant source assessment process.
2. Provide a clear statement of required actions, especially actions that go beyond the requirements of the IGP.
3. Establish how compliance with the TMDL-related requirements will be determined.
4. Establish that compliance with TMDL-related requirements is compliance with receiving water limitations for the applicable pollutant.
5. Provide options for compliance paths that may offer equivalent or more appropriate forms of control, particularly for pollutants that cannot be reasonably controlled via source controls or treatment systems, such as:
  - a. Onsite volume reductions of stormwater to reduce pollutant loads.

- b. Participation in watershed plans (Water Quality Improvement Plans (WQIPs), Watershed Management Plans (WMPs), Enhanced Watershed Management Plans (EWMPs), Green Infrastructure (GI) Plans) or watershed/waterbody restoration plans.

In addition to these overarching comments, CASQA provides some illustrations of how the general comments apply to some specific aspects of TMDL-specific proposals. These illustrations are attached to this letter.

**1. Maintain consistency with the IGP pollutant source assessment process.**

The IGP applies to a wide variety of industrial facilities that have different industrial pollutant sources specific to their operations. The IGP recognizes that not all potential industrial pollutants are present in the industrial operations of all facilities and requires dischargers to conduct a pollutant source assessment of the industrial operations and industrial materials and wastes (X.G). Based upon this assessment, BMPs are selected and implemented (X.H) and a monitoring program (X.I) is designed for the industrial pollutants identified.

*CASQA recommends that the TMDL language follow this industrial pollutant source assessment process and limit the application of the pollutant specific TMDL-based requirements to those IGP facilities that identify the presence of the TMDL pollutant(s) in their pollutant source assessment.*

**2. A clear statement of required actions, especially actions that go beyond the requirements of the IGP.**

*CASQA recommends that in cases where a Basin Plan Amendment and assumptions in the TMDL staff report require actions beyond those required in the IGP to be consistent with the assumptions underlying TMDL waste load allocations, these additional requirements need to be clearly and explicitly defined in the TMDL-related language and supported in the Permit fact sheet.*

*CASQA recommends General Permit language, which affects a large number of dischargers, provide clear direction to dischargers and establish a common understanding of the compliance expectations for dischargers, regulators, and other stakeholders.*

**3. Establish how compliance with the TMDL-related requirements and any interim milestones will be determined.**

*CASQA recommends that each set of TMDL-related requirements incorporated into the IGP have a statement of how compliance will be assessed. Compliance with the waste load allocations should be based upon control measure or BMP-based approaches coupled with numeric action levels (NALs). Exceedances of TMDL-based NALs would be addressed through the Exceedance Response Action (ERA) process defined in the IGP (XII).*

*CASQA recommends that where the Regional Water Board establishes a TMDL-based NAL, consistent and distinct terminology should be used to distinguish it from the IGP NALs in Table 2, and to clearly articulate that the numeric criteria are modified NALs derived from TMDLs and are intended to be used in lieu of existing NALs for the purpose of IGP compliance at facilities subject to the pollutant specific TMDL.*

Consistent use of this terminology would also clearly establish that the numeric criteria in the TMDL-related requirements are intended to modify NALs and are not numeric standards (actual

or *de facto* numeric effluent limitations) intended to determine whether discharges have exceeded Receiving Water Limitations (Section VI).

The adoption of the TMDL-based NAL during the middle of the IGP reporting year could lead to ambiguity regarding determining compliance with the NALs for that reporting year.

*CASQA recommends that the use of a new TMDL-based NAL to commence with the beginning of the IGP reporting year. Each TMDL-related requirement incorporated into the IGP needs to clearly define how compliance with the IGP will be determined for both (1) the reporting year in which the requirement is adopted, and (2) subsequent reporting years.*

**4. Establish that compliance with IGP TMDL-related requirements is compliance with IGP receiving water limitations for the applicable pollutant.**

TMDL-based permit requirements are intended to satisfy Clean Water Act requirements for provisions necessary to attain water quality objectives. As is recognized in other California NPDES permits, compliance with the TMDL-based permit requirements satisfies receiving water limits for the relevant constituent.

*CASQA recommends that the TMDL-related language state that compliance with these TMDL-related requirements constitutes compliance with Receiving Water Limitations of IGP Section VI.A, as well as Effluent Limitation Section V.C, with respect to the particular constituent involved.*

**5. Provide alternative compliance paths for pollutants that may not reasonably be controlled via source controls or treatment systems.**

Many stormwater pollutants are not easy to control through traditional stormwater source control or treatment control practices. Stormwater programs implemented by industrial facilities can go a long way in reducing pollutant concentrations in stormwater but may not completely eliminate the pollutant or reduce the concentration to the NAL concentrations.

CASQA is concerned with the achievability of some of the TMDL-based NALs, where neither treatment control nor source control best management practices (BMPs) appear to be available, feasible, or capable of achieving the NAL concentrations. There is a larger issue of the appropriateness of these levels as NALs measured against varying and periodic stormwater discharges. Ideally, achieving these levels in-stream should be harmonized with the pollutant load reduction measures in watershed planning at the municipal level.

*CASQA recommends that the Regional Water Board think broadly about how industrial facilities can achieve compliance consistent with assumptions underlying TMDL waste load allocations. One compliance path would be to allow facilities credit for volume reduction BMPs, when comparing sample results to NALs or other performance measures.*

Significant load reductions can be achieved by sites that have the ability to collect, infiltrate, use stormwater and not discharge it or that can discharge to sewer systems the runoff volumes from most events, or a large proportion of runoff volumes from events. For sites that can reduce the load of pollutants, concentration TMDL-based NALs may not be appropriate.

*CASQA recommends that compliance options also include the option for industrial facilities to coordinate with municipal permittees' watershed planning efforts, including WMPs,*



## CASQA Comments on Proposed TMDL-Specific Industrial General Permit Requirements

*EWMPs, and/or watershed/waterbody restoration plans and regional BMPs that are designed to achieve load reductions at the watershed level.*

A watershed level compliance option may be particularly useful where waste load allocations have not been disaggregated amongst the responsible parties (that is, a single waste load allocation is collectively applied to all permittees in a watershed, e.g., the Los Peñasquitos Lagoon Sediment TMDL assigns 2,580 tons/wet season collectively to all identified responsible parties in the watershed). A compliance option that engages responsible parties in the restoration plan for the waterbody may well achieve better outcomes than efforts to reduce pollutants at specific facilities.

The details of such a plan are difficult to develop in this format.

*CASQA encourages the Regional Water Board to include language that allows for this option and leaves the details of such a plan to be developed and submitted for approval. To this end we suggest the following language:*

*The Regional Water Board may approve proposals to substitute an acceptable watershed-based program if it determines that participation in a watershed-based program will provide customized strategies, control measures, and BMPs that would be implemented in coordination with municipalities and/or TMDL responsible parties to achieve the required load reductions at a watershed scale. Dischargers participating in a watershed-based TMDL compliance program shall continue to implement the site specific BMPs and monitoring program in compliance with the requirements of this General Permit.*

*The Regional Water Board may approve proposals for appropriate site-specific pollutant load reduction programs that provide load reductions credits achieved by reducing stormwater and non-stormwater runoff volume through collection and infiltration, use, or diversion to sanitary sewers.*

In closing, CASQA would like to thank the Regional Water Board for the opportunity to comment on the proposed TMDL-specific Industrial General Permit Requirements that are under consideration. Feel free to contact our Executive Director Geoff Brosseau with any questions at (650) 365-8620.

Sincerely,



Jill Bicknell, Chair  
California Stormwater Quality Association

cc: Laurel Warddrip, State Water Board  
CASQA Board of Directors and Executive Program Committee

Attachment: Proposed TMDL-Specific Illustrations of General Comments on Industrial General Permit Requirements

No.	TMDL	Comment
1.	<ul style="list-style-type: none"> <li>• Los Angeles Area Lakes (Peck Road Park Lake, Echo Park Lake, and Puddingstone Reservoir) Pesticides and PCBs</li> <li>• Los Angeles Area Lakes (Puddingstone Reservoir) Mercury</li> <li>• Los Angeles Area Lakes (Peck Road Park Lake and Echo Park Lake) Trash</li> <li>• Santa Monica Bay Nearshore and Offshore Debris</li> <li>• Santa Monica Bay DDT and PCBs</li> </ul>	<p>Consistent with CASQA Comment 1, CASQA recommends the Regional Water Board clarify that only those sites that have identified on-site industrial sources of the TMDL-related pollutants be required to collect samples and analyze for those pollutants.</p> <p>Footnote 1 in the noted draft TMDL-specific IGP requirements appears to incorporate non-industrial stormwater as part of the pollutant source assessment. The footnote confuses the determination of which dischargers must perform the Required Actions, by implying permittees must determine potential for specific pollutants to be in stormwater that is <u>not</u> associated with industrial activities. Such pollutants are not regulated by the IGP, except insofar that they are commingled with industrial stormwater discharges. The IGP does not require that dischargers separately evaluate or independently control non-industrial sources of pollutants in stormwater.</p> <p>CASQA requests that language in each set of requirements be revised to be consistent with the IGP pollutant assessment process, which is the IGP’s foundation for establishing BMPs, monitoring, and for conducting the NAL Exceedance Response Action (ERA) process.</p>
2.	<ul style="list-style-type: none"> <li>• Los Angeles Area Lakes (Peck Road Park Lake, Echo Park Lake, and Puddingstone Reservoir) Pesticides and PCBs</li> <li>• Los Angeles Area Lakes (Puddingstone Reservoir) Mercury</li> <li>• Los Angeles Area Lakes (Peck Road Park Lake and Echo Park Lake) Trash</li> <li>• Santa Monica Bay Nearshore and Offshore Debris</li> <li>• Santa Monica Bay DDT and PCBs</li> </ul>	<p>The TMDL-specific language and discussion in the Fact Sheets contain references to “complying with TALs”. CASQA requests that this language be modified to be consistent with the discussion of NAL exceedances in the IGP. The NAL and ERA processes are designed to assess performance not compliance.</p> <p>As noted in the IGP (Provision M, item 61), NALs are part of a multiple objective performance measurement system. The NALs are not a test of compliance (Provision M 63) in and of themselves but trigger a series of actions, through ERA levels, to assess pollutant sources and enhance BMPs. References to compliance with TALs or waste load allocations (WLAs) expressed as TALs may lead to a misunderstanding of the use of the action levels. WLAs and TALs are not permit limitations to be “complied with” directly. Rather language should express the need to compare sample results with the TALs to determine if the TALs have been exceeded, which would trigger the ERA process.</p> <p>Suggested Alternative Language Example:</p> <p><i>“Responsible Dischargers shall <del>comply with the</del> perform sampling and analysis and compare the results with the TALs, expressed as instantaneous maximum values, in the tables below, to determine if the TAL have been exceeded by the applicable parameter.</i>”</p>

No.	TMDL	Comment
3.	<ul style="list-style-type: none"> <li>• Los Angeles Area Lakes (Peck Road Park Lake, Echo Park Lake, and Puddingstone Reservoir) Pesticides and PCBs</li> <li>• Los Angeles Area Lakes (Puddingstone Reservoir) Mercury</li> <li>• Santa Monica Bay DDT and PCBs</li> </ul>	<p>Consistent with the IGP NALs and to appropriately account for the variability associated with stormwater monitoring data, annual averages rather than instantaneous values of stormwater sample results should be incorporated into the draft TMDL-specific IGP requirements.</p>
4.	<ul style="list-style-type: none"> <li>• Los Angeles Area Lakes (Peck Road Park Lake, Echo Park Lake, and Puddingstone Reservoir) Pesticides and PCBs</li> <li>• Santa Monica Bay DDT and PCBs</li> </ul>	<p>The TMDL-specific language identifies that the appropriate Responsible Parties must sample discharges for Suspended Sediment Concentration (SSC). SSC is not an EPA-approved method as indicated in the fact sheet.</p> <p>The availability of commercial laboratories that can perform the SSC method remains limited although the number has increased slightly since CASQA looked into this during the Construction General Permit reissuance process. At that time, CASQA was able to identify only one commercial laboratory.</p> <p>In natural water sampling situations, one of the main advantages of SSC over Total Suspended Solids is that SSC provides a better measurement of the larger particulates (sand) in the water column. When samples contain finer material (0.062 mm) TSS and SSC results are more or less similar.<sup>1</sup> Given that pollutants of concern in this TMDL are more likely to adhere to smaller particulates and that industrial stormwater effluent sampling is more similar to wastewater sampling than sampling natural waters, the use of more common EPA-approved laboratory methods such as TSS or turbidity should be used for this surrogate screening. CASQA recommends that the SSC method not be prescribed in the TMDL-specific requirements.</p>

<sup>1</sup> See Comparability of Suspended-Sediment Concentration and Total Suspended Solids Data, USGS 2000, WRIR 00-4191

No.	TMDL	Comment
5.	<ul style="list-style-type: none"> <li>• Los Angeles Area Lakes (Peck Road Park Lake, Echo Park Lake, and Puddingstone Reservoir) Pesticides and PCBs</li> <li>• Santa Monica Bay DDT and PCBs</li> </ul>	<p>Consistent with CASQA comment 5, the achievability of a TAL of 1 mg of sediment per liter of water is unlikely through source and treatment control BMPs. A review of the International Stormwater BMP Database data shows that effluent from most treatment BMPs would exceed the proposed TAL (assuming SSC and TSS concentrations would be similar<sup>2</sup>). See the attached excerpt from the International Stormwater BMP Database..</p>
6.	<ul style="list-style-type: none"> <li>• Santa Monica Bay Nearshore and Offshore Debris</li> </ul>	<p>The IGP has already incorporated strict requirements for facilities that handle Plastic Materials, as specified in Water Code Section 13367. IGP Section XVIII (Special Requirements – Plastic Materials) includes requirements to install a containment systems designed to trap all particles retained by a 1mm mesh screen, with a treatment capacity of no less than the peak flow rate from a one-year, one-hour storm or an alternative suite of BMPs that were determined to be equal to, or exceed the performance requirements of a containment system.</p> <p>CASQA recommends the TMDL-specific language for management of plastic pellets be consistent with existing IGP and Water Code requirements. An example of a similar approach was proposed by the San Francisco Regional Water Quality Control Board in the TMDL-specific language for the Napa River and Sonoma Creek Sediment TMDLs.</p> <p style="text-align: center;"><i>The proposed Napa River and Sonoma Creek Sediment TMDLs find that the Erosion and Sediment BMPs prescribed in the IGP (X.H.1.e), in combination with facility-specific BMPs selected after the pollutant source assessment, are sufficient and consistent with the assumptions of the TMDL.</i></p> <p>CASQA supports incorporating a similar approach that appropriately uses the existing IGP and Water Code Plastic Materials provisions, the IGP pollutant source assessment and BMP selection process to address pollutant sources for Responsible Dischargers.</p>

<sup>2</sup> Stormwater monitoring traditionally tests for TSS; relevant SSC data are not available.

No.	TMDL	Comment
7.	<ul style="list-style-type: none"> <li>Peck Road Park Lake and Echo Park Lake Trash</li> </ul>	<p>This is the first TMDL for which requirements have been developed in relation to the pollutant trash. The requirements do not discuss unique aspects of the watershed or specific dischargers the proposal may be tailored to. Therefore, these comments consider this language as if it may be a model or general approach the LA Regional Board may wish to develop.</p> <p>As a general comment, CASQA notes that the Required Actions section and the monitoring requirements are complex and challenging to understand and apply. We are concerned about how small facilities, for example, could understand and implement them. CASQA suggests that the LA Regional Board consider a simpler overall approach that would still achieve consistency with the TMDL in the industrial discharger context.</p> <p>To achieve this, CASQA recommends the Regional Water Board use mandatory minimum BMPs as the structure of the requirements, starting from those already addressing trash in the IGP. Then include a visual assessment requirement that would require implementation of additional BMPs as needed to meet the necessary objectives. The following comments provide more specific recommendations related to the various provisions to achieve this simplification.</p>
8.	<ul style="list-style-type: none"> <li>Peck Road Park Lake and Echo Park Lake Trash</li> </ul>	<p>CASQA recommends the Regional Water Board clarify which facilities will be responsible to comply with the Required Actions. The description of Responsible Dischargers in the initial table appears to refer to all facilities discharging to the impaired waterbodies, i.e. does not distinguish those who may not have potential to discharge trash. Consistent with CASQA Comment 1, CASQA recommends the Regional Water Board clarify that only those sites that have identified on-site industrial sources of the TMDL-related pollutant (trash) be required to perform the Required Actions.</p> <p>The draft language does describe Required Actions as starting with the Assessment of Potential Pollutant Sources per Section X.G.2.a.ix of the IGP. Yet the TAL-compliance requirements seem to apply to any “Responsible Discharger,” which, again, seems to be defined as all facilities discharging within the watershed. CASQA recommends that the Regional Water Board clarify that the follow up requirements, including the TAL-related steps, would not apply if the assessment indicates there is not a potential source.</p>

No.	TMDL	Comment
9.	<ul style="list-style-type: none"> <li>Peck Road Park Lake and Echo Park Lake Trash</li> </ul>	<p>As noted above, CASQA requests that language in each set of requirements be revised to be consistent with the IGP pollutant assessment process, which is the IGP’s foundation for establishing BMPs, monitoring.</p> <p>Footnote 3 in the draft TMDL-specific IGP requirements appear to incorporate non-industrial stormwater as part of the pollutant source assessment. This confuses the determination of which dischargers must perform the Required Actions, by implying permittees must determine potential for specific pollutants to be in stormwater that is <u>not</u> associated with industrial activities. Such pollutants are not regulated by the IGP, except insofar that they are commingled with industrial stormwater discharges.</p>
10.	<ul style="list-style-type: none"> <li>Peck Road Park Lake and Echo Park Lake Trash</li> </ul>	<p>The Required Actions appear to have two sets of requirements that are not linked together:</p> <p>A. One major set of requirements (pages 2-4) requires one of two methods to eliminate trash from all storm water and authorized NSWDS – “Full Capture” or “Minimum Frequency of Assessment and Collection (MFAC)”.</p> <p>B. A seemingly separate process (page 4) for responding to exceedance of the TAL (which seems to be only one piece of trash, per the table). This separate process is the requirement to commence the Exceedance Response Actions (ERAs) process in Section XII of the IGP, unless the Discharger documents that all related areas are addressed by full capture systems.</p> <p>Is the Regional Water Board’s intent to trigger the first set of requirements upon exceedance of the TALs, i.e. would the ERA process essentially consist of (or be replaced by) this substantial set of requirements? If so, the language should be restructured to begin with the TAL and set out requirements triggered by exceedance of the TMDL in one logical set of steps.</p> <p>CASQA suggests that the Regional Water Board consider using a mandatory BMP approach, which would integrate more clearly into the IGP, and possibly not require the exercise of triggering requirements when a facility detects “one piece of trash” (which obviously could occur at any moment). The requirements could also more easily be integrated with monitoring, which is currently also complex as noted below.</p>

No.	TMDL	Comment
11.	<ul style="list-style-type: none"> <li>Peck Road Park Lake and Echo Park Lake Trash</li> </ul>	<p>It is not clear how an industrial facility would use the “MFAC protocols” for rapid trash assessment, or why they are needed in the case of discharger-controlled facilities of this type. The protocols are generally designed for MS4 permittees to use in assessing accumulation of trash along their systems, rather than for a discharger with control of the trash-generating area. CASQA suggests that simpler visual assessment and maintenance requirements be described for industrial dischargers. The proposal also requires compliance with IGP requirements for monitoring in the form of visual observations and records. CASQA recommends that the Regional Water Board specifically discuss what aspects of this existing IGP requirement are inadequate for these TMDL-related requirements, and then define what specific additional assessment measures are appropriate and necessary for industrial facilities.</p> <p>Similarly, if a minimum frequency of collection of trash at facilities must be addressed, it would appear to be clearer to compare the desired objective to existing IGP minimum BMPs, and, if inadequate, then explain in simple terms how a discharger should increase collection efforts without requiring special approved protocols designed for MS4s.</p>

Attachment: Proposed TMDL-Specific Illustrations  
of General Comments on Industrial General Permit Requirements

May 13, 2016

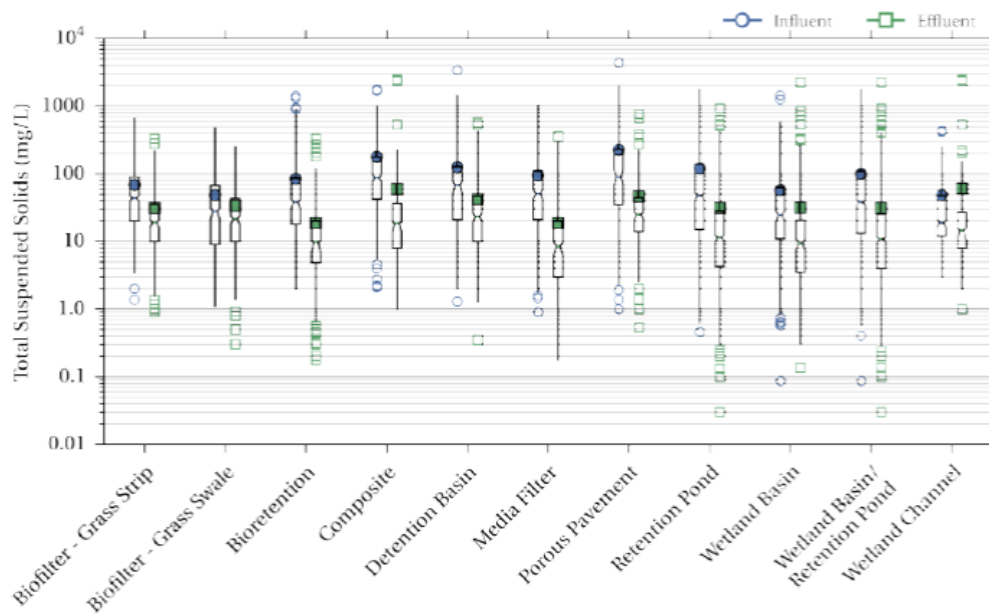
Attachment: Excerpt from the International Stormwater BMP Database



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[http://bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Addendum/BMP%20Database%20Categorical\\_StatisticalSummaryReport\\_December2014.pdf](http://bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Addendum/BMP%20Database%20Categorical_StatisticalSummaryReport_December2014.pdf)

**Figure 2. Box Plots of Influent/Effluent TSS Concentrations**



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March 31, 2016

Los Angeles Regional Water Quality Control Board

Attn: Pavlova Vitale

**Subject: Comments on Draft TMDL-Specific Industrial General Permit Requirements**

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The CASQA Industrial Subcommittee includes a broad representation of the entities that will be affected by the Industrial General Permit, including municipalities, regulated industries, stormwater professionals, academics, and attorneys. CASQA has been involved with each issuance of California's Industrial General Permit, and has been an advocate for industrial stormwater permits that protect water quality and are practical for industrial operations.

The process of amending the Industrial General Permit to address each of the thirty-five TMDLs listed in Attachment E to the permit is multifaceted and complex. CASQA is providing comments on the following general topics, suggesting overarching principles for incorporating TMDL-based requirements into the IGP, rather than complete, detailed comments on each proposal. A limited number of illustrations of the general topics linked to specific TMDLs are provided within or following the general principles.

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  - a. Onsite volume reductions of stormwater to reduce pollutant loads.
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In addition to these overarching comments, CASQA provides some illustrations of how the general comments apply to some specific aspects of TMDL-specific proposals. These illustrations are attached to this letter.

**1. Maintain consistency with the IGP pollutant source assessment process.**

The IGP applies to a wide variety of industrial facilities that have different industrial pollutant sources specific to their operations. The IGP recognizes that not all potential industrial pollutants are present in the industrial operations of all facilities and requires dischargers to conduct a pollutant source assessment of the industrial operations and industrial materials and wastes (X.G). Based upon this assessment, BMPs are selected and implemented (X.H) and a monitoring program (X.I) is designed for the industrial pollutants identified.

*CASQA recommends that the TMDL language follow this industrial pollutant source assessment process and limit the application of the pollutant specific TMDL-based requirements to those IGP facilities that identify the presence of the TMDL pollutant(s) in their pollutant source assessment.*

**2. A clear statement of required actions, especially actions that go beyond the requirements of the IGP.**

*CASQA recommends that in cases where a Basin Plan Amendment and assumptions in the TMDL staff report require actions beyond those required in the IGP to be consistent with the assumptions underlying TMDL waste load allocations, these additional requirements need to be clearly and explicitly defined in the TMDL-related language and supported in the Permit fact sheet.*

*CASQA recommends General Permit language, which affects a large number of dischargers, provide clear direction to dischargers and establish a common understanding of the compliance expectations for dischargers, regulators, and other stakeholders.*

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*CASQA recommends that each set of TMDL-related requirements incorporated into the IGP have a statement of how compliance will be assessed. Compliance with the waste load allocations should be based upon control measure or BMP-based approaches coupled with numeric action levels (NALs). Exceedances of TMDL-based NALs would be addressed through the Exceedance Response Action (ERA) process defined in the IGP (XII).*

*CASQA recommends that where the Regional Water Board establishes a TMDL-based NAL, consistent and distinct terminology should be used to distinguish it from the IGP NALs in Table 2, and to clearly articulate that the numeric criteria are modified NALs derived from TMDLs and are intended to be used in lieu of existing NALs for the purpose of IGP compliance at facilities subject to the pollutant specific TMDL.*

Consistent use of this terminology would also clearly establish that the numeric criteria in the TMDL-related requirements are intended to modify NALs and are not numeric standards (actual or *de facto* numeric effluent limitations) intended to determine whether discharges have exceeded Receiving Water Limitations (Section VI).

The adoption of the TMDL-based NAL during the middle of the IGP reporting year could lead to ambiguity regarding determining compliance with the NALs for that reporting year.

*CASQA recommends that the use of a new TMDL-based NAL to commence with the beginning of the IGP reporting year. Each TMDL-related requirement incorporated into the IGP needs to clearly define how compliance with the IGP will be determined for both (1) the reporting year in which the requirement is adopted, and (2) subsequent reporting years.*

**4. Establish that compliance with IGP TMDL-related requirements is compliance with IGP receiving water limitations for the applicable pollutant.**

TMDL-based permit requirements are intended to satisfy Clean Water Act requirements for provisions necessary to attain water quality objectives. As is recognized in other California NPDES permits, compliance with the TMDL-based permit requirements satisfies receiving water limits for the relevant constituent.

*CASQA recommends that the TMDL-related language state that compliance with these TMDL-related requirements constitutes compliance with Receiving Water Limitations of IGP Section VI.A, as well as Effluent Limitation Section V.C, with respect to the particular constituent involved.*

**5. Provide alternative compliance paths for pollutants that may not reasonably be controlled via source controls or treatment systems.**

Many stormwater pollutants are not easy to control through traditional stormwater source control or treatment control practices. Stormwater programs implemented by industrial facilities can go a long way in reducing pollutant concentrations in stormwater but may not completely eliminate the pollutant or reduce the concentration to the NAL concentrations.

CASQA is concerned with the achievability of some of the TMDL-based NALs, where neither treatment control nor source control best management practices (BMPs) appear to be available, feasible, or capable of achieving the NAL concentrations. There is a larger issue of the appropriateness of these levels as NALs measured against varying and periodic stormwater discharges. Ideally, achieving these levels in-stream should be harmonized with the pollutant load reduction measures in watershed planning at the municipal level.

*CASQA recommends that the Regional Water Board think broadly about how industrial facilities can achieve compliance consistent with assumptions underlying TMDL waste load allocations. One compliance path would be to allow facilities credit for volume reduction BMPs, when comparing sample results to NALs or other performance measures.*

Significant load reductions can be achieved by sites that have the ability to collect, infiltrate, use stormwater and not discharge it or that can discharge to sewer systems the runoff volumes from most events, or a large proportion of runoff volumes from events. For sites that can reduce the load of pollutants, concentration TMDL-based NALs may not be appropriate.

*CASQA recommends that compliance options also include the option for industrial facilities to coordinate with municipal permittees' watershed planning efforts, including WMPs, EWMPs, and/or watershed/waterbody restoration plans and regional BMPs that are designed to achieve load reductions at the watershed level.*

## CASQA Comments on Proposed TMDL-Specific Industrial General Permit Requirements

A watershed level compliance option may be particularly useful where waste load allocations have not been disaggregated amongst the responsible parties (that is, a single waste load allocation is collectively applied to all permittees in a watershed, e.g., the Los Peñasquitos Lagoon Sediment TMDL assigns 2,580 tons/wet season collectively to all identified responsible parties in the watershed). A compliance option that engages responsible parties in the restoration plan for the waterbody may well achieve better outcomes than efforts to reduce pollutants at specific facilities.

The details of such a plan are difficult to develop in this format.

*CASQA encourages the Regional Water Board to include language that allows for this option and leaves the details of such a plan to be developed and submitted for approval. To this end we suggest the following language:*

*The Regional Water Board may approve proposals to substitute an acceptable watershed-based program if it determines that participation in a watershed-based program will provide customized strategies, control measures, and BMPs that would be implemented in coordination with municipalities and/or TMDL responsible parties to achieve the required load reductions at a watershed scale. Dischargers participating in a watershed-based TMDL compliance program shall continue to implement the site specific BMPs and monitoring program in compliance with the requirements of this General Permit.*

*The Regional Water Board may approve proposals for appropriate site-specific pollutant load reduction programs that provide load reductions credits achieved by reducing stormwater and non-stormwater runoff volume through collection and infiltration, use, or diversion to sanitary sewers.*

In closing, CASQA would like to thank the Regional Water Board for the opportunity to comment on the proposed TMDL-specific Industrial General Permit Requirements that are under consideration. Feel free to contact our Executive Director Geoff Brosseau with any questions at (650) 365-8620.

Sincerely,



Jill Bicknell, Chair  
California Stormwater Quality Association

cc: Laurel Warddrip, State Water Board  
CASQA Board of Directors and Executive Program Committee

Attachment: Proposed TMDL-Specific Illustrations of General Comments on Industrial General Permit Requirements

No.	TMDL	Comment
1.	<ul style="list-style-type: none"> <li>• Los Angeles River, Metals</li> <li>• Los Angeles River, Nitrogen Compounds</li> <li>• Los Cerritos Channel, Metals</li> <li>• Long Beach City Beaches Bacteria</li> <li>• Santa Clara River, Nitrogen Compounds</li> <li>• Santa Clara River, Chloride Reach 3</li> <li>• Santa Clara River, Bacteria</li> <li>• San Gabriel River, Metals</li> </ul>	<p>Consistent with CASQA Comment 1, CASQA recommends the Regional Water Board clarify that only those sites that have identified on-site industrial sources of the TMDL-related pollutants be required to collect samples and analyze for those pollutants.</p> <p>Footnote 1 (or 2 in some cases) in the draft TMDL-specific IGP requirements appears to incorporate non-industrial stormwater as part of the pollutant source assessment. The Footnote confuses determination of which dischargers must perform the Required Actions, by implying permittees must determine potential for specific pollutants to be in stormwater that is <u>not</u> associated with industrial activities. Such pollutants are not regulated by the IGP, except insofar that they are commingled with industrial stormwater discharges. The IGP does not require that dischargers separately evaluate or independently control nonindustrial sources of pollutants in stormwater.</p> <p>CASQA requests that language in each set of requirements be revised to be consistent with the IGP pollutant assessment process, which is the IGP’s foundation for establishing BMPs, monitoring, and for conducting the NAL Exceedance Response Action (ERA) process.</p>
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March 31, 2016

Los Angeles Regional Water Quality Control Board

Attn: Pavlova Vitale

**Subject: Comments on Draft TMDL-Specific Industrial General Permit Requirements**

Dear Ms. Vitale:

The California Stormwater Quality Association (CASQA) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ), hereafter Industrial General Permit or IGP.

The CASQA Industrial Subcommittee includes a broad representation of the entities that will be affected by the Industrial General Permit, including municipalities, regulated industries, stormwater professionals, academics, and attorneys. CASQA has been involved with each issuance of California's Industrial General Permit, and has been an advocate for industrial stormwater permits that protect water quality and are practical for industrial operations.

The process of amending the Industrial General Permit to address each of the thirty-five TMDLs listed in Attachment E to the permit is multifaceted and complex. CASQA is providing comments on the following general topics, suggesting overarching principles for incorporating TMDL-based requirements into the IGP, rather than complete, detailed comments on each proposal. A limited number of illustrations of the general topics linked to specific TMDLs are provided within or following the general principles.

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5. Provide options for compliance paths that may offer equivalent or more appropriate forms of control, particularly for pollutants that cannot be reasonably controlled via source controls or treatment systems, such as:
  - a. Onsite volume reductions of stormwater to reduce pollutant loads.
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## CASQA Comments on Proposed TMDL-Specific Industrial General Permit Requirements

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*The Regional Water Board may approve proposals for appropriate site-specific pollutant load reduction programs that provide load reductions credits achieved by reducing stormwater and non-stormwater runoff volume through collection and infiltration, use, or diversion to sanitary sewers.*

In closing, CASQA would like to thank the Regional Water Board for the opportunity to comment on the proposed TMDL-specific Industrial General Permit Requirements that are under consideration. Feel free to contact our Executive Director Geoff Brosseau with any questions at (650) 365-8620.

Sincerely,



Jill Bicknell, Chair  
California Stormwater Quality Association

cc: Laurel Warddrip, State Water Board  
CASQA Board of Directors and Executive Program Committee

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April 7, 2016

Los Angeles Regional Water Quality Control Board

Attn: Pavlova Vitale

**Subject: Comments on Draft TMDL-Specific Industrial General Permit Requirements – Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria**

Dear Ms. Vitale:

The California Stormwater Quality Association (CASQA) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ), hereafter Industrial General Permit or IGP.

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The process of amending the Industrial General Permit to address each of the thirty-five TMDLs listed in Attachment E to the permit is multifaceted and complex. CASQA is providing comments on the following general topics, suggesting overarching principles for incorporating TMDL-based requirements into the IGP, rather than complete, detailed comments on each proposal. A limited number of illustrations of the general topics linked to specific TMDLs are provided within or following the general principles.

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**1. Maintain consistency with the IGP pollutant source assessment process.**

The IGP applies to a wide variety of industrial facilities that have different industrial pollutant sources specific to their operations. The IGP recognizes that not all potential industrial pollutants are present in the industrial operations of all facilities and requires dischargers to conduct a pollutant source assessment of the industrial operations and industrial materials and wastes (X.G). Based upon this assessment, BMPs are selected and implemented (X.H) and a monitoring program (X.I) is designed for the industrial pollutants identified.

*CASQA recommends that the TMDL language follow this industrial pollutant source assessment process and limit the application of the pollutant specific TMDL-based requirements to those IGP facilities that identify the presence of the TMDL pollutant(s) in their pollutant source assessment.*

**2. A clear statement of required actions, especially actions that go beyond the requirements of the IGP.**

*CASQA recommends that in cases where a Basin Plan Amendment and assumptions in the TMDL staff report require actions beyond those required in the IGP to be consistent with the assumptions underlying TMDL waste load allocations, these additional requirements need to be clearly and explicitly defined in the TMDL-related language and supported in the Permit fact sheet.*

*CASQA recommends General Permit language, which affects a large number of dischargers, provide clear direction to dischargers and establish a common understanding of the compliance expectations for dischargers, regulators, and other stakeholders.*

**3. Establish how compliance with the TMDL-related requirements and any interim milestones will be determined.**

*CASQA recommends that each set of TMDL-related requirements incorporated into the IGP have a statement of how compliance will be assessed. Compliance with the waste load allocations should be based upon control measure or BMP-based approaches coupled with numeric action levels (NALs). Exceedances of TMDL-based NALs would be addressed through the Exceedance Response Action (ERA) process defined in the IGP (XII).*

*CASQA recommends that where the Regional Water Board establishes a TMDL-based NAL, consistent and distinct terminology should be used to distinguish it from the IGP NALs in Table 2, and to clearly articulate that the numeric criteria are modified NALs derived from TMDLs and are intended to be used in lieu of existing NALs for the purpose of IGP compliance at facilities subject to the pollutant specific TMDL.*

Consistent use of this terminology would also clearly establish that the numeric criteria in the TMDL-related requirements are intended to modify NALs and are not numeric standards (actual or *de facto* numeric effluent limitations) intended to determine whether discharges have exceeded Receiving Water Limitations (Section VI).

The adoption of the TMDL-based NAL during the middle of the IGP reporting year could lead to ambiguity regarding determining compliance with the NALs for that reporting year.

*CASQA recommends that the use of a new TMDL-based NAL to commence with the beginning of the IGP reporting year. Each TMDL-related requirement incorporated into the IGP needs to clearly define how compliance with the IGP will be determined for both (1) the reporting year in which the requirement is adopted, and (2) subsequent reporting years.*

**4. Establish that compliance with IGP TMDL-related requirements is compliance with IGP receiving water limitations for the applicable pollutant.**

TMDL-based permit requirements are intended to satisfy Clean Water Act requirements for provisions necessary to attain water quality objectives. As is recognized in other California NPDES permits, compliance with the TMDL-based permit requirements satisfies receiving water limits for the relevant constituent.

*CASQA recommends that the TMDL-related language state that compliance with these TMDL-related requirements constitutes compliance with Receiving Water Limitations of IGP Section VI.A, as well as Effluent Limitation Section V.C, with respect to the particular constituent involved.*

**5. Provide alternative compliance paths for pollutants that may not reasonably be controlled via source controls or treatment systems.**

Many stormwater pollutants are not easy to control through traditional stormwater source control or treatment control practices. Stormwater programs implemented by industrial facilities can go a long way in reducing pollutant concentrations in stormwater but may not completely eliminate the pollutant or reduce the concentration to the NAL concentrations.

CASQA is concerned with the achievability of some of the TMDL-based NALs, where neither treatment control nor source control best management practices (BMPs) appear to be available, feasible, or capable of achieving the NAL concentrations. There is a larger issue of the appropriateness of these levels as NALs measured against varying and periodic stormwater discharges. Ideally, achieving these levels in-stream should be harmonized with the pollutant load reduction measures in watershed planning at the municipal level.

*CASQA recommends that the Regional Water Board think broadly about how industrial facilities can achieve compliance consistent with assumptions underlying TMDL waste load allocations. One compliance path would be to allow facilities credit for volume reduction BMPs, when comparing sample results to NALs or other performance measures.*

Significant load reductions can be achieved by sites that have the ability to collect, infiltrate, use stormwater and not discharge it or that can discharge to sewer systems the runoff volumes from most events, or a large proportion of runoff volumes from events. For sites that can reduce the load of pollutants, concentration TMDL-based NALs may not be appropriate.

*CASQA recommends that compliance options also include the option for industrial facilities to coordinate with municipal permittees' watershed planning efforts, including WMPs, EWMPs, and/or watershed/waterbody restoration plans and regional BMPs that are designed to achieve load reductions at the watershed level.*

## CASQA Comments on Proposed TMDL-Specific Industrial General Permit Requirements

A watershed level compliance option may be particularly useful where waste load allocations have not been disaggregated amongst the responsible parties (that is, a single waste load allocation is collectively applied to all permittees in a watershed, e.g., the Los Peñasquitos Lagoon Sediment TMDL assigns 2,580 tons/wet season collectively to all identified responsible parties in the watershed). A compliance option that engages responsible parties in the restoration plan for the waterbody may well achieve better outcomes than efforts to reduce pollutants at specific facilities.

The details of such a plan are difficult to develop in this format.

*CASQA encourages the Regional Water Board to include language that allows for this option and leaves the details of such a plan to be developed and submitted for approval. To this end we suggest the following language:*

*The Regional Water Board may approve proposals to substitute an acceptable watershed-based program if it determines that participation in a watershed-based program will provide customized strategies, control measures, and BMPs that would be implemented in coordination with municipalities and/or TMDL responsible parties to achieve the required load reductions at a watershed scale. Dischargers participating in a watershed-based TMDL compliance program shall continue to implement the site specific BMPs and monitoring program in compliance with the requirements of this General Permit.*

*The Regional Water Board may approve proposals for appropriate site-specific pollutant load reduction programs that provide load reductions credits achieved by reducing stormwater and non-stormwater runoff volume through collection and infiltration, use, or diversion to sanitary sewers.*

In closing, CASQA would like to thank the Regional Water Board for the opportunity to comment on the proposed TMDL-specific Industrial General Permit Requirements that are under consideration. Feel free to contact our Executive Director Geoff Brosseau with any questions at (650) 365-8620.

Sincerely,



Jill Bicknell, Chair  
California Stormwater Quality Association

cc: Laurel Warddrip, State Water Board  
CASQA Board of Directors and Executive Program Committee

Attachment: Proposed TMDL-Specific Illustrations of General Comments on Industrial General Permit Requirements

No.	TMDL	Comment
1.	<ul style="list-style-type: none"> <li>• Calleguas Creek, Watershed TMDL for Metals and Selenium</li> <li>• TMDLs for Pesticides, PCBs, and Sediment Toxicity in Oxnard Drain 3</li> <li>• Harbor Beaches of Ventura County Bacteria TMDL</li> </ul>	<p>Consistent with CASQA Comment 1, CASQA recommends the Regional Water Board clarify that only those sites that have identified on-site industrial sources of the TMDL-related pollutants be required to collect samples and analyze for those pollutants.</p> <p>Footnote 1 in the Calleguas Creek and Harbor Beaches of Ventura County draft TMDL-specific IGP requirements and Footnote 2 in the Oxnard Drain TMDL-specific IGP requirements appear to incorporate non-industrial stormwater as part of the pollutant source assessment. The footnotes confuse the determination of which dischargers must perform the Required Actions, by implying permittees must determine potential for specific pollutants to be in stormwater that is <u>not</u> associated with industrial activities. Such pollutants are not regulated by the IGP, except insofar that they are commingled with industrial stormwater discharges. The IGP does not require that dischargers separately evaluate or independently control non-industrial sources of pollutants in stormwater.</p> <p>CASQA requests that language in each set of requirements be revised to be consistent with the IGP pollutant assessment process, which is the IGP’s foundation for establishing BMPs, monitoring, and for conducting the NAL Exceedance Response Action (ERA) process.</p>
2.	<ul style="list-style-type: none"> <li>• Calleguas Creek Watershed TMDL for Metals and Selenium</li> <li>• Calleguas Creek Watershed Boron, Chloride, Sulfate, and Total Dissolved Solids (Salts) TMDL</li> <li>• TMDLs for Pesticides, PCBs, and Sediment Toxicity in Oxnard Drain 3</li> <li>• Harbor Beaches of Ventura County Bacteria TMDL</li> </ul>	<p>The TMDL-specific language and discussions in the Fact Sheets contain references to “complying with TALs”. CASQA requests that this language be modified to be consistent with the discussion of NAL exceedances in the IGP. The NAL and ERA processes are designed to assess performance not compliance.</p> <p>As noted in the IGP (Provision M, item 61), NALs are part of a multiple objective performance measurement system. The NALs are not a test of compliance (Provision M 63) in and of themselves but trigger a series of actions, through ERA levels, to assess pollutant sources and enhance BMPs. References to compliance with TALs or waste load allocations (WLAs) expressed as TALs may lead to a misunderstanding of the use of the action levels. WLAs and TALs are not permit limitations to be “complied with” directly. Rather language should express the need to compare sample results with the TALs to determine if the TALs have been exceeded, which would trigger the ERA process.</p> <p>Suggested Alternative Language Example:</p> <p><i>“Responsible Dischargers shall <del>comply with the</del> perform sampling and analysis and compare the results with the TALs, expressed as instantaneous maximum values, in the tables below, to determine if the TAL have been exceeded by the applicable parameter.</i>”</p>

No.	TMDL	Comment
3.	<ul style="list-style-type: none"> <li>• Calleguas Creek, Watershed TMDL for Metals and Selenium</li> <li>• Calleguas Creek Watershed Boron, Chloride, Sulfate, and Total Dissolved Solids (Salts) TMDL</li> <li>• TMDLs for Pesticides, PCBs, and Sediment Toxicity in Oxnard Drain 3</li> <li>• Harbor Beaches of Ventura County Bacteria TMDL</li> </ul>	<p>The Required Actions conclusion statement of each Fact Sheet states that the State and/or Regional Water Board retains authority to require additional actions “if it is determined ... that a discharger may be causing or contributing to an exceedance of a WLA.” The Order language on this subject states that “The State and/or Regional Water Board may require industrial stormwater dischargers to implement additional actions... based on, but not limited to, monitoring data and comparison to applicable TALs, visual observations, discharger reports, or site-specific inspections and/or investigations.”</p> <p>The phrase “<u>causing or contributing to an exceedance of WLA</u>” is inappropriate and confusing, in that it seems to confuse WLAs with water quality objectives, and suggests that dischargers may be subjected to new, additional and undefined IGP obligations upon a vague determination by the Regional Water Board or State Water Board.</p> <p>Instead, CASQA suggests that the proposed language simply recognize existing IGP Sections XIX.C and XIX.D regarding Regional Water Board authorities.</p>
4.	<ul style="list-style-type: none"> <li>• Calleguas Creek Watershed TMDL for Metals and Selenium</li> <li>• Calleguas Creek Watershed Boron, Chloride, Sulfate, and Total Dissolved Solids (Salts) TMDL</li> <li>• TMDLs for Pesticides, PCBs, and Sediment Toxicity in Oxnard Drain 3</li> </ul>	<p>TMDL-based numeric action levels (“TALs”) are expressed as instantaneous maximum values, and the draft TMDL-specific language specifies that if the sampling results indicate a TAL exceedance, the Discharger shall commence the level 2 ERA process. The draft TMDL-specific language is unclear as to the timing associated with entering ERA Level 2. CASQA recommends that the Regional Board clarify that the timelines for conducting the ERA process with respect to TALs will be consistent with the timelines in the IGP for conducting the ERA process with respect to NALs.</p>

No.	TMDL	Comment
5.	<ul style="list-style-type: none"> <li>• Calleguas Creek Watershed TMDL for Metals and Selenium</li> <li>• Calleguas Creek Watershed Boron, Chloride, Sulfate, and Total Dissolved Solids (Salts) TMDL</li> <li>• TMDLs for Pesticides, PCBs, and Sediment Toxicity in Oxnard Drain 3</li> </ul>	<p>Consistent with the IGP NALs and to appropriately account for the variability associated with stormwater monitoring data, annual averages rather than instantaneous values of stormwater sample results should be incorporated into the draft TMDL-specific IGP requirements.</p>
6.	<ul style="list-style-type: none"> <li>• TMDLs for Pesticides, PCBs, and Sediment Toxicity in Oxnard Drain 3</li> </ul>	<p>The TMDL-specific language identifies that the appropriate Responsible Parties must sample discharges for Suspended Sediment Concentration (SSC). SSC is not an EPA-approved method as indicated in the fact sheet.</p> <p>The availability of commercial laboratories that can perform the SSC method remains limited although the number has increased slightly since the CASQA looked into this during the Construction General Permit reissuance process. At that time, CASQA was able to identify only one commercial laboratory.</p> <p>In natural water sampling situations, one of the main advantages of SSC over Total Suspended Solids is that SSC provides a better measurement of the larger particulates (sand) in the water column. When samples contain finer material (0.062 mm) TSS and SSC results are more or less similar.<sup>1</sup> Given that pollutants of concern in this TMDL are more likely to adhere to smaller particulates and that industrial stormwater effluent sampling is more similar to wastewater sampling than sampling natural waters, the use of more common EPA-approved laboratory methods such as TSS or turbidity should be used for this surrogate screening. CASQA recommends that the SSC method not be prescribed in the TMDL-specific requirements.</p>

<sup>1</sup> See Comparability of Suspended-Sediment Concentration and Total Suspended Solids Data, USGS 2000, WRIR 00-4191

No.	TMDL	Comment
7.	<ul style="list-style-type: none"><li data-bbox="222 258 564 394">TMDLs for Pesticides, PCBs, and Sediment Toxicity in Oxnard Drain 3</li></ul>	Consistent with CASQA comment 5, the achievability of a TAL of 1 mg of sediment per liter of water is unlikely through source and treatment control BMPs. A review of the International Stormwater BMP Database data shows that effluent from most treatment BMPs would exceed the proposed TAL (assuming SSC and TSS concentrations would be similar <sup>2</sup> ). Excerpt attached.

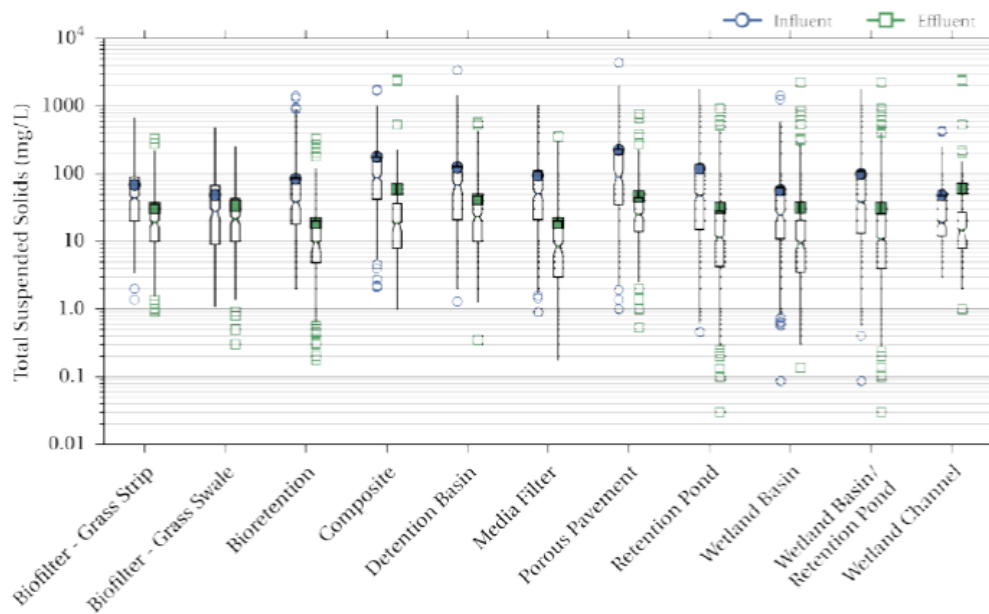
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<sup>2</sup> Stormwater monitoring traditionally tests for TSS; relevant SSC data are not available.

Excerpt from International Stormwater Best Management Practices (BMP) Database Pollutant Category Statistical Summary Report, December 2014.

[http://bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Addendum/BMP%20Database%20Categorical\\_StatisticalSummaryReport\\_December2014.pdf](http://bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Addendum/BMP%20Database%20Categorical_StatisticalSummaryReport_December2014.pdf)

**Figure 2. Box Plots of Influent/Effluent TSS Concentrations**



**Table 2. Influent/Effluent Summary Statistics for TSS (mg/L)**

BMP Type	Count of Studies and EMCs		25th Percentile		Median (95% Conf. Interval)*		75th Percentile	
	In	Out	In	Out	In	Out	In	Out
Biofilter - Grass Strip	19; 361	19; 282	20.0	10.0	44.1 (39, 48)	<b>19 (15.9, 21)**</b>	90.0	35.0
Biofilter - Grass Swale	23; 399	23; 346	9.0	10.0	27.7 (21, 31.6)	<b>21.6 (17.8, 24)**</b>	67.0	43.0
Bioretention	22; 461	22; 393	18.0	4.9	38.1 (31, 42)	<b>9.9 (7, 10)**</b>	86.0	20.0
Composite	10; 202	10; 174	42.4	8.0	87.6 (75.1, 101.5)	<b>18.4 (14, 19.3)**</b>	178.8	36.5
Detention Basin	22; 321	22; 336	21.0	10.0	68.2 (52.3, 77.3)	<b>23.3 (19.5, 26)**</b>	128.0	47.0
Media Filter	23; 381	23; 358	21.1	3.0	50.9 (42.8, 58)	<b>8.4 (6.3, 9.8)**</b>	110.5	19.9
Porous Pavement	8; 356	8; 220	35.0	14.0	90.3 (69, 115)	<b>24.9 (21.5, 27)**</b>	230.0	44.4
Retention Pond	56; 923	56; 933	15.0	4.3	47.7 (40, 54)	<b>11.5 (10, 12.3)**</b>	139.8	28.0
Wetland Basin	19; 395	19; 385	11.0	3.5	24.5 (19.1, 28.9)	<b>9.4 (7.4, 11)**</b>	63.3	20.6
Wetland Basin/Retention Pond	75; 1318	75; 1318	13.3	4.0	37.9 (34, 41.6)	<b>10.9 (9.6, 11.7)**</b>	110.0	25.4
Wetland Channel	8; 171	8; 151	12.0	8.0	18.9 (16, 21)	<b>14.4 (10, 16)**</b>	47.5	27.0

NA – not available or less than 3 studies for BMP/constituent.

\*Computed using the BCa bootstrap method described by Efron and Tibishirani (1993).

\*\*Hypothesis testing in Attachment 1 shows statistically significant decreases for this BMP category.



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March 31, 2016

## ELECTRONIC MAIL

Submitted via e-mail: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Attention: Pavlova Vitale

Dear Ms. Vitale:

### **COMMENTS ON DRAFT TMDL-SPECIFIC PERMIT REQUIREMENTS FOR THE STATE WATER RESOURCES CONTROL BOARD'S INDUSTRIAL GENERAL STORM WATER PERMIT (LOS ANGELES RIVER WATERSHED)**

The City of Los Angeles (City) Bureau of Sanitation (LASAN) appreciates the Los Angeles Regional Water Quality Control Board's (Regional Board) efforts to incorporate specific Total Maximum Daily Load (TMDL) requirements into the statewide General Permit for Storm Water Discharges Associated with Industrial Activities (Industrial General Permit [IGP]) [Order No. 2014-0057-DWQ, National Pollutant Discharge Elimination System [NPDES] Permit No. CAS000001]. Runoff from areas addressed by the IGP has the potential to enter the municipal separate storm sewer system (MS4) and affect the City's ability to meet the requirements of the 2012 MS4 Permit [Order No. R4-2012-0175; NPDES Permit No. CAS004001]. As such, the appropriate application of the TMDL requirements is needed to ensure that all responsible parties actively participate in solving the region's water quality issues. Furthermore, it is important that the incorporation of the TMDL wasteload allocations (WLAs) are consistent, as appropriate, with the manner in which those requirements are incorporated into the MS4 Permit.

The City commits significant resources to protect water quality as it strives to ensure that pollutant sources within its control do not contribute to exceedances of water quality standards. In addition, the

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City has been an active participant in TMDLs in watersheds located within its jurisdiction. When facilities or types of activities are not adequately regulated, they can cause or contribute to exceedances of TMDL targets, receiving water limitations (RWLs), and/or water quality based effluent limitations (WQBELs), which could result in impacts to water quality and permit violations for which the City could be held responsible. Per the City's MS4 Permit, runoff from IGP sites becomes the City's responsibility when it enters its MS4. As such, the City seeks equitable accountability from IGP sites that may discharge pollutants. This equitability will ensure that the responsibilities and costs placed on dischargers are borne fully by all parties that play a role in pollutant generation, and are fairly divided between public and private sources. The inclusion of these TMDLs into the IGP will help to ensure that all dischargers in the Los Angeles region are active in their stewardship of the local environment and that those waters deemed in need of greatest protection will receive the extra attention provided by these requirements. We support the Regional Board's efforts and have the following technical comments for your consideration.

### **Los Angeles River Nitrogen Compounds TMDL**

The Los Angeles River TMDL for Nitrogen Compounds and Related Effects TMDL (Nitrogen TMDL) assigns WLAs for industrial sources for ammonia, nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen in both wet and dry weather conditions. However, TMDL Action Levels (TALs) for ammonia-N are set based on the wet weather WLA only, which is based on the 1-hour TMDL numeric target. No TALs were included for the lower 30-day ammonia-N TMDL numeric target set for dry weather. Additionally, no TALs are identified specifically for nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen in the proposed IGP language. Rather Responsible Discharges are required to comply with the existing NALs presented in Table 2 of the IGP. However, Table 2 of the IGP does not include NALs for nitrate-nitrogen or nitrite-nitrogen. Therefore, the City requests the following specific changes to ensure consistency with the TMDL WLAs, as well as the manner in which the WLAs were incorporated into the City's MS4 Permit:

- A TAL associated with the dry weather WLA based on the 30-day TMDL numeric target should be included.
- The TMDL numeric targets as TALs for nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen should be directly incorporated rather than incorporated by reference. Or at a minimum, TALs for nitrate-nitrogen and nitrite-nitrogen should be added as they are not included in Table 2 of the IGP.

### **Los Angeles River Metals TMDL**

The Fact Sheet outlining the proposed changes to the IGP related to the Los Angeles River Metals TMDL (Metals TMDL) states that in order to attain compliance with WLAs, "Four months after incorporation of these TMDL-specific requirements, Responsible Dischargers, as defined above, are assigned Level 1 Status for the TMDL pollutants". The City owns and operates several facilities that are subject to the IGP and will be subject to the new IGP TMDL requirements. These facilities are also subject to the City's MS4 permit; and thus, the City has already invested in the installation and operation of advanced BMPs at these facilities which prevent contact with, retain, and/or treat almost all stormwater generated onsite. To place these facilities automatically into Level 1 status does not fully consider the successful programs and significant resources the City has implemented and invested. The City requests that the TMDL-specific required actions for the Metals TMDL mimic the NAL ERA procedures currently utilized in the IGP, which moves an industrial facility's status to ERA Level 1 only if there has been an exceedance of an

action level. We believe that these requirements unfairly burden locations which are already operating in protection of water quality and not causing or contributing exceedances of water quality standards, including those of the Metals TMDL.

### **Los Angeles River Bacteria TMDL**

Industrial permittees are assigned WLAs in the Los Angeles River Bacteria TMDL (Bacteria TMDL) as follows (BPA pg 7): *TMDL explicitly states in the WLA not General NPDES permits, individual NPDES permits, the Statewide Industrial Storm Water General Permit, the Statewide Construction Activity Storm Water General Permit, and WDR permittees in the Los Angeles River Watershed are assigned WLAs of zero (0) days of allowable exceedances of the single sample target for both dry and wet weather and no exceedances of the geometric mean target. Compliance with an effluent limit based on the water quality objective can be used to demonstrate compliance with the WLA.* However, the Bacteria TMDL is not incorporated into the IGP. For consistency with the TMDL and the City's MS4 Permit, the IGP should be revised to incorporate the WLAs from the Bacteria TMDL as TALs.

### **Los Angeles River Trash TMDL**

The Los Angeles River Trash TMDL (Trash TMDL) does not specifically assign WLAs to industrial sources; however, industrial facilities have the potential to generate trash which is transported via wind and runoff into the City's MS4 where, per the MS4 Permit, it becomes the City's responsibility. Additionally, page 37 of the Trash TMDL Staff Report states, "plastic industries are the primary point source for plastic pellets". The City believes that IGP dischargers should be equally diligent about trash management as the other specifically allocated parties in the Trash TMDL. Therefore to the extent that IGP dischargers contribute trash to the City's MS4 and that additional trash load becomes part of a larger load of trash that the City is responsible under the Trash TMDL to manage, the IGP dischargers should be required to exert an equivalent effort to control that trash before it leaves their sites.

The State acknowledges the contribution of trash to MS4s in its most recent Statewide efforts<sup>1</sup> to address trash in stormwater (Trash Amendments). The Trash Amendments are structured around each jurisdiction, calculating and subsequently managing a trash load from specific land uses. The five priority land uses are presumed to generate the most trash and thus contribute the most to the problem, and industrial is one of these five; and thus, is deemed a significant source of trash.

At this time the IGP does not include the Trash Amendments or other significant specific trash controls, therefore to ensure that IGP dischargers are fully responsible for their share of the trash loads, the City requests that the State reopen the IGP and fully incorporate the Trash Amendments as part of the permit.

### **Monitoring**

The data collected as part of IGP monitoring should be utilized to evaluate not only attainment of NALs/TALs, but should also be considered in the context of monitoring requirements. An agency, such as the City, should be able to propose modifications to monitoring frequencies based on the results of monitoring. The City requests that the IGP reflect an ability to propose modified monitoring requirements

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<sup>1</sup> Amendment to the Water Quality Control Plan for the Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. 2015.

based on data analysis to the Regional Board, and for the Regional Board Executive Officer to allow for revision based on the analysis.

The City would like to reiterate that by equitably sharing the responsibilities of pollutant control the State will help ensure that all potentially responsible sources are doing their part to protect water quality.

If you have any questions regarding our comments, please contact me at [Shahram.Kharaghani@lacity.org](mailto:Shahram.Kharaghani@lacity.org) or (213) 485-0587.

Sincerely,



SHAHRAM KHARAGHANI, Ph.D., PE, BCEE  
Program Manager

SK:VM:vm  
WPDCR9258

cc: Adel Hagekhalil  
Alfredo Magallanes  
Vivian Marquez

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April 25, 2016

### ELECTRONIC MAIL

Submitted via e-mail: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Attention: Pavlova Vitale

Dear Ms. Vitale:

**SUBJECT: COMMENTS ON DRAFT TMDL-SPECIFIC PERMIT REQUIREMENTS FOR THE STATE WATER RESOURCES CONTROL BOARD'S INDUSTRIAL GENERAL STORM WATER PERMIT (DOMINGUEZ CHANNEL/LA HARBOR WATERSHED)**

The City of Los Angeles (City) Bureau of Sanitation (LASAN) appreciates the Los Angeles Regional Water Quality Control Board's (Regional Board) efforts to incorporate specific Total Maximum Daily Load (TMDL) requirements into the statewide General Permit for Storm Water Discharges Associated with Industrial Activities (Industrial General Permit [IGP]) [Order No. 2014-0057-DWQ, National Pollutant Discharge Elimination System [NPDES] Permit No. CAS000001]. Runoff from areas addressed by the IGP has the potential to enter the municipal separate storm sewer system (MS4) and affect the City's ability to meet the requirements of the 2012 MS4 Permit [Order No. R4-2012-0175; NPDES Permit No. CAS004001]. As such, the appropriate application of the TMDL requirements is needed to ensure that all responsible parties actively participate in solving the region's water quality issues. Furthermore, it is important that the incorporation of the TMDL wasteload allocations (WLAs) are consistent, as appropriate, with the manner in which those requirements are incorporated into the City's MS4 Permit.

The City commits significant resources to protect water quality as it strives to ensure that pollutant sources within its control do not contribute to exceedances of water quality standards. In addition, the

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City has been an active participant in TMDLs in watersheds located within its jurisdiction. When facilities or types of activities are not adequately regulated, they can cause or contribute to exceedances of TMDL targets, receiving water limitations (RWLs), and/or water quality based effluent limitations (WQBELs), which could result in impacts to water quality and permit violations for which the City could be held responsible. Per the City's MS4 Permit, runoff from IGP sites becomes the City's responsibility when it enters its MS4. As such, the City seeks equitable accountability from IGP sites that may discharge pollutants. This equitability will ensure that the responsibilities and costs placed on dischargers are born fully by all parties that play a role in pollutant generation, and are fairly divided between public and private sources. The inclusion of these TMDLs into the IGP will help to ensure that all dischargers in the Los Angeles region are active in their stewardship of the local environment and that those waters deemed in need of greatest protection will receive the extra attention provided by these requirements. We support the Regional Board's efforts and have the following technical comments for your consideration.

### **Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants**

The Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants (Toxics TMDL) contains numerous waste load and load allocations for different pollutants and portions of the listed waters which are covered under the TMDL. The TMDL applies WLAs for sediment-bound pollutant loads to industrial sources for cadmium, chromium, mercury, polycyclic aromatic hydrocarbons (PAHs), dichlorodiphenyltrichloroethane (DDT), or polychlorinated biphenyls (PCBs). However, the IGP fact sheet does not require compliance directly with these WLAs, instead it incorporates TMDL Action Levels (TALs) for Suspended Sediment Concentration (SSC) for these constituents. While the City supports the control of sediment discharged from industrial facilities to the MS4, TALs that are more closely tied to the constituents being addressed by the TMDL also seem appropriate to prevent a situation where an industrial discharger is meeting the SSC-based TAL, but is not meeting the WLA for all constituents. Given that the Toxics TMDL Basin Plan Amendment explicitly states that "For each discharger assigned a WLA, the appropriate Regional Board Order shall be reopened or amended when the order is reissued, in accordance with applicable laws, to incorporate the applicable WLA(s) as a permit requirement", the City requests that TALs consistent with the specific WLAs as found in the TMDL's Basin Plan Amendment be included.

The Fact Sheet states that four months after the incorporation of these TMDL requirements into the IGP, in order to attain compliance with WLAs, dischargers will be assigned Level 1 Status, which the IGP denotes as the condition placed upon a discharger if sampling results indicate an exceedance of a numeric action level (NAL). The City owns and operates several facilities that are subject to the IGP and will be subject to the new IGP TMDL requirements. These facilities are also subject to the City's MS4 permit; and thus, the City has already invested in the installation and operation of advanced BMPs at these facilities which prevent contact with, retain, and/or treat almost all stormwater generated onsite. To place these facilities automatically into Level 1 status does not fully consider the successful programs and significant resources the City has implemented and invested. The City requests that the TMDL-specific required actions for the Toxics TMDL mimic the NAL ERA procedures currently utilized in the IGP, which moves an industrial facility's status to ERA Level 1 only if there has been an exceedance of an action level. We believe that these requirements unfairly burden locations which are already operating in protection of water quality and not causing or contributing exceedances of water quality standards, including those of the Toxics TMDL.

## Monitoring

The data collected as part of IGP monitoring should be utilized to evaluate not only attainment of NALs/TALs, but should also be considered in the context of monitoring requirements. An agency, such as the City, should be able to propose modifications to monitoring frequencies based on the results of monitoring. The City requests that the IGP reflect an ability to propose modified monitoring requirements based on data analysis to the Regional Board, and for the Regional Board Executive Officer to allow for revision based on the analysis.

The City would like to reiterate that by equitably sharing the responsibilities of pollutant control the State will help ensure that all potentially responsible sources are doing their part to protect water quality.

If you have any questions regarding our comments, please contact me at [Shahram.Kharaghani@lacity.org](mailto:Shahram.Kharaghani@lacity.org) or (213) 485-0587.

Sincerely,



SHAHRAM KHARAGHANI, Ph.D., PE, BCEE  
Program Manager

SK:VM:vm  
WPDCR9267

cc: Adel Hagekhalil  
Alfredo Magallanes  
Vivian Marquez  
Hassan Rad



425 S. Palos Verdes Street Post Office Box 151 San Pedro, CA 90733-0151 TEL/TDD 310 SEA-PORT www.portoflosangeles.org

Eric Garcetti Mayor, City of Los Angeles  
Board of Harbor Commissioners  
Eugene D. Seroka Executive Director  
Ambassador Vilma S. Martinez President  
David Arian Vice President  
Patricia Castellanos  
Anthony Pirozzi, Jr.  
Edward R. Renwick

April 25, 2016

Pavlova Vitale  
California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013  
via email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Dear Ms. Vitale:

**SUBJECT: COMMENTS ON DRAFT TMDL-SPECIFIC IGP REQUIREMENTS – DOMINGUEZ CHANNEL/LA HARBOR WATERSHED**

The City of Los Angeles Harbor Department (Harbor Department) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ) (hereafter referred to the Industrial General Permit or IGP).

As a responsible party in both a toxic pollutant<sup>1</sup> and bacteria<sup>2</sup> TMDL administered by the Los Angeles Regional Water Quality Control Board (Regional Board) and U.S. Environmental Protection Agency (EPA) Region 9, the Harbor Department has a vested interest in the incorporation of the proposed TMDL-specific requirements into the existing IGP. In addition, as a landlord port, the Harbor Department has many tenants who are covered under the IGP.

Our primary concerns with regard to the Regional Board's proposed action revolve around both the appropriateness and achievability of the proposed concentration-based TMDL Action Levels (TALs) for metals and sediment. The IGP should focus industrial dischargers' efforts on the most appropriate, feasible, and cost-effective pathways for ultimate TMDL compliance. The Harbor Department strongly supports the incorporation of a Best Management Practice (BMP)-based approach to meet the TMDL-specific

<sup>1</sup> Total Maximum Daily Load for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters

<sup>2</sup> Los Angeles Harbor Bacteria TMDL (Inner Cabrillo Beach and Main Ship Channel)



requirements proposed for incorporation into the IGP. As currently written, there is inconsistency between the proposed IGP TMDL requirements and the existing waste load allocation (WLA) approach included in the Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Permit within the Coastal Watershed of the Los Angeles County (Order No. R4-2012-0175). In particular, the use of concentration-based values for compliance is inconsistent with the WLA approach in the TMDL/MS4. For the proposed IGP TMDL-specific requirements to be beneficial, it is extremely important to have a clear and concise BMP-based compliance process and monitoring approach that is both understandable and implementable by the IGP permittees.

The following is a list of specific key concerns and suggestions that we would like to bring forth, many of which are consistent with and detailed further in comments submitted by the California Stormwater Quality Association (CASQA) and other affected dischargers in the region.

- 1) The proposed IGP TALs are based on chronic water quality standards and are inappropriate for end-of-pipe storm water discharges to marine receiving waters of the Ports of Los Angeles (Port) and Long Beach. It is important to recognize that the ultimate outcome of compliance efforts is to protect the beneficial uses of the discharge-associated receiving waters. Stormwater discharges are acute transient events that are not representative of long-term chronic exposure conditions. This fact is recognized by EPA and others. In EPA's Metal Translator Guidance (EPA 823-B-96-007) Section 3.2, the "*acute criteria maximum concentration (CMC), applies at all points outside of an immediate mixing zone, or at the end-of-pipe if there is no mixing zone. The criteria chronic [i.e., continuous] concentration (CCC), applies at all points outside the CCC mixing zone.*" Note that stormwater requires mixing with seawater before marine organisms can tolerate the reduced salinity. The proposed TALs for total copper, lead, and zinc for stormwater discharges are equivalent to the current EPA marine chronic water quality criteria, published in the California Ocean Plan. These values are inappropriate for an end-of-pipe effluent, in particular for an episodic pulsed stormwater discharge. A greater focus on water quality of the receiving waters is suggested for compliance assessment along with the flexibility to derive appropriate mixing zones where applicable. Furthermore, more appropriate acute instantaneous maximum water quality values are published in the California Ocean Plan for consideration.
- 2) The source, rationale, and justification of the proposed TAL for suspended solids concentration (SSC) are unclear. As discussed in the comments submitted by CASQA, SSC can include a wide-range of particle sizes, including large particles that are not likely to be associated with elevated concentrations of surrogate organic constituents. Suspended solids are prevalent in natural runoff and part of a healthy ecosystem delivering sand to the beaches and nutrients and essential trace metals to the ocean environment. A recent study conducted by the Southern California Coastal Water Research Project (SCCWRP), funded by the State of California, assessed near-coastal water quality at reference sites throughout California

following storm events in 2008 and 2014<sup>3</sup>. The study found that total suspended solids (TSS) concentrations varied widely in offshore receiving waters of southern California, ranging from 0.25 to 1,692 mg/L, with a mean of 133 mg/L. These values are likely much less than that coming in from the watershed before mixing. It is unrealistic that surface runoff from any watershed or storm water discharge from an industrial facility would have less than 1.0 mg/L SSC. This level is well below naturally occurring levels in undeveloped marine receiving waters (as shown by the SCCWRP study), and is likely below what is achievable by storm water treatment systems that represent the current Best Available Technology Economically Achievable/ Best Control Technology (BAT/BCT).

Furthermore, for consistency with the monitoring requirement of other NPDES permits issued by the Regional Board (e.g., MS4 and individually issued industrial permits), the EPA-approved method for TSS should be an allowable alternative to the ASTM method prescribed for SSC.

- 3) Due to the unique geography, hydrology, operations, and space restrictions within the Port of Los Angeles (Port), many of the traditional low impact development (LID) BMPs focused on retention and infiltration are not feasible. As proposed, Port tenants will likely be driven directly to install structural and treatment control technologies that have not been proven effective at removing the pollutants of concern to the proposed TALs. BAT/BCT are part of the Ecological Risk Assessment (ERA) Level II process, therefore directly going to this unproven and expensive technology is inconsistent with the current ERA process. In addition, removal of pollutants, such as metals and sediment, to the TALs prescribed by the Regional Board will need to be done in a timeline that is much more aggressive than other permits (e.g., the MS4).

Because of the technology limitations that restrict the ability for dischargers to meet the TALs identified in the proposed action, we recommend that the Regional Board permit requirements include specific language that complies with the current IGP, along with achieving TMDL compliance through an adaptive management approach consisting of implementing Regional Board approved BMPs that constitute BAT/BCT for a specific industrial site. This approach could be implemented within the framework of the existing IGP ERA process.

- 4) The pollutant loads generated by industrial facilities covered under the IGP and the potential impacts to receiving waters vary significantly based on the size, complexity, and exposure of pollutants of concern. A strict concentration-based TAL does not provide equity among these sites that can vary in size from less than one acre to hundreds of acres. We recommend the Regional Board evaluate and consider providing alternative compliance approaches that could include mass based load allocations, particularly for small industrial sites.


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<sup>3</sup> Schiff, K., J. Brown, S. Trump, and D. Hardin. 2015. *Near-Coastal Water Quality at Reference Sites Following Storm Events. The Southern California Coastal Water Research Project (SCCWRP), Technical Report 853, February, 2015.*

- 5) With the understanding that there are significant regional monitoring efforts underway to better understand the receiving water impairment and scientific basis for the TMDL, we recommend the Regional Board build flexibility into the proposed TMDL language for the IGP that is consistent with what will be required of others with WLAs in the watershed.
- 6) To remain consistent with the current IGP and to help address the inherent variability associated with rain events (intensity and duration), the Harbor Department recommends the Regional Board incorporate the concept of using the annual average concentrations or a multi-event instantaneous TAL approach similar to the IGP, rather than use single event instantaneous values for comparison to TALs.

We greatly appreciate the opportunity to provide our comments and look forward to continue working closely with the Regional Board and other regional stakeholders on effective approaches to improving water quality and achieving TMDL compliance within the Port.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cannon', with a long horizontal flourish extending to the right.

**CHRISTOPHER CANNON**  
Director of Environmental Management

CC:LO:KC:RM:mrx  
APP No.: 910701-593

Los Angeles  Department of Water & Power

ERIC GARCETTI  
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BARBARA E. MOSCHOS, *Secretary*

MARCIE L. EDWARDS  
*General Manager*

March 31, 2016

Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Via email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Dear Ms. Vitale:

Subject: Comments on Draft TMDL-Specific IGP Requirements – LA River Watershed

The Los Angeles Department of Water and Power (LADWP) is pleased to provide comments in response to the recent notices regarding the incorporation of Total Maximum Daily Load (TMDL)-specific permit requirements for the State Water Resources Control Board's Industrial General Storm Water Permit (IGP).

LADWP is a municipal utility that is vertically integrated, meaning it owns its own transmission, distribution, and generation. It has four in-basin generating stations that are the backbone of its power system. These local plants provide the capacity, inertia, voltage stability and support necessary to retain system grid reliability and allow for a safe and reliable supply of electricity to 1.5 million customers in the City of Los Angeles in an environmentally responsible manner as required per the City of the Los Angeles City Charter.

Since LADWP's grid system was built out from its coastal plants and the areas around these plants have become densely urbanized, LADWP's system is much like an isolated island or cul-de-sac where locational generation can only be provided by the existing generating units. The four generating stations crucial to LADWP's generating system are registered under the State wide General Industrial Storm Water Permit program, and will be directly impacted by the implementation of the TMDL specific permit requirements. One of these stations is directly impacted by the Los Angeles River TMDL. Environmental stewardship is a commitment for LADWP and compliance with the IGP is a number one priority. LADWP always supports regulations that protect the environment and its beneficial uses, but the TMDL-specific requirements do pose certain challenges, and therefore LADWP submits the following comments for consideration.

**Los Angeles Aqueduct Centennial Celebrating 100 Years of Water 1913-2013**

111 N. Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles, CA 90051-5700  
Telephone: (213) 367-4211 [www.LADWP.com](http://www.LADWP.com)

**Dischargers should be assigned Baseline Status for new constituents.** The Los Angeles Regional Water Quality Control Board (Los Angeles Regional Board) proposes to incorporate each TMDL waste load allocation (WLA) as a numeric "TMDL Action Level (TAL)," which would be treated in the same manner as a Numeric Action Level (NAL) in the IGP. The Los Angeles Regional Board also proposes that Responsible Dischargers would be assigned Level 1 compliance status. However, most if not all of these TMDL-derived monitoring requirements will be new to IGP Responsible Dischargers, who will not likely have data for these constituents. Thus, they will not have information to indicate whether or not storm water from their facility would exceed the NALs, whether control measures may be required, or the potential source(s) of those constituents at each facility. For this reason, LADWP requests that IGP dischargers be assigned Baseline Status for new constituents.

**The IGP amendments should incorporate the WER for copper and the recalculated criteria for lead for relevant water bodies in the Los Angeles River watershed.** On April 9, 2015, the Los Angeles Regional Board adopted site-specific objectives (SSOs) for copper and lead (Order No. R15-004) applicable to certain reaches of the Los Angeles River and its tributaries. Although these SSOs have not made it through the approval process, the IGP revisions should state that these SSOs will be applicable, when adopted and approved by the relevant agencies, to discharges from industrial facilities in the affected watershed areas.

**Requirements from metals TMDLs should implement TALs using the dissolved fraction of the metal, and should provide several ways of demonstrating compliance.** Because the dissolved phase of a metal is the bioavailable fraction, and because water quality criteria for metals (e.g., CTR criteria) are expressed as dissolved metals, the proposal should be modified to implement the TALs for metals in the form of dissolved metals.

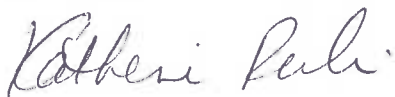
**The IGP should be amended to clarify that if TMDL requirements are met in receiving water bodies, IGP dischargers will be considered to be in compliance with applicable provisions of the amended IGP.** Recent permit requirements adopted by the Los Angeles Regional Board recognize that water quality based effluent limitations (WQBELs) derived from TMDLs will be considered to be met if water quality objectives and TMDL targets are met in the receiving water body. A similar approach should be applied to the NALs of the IGP as amended to incorporate TMDLs.

**TALs for indicator bacteria should be applied only to discharges that drain directly to the receiving waters covered by the TMDL; water quality criteria for marine waters should not be applied to discharges to freshwater bodies.** LADWP requests clarification from the Regional Water Board that the TMDL requirements for salt water bodies (e.g., ocean beaches) will not be applied to discharges to freshwater bodies, consistent with the approach taken in the Los Angeles Region MS4 permit (see Table K-5 at p. K-5 of the 2012 Los Angeles MS4 permit, Order No. R4-2012-0175).

**The SWRCB should consider a regional approach to addressing issues related to non-industrial pollutant source demonstrations and natural background pollutant source demonstrations.** Although data specific to LADWP's facilities are lacking, LADWP anticipates that, if TMDL-NALs are exceeded in discharges from industrial facilities, sources outside the control of industrial dischargers (e.g., atmospheric deposition of metals, wildlife/bird sources of bacteria) may be important contributing factors. LADWP also anticipates that making the background and/or non-industrial source demonstrations allowed under the IGP may require extensive resource commitments. For this reason, LADWP requests that the IGP amendments allow industrial dischargers to conduct the studies that may be needed in coordinated fashion as a group, and allow these studies, if needed, to be performed on a regional basis.

We thank you for the opportunity to provide these comments and look forward to working with you. If you have any questions, please contact Mr. Maher Qassis at 213-367-2976

Sincerely,



Katherine Rubin  
Manager, Wastewater Quality and Compliance

c: Samuel Unger, Los Angeles Regional Water Quality Control Board (LARWQCB)  
Deborah Smith, LARWQCB  
Renee Purdy, LARWQCB  
Susan Paulsen, Exponent, Inc.  
Mark J. Sedlacek, LADWP  
Maher Qassis, LADWP

Los Angeles  Department of Water & Power

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BARBARA E. MOSCHOS, *Secretary*

MARCIE L. EDWARDS  
*General Manager*

April 25, 2016

Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Via email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Dear Ms. Vitale:

Subject: Comments on Draft TMDL-Specific IGP Requirements – Dominguez Channel/LA Harbor Watershed

The Los Angeles Department of Water and Power (LADWP) is pleased to provide comments in response to the recent notices regarding the incorporation of Total Maximum Daily Load (TMDL)-specific permit requirements for the State Water Resources Control Board's Industrial General Storm Water Permit (IGP).

LADWP is a municipal utility that is vertically integrated, meaning it owns its own transmission, distribution, and generation. It has four in-basin generating stations that are the backbone of its power system. These local plants provide the capacity, energy, inertia, and voltage support necessary to retain system grid reliability and allow for a safe and reliable supply of electricity to 1.4 million customers in the City of Los Angeles in an environmentally responsible manner as required per the City of Los Angeles City Charter.

Since LADWP's grid system was built out from its Los Angeles basin plants and the areas around these plants have become densely urbanized, LADWP's system is much like an isolated island or cul-de-sac where the locational generation requirement can only be provided by the existing or similarly located generating units. The four generating stations crucial to LADWP's generating system are registered under the State wide General Industrial Storm Water Permit program, and will be directly impacted by the implementation of the TMDL specific permit requirements. One of these stations is directly impacted by the Dominguez Channel/LA Harbor Watershed TMDL. Environmental stewardship is a commitment for LADWP and compliance with the IGP is a number one priority. LADWP always supports regulations that protect the environment and its beneficial uses, but the TMDL-specific requirements do pose certain challenges, and therefore LADWP submits the following comments for consideration.

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Telephone: (213) 367-4211 [www.LADWP.com](http://www.LADWP.com)

**1. Dischargers should be assigned Baseline Status for new constituents.**

The Los Angeles Regional Water Quality Control Board (Los Angeles Regional Board) proposes to incorporate each TMDL waste load allocation (WLA) as a numeric "TMDL Action Level (TAL)," which would be treated in the same manner as a Numeric Action Level (NAL) in the IGP. The Los Angeles Regional Board also proposes that Responsible Dischargers would be assigned Level 1 compliance status for copper, lead and zinc and also shall meet compliance with WLAs for Sediment Associated Pollutants, including cadmium, mercury, PAHs, DDT and Total PCBs, according to the Dominguez Channel TMDL. Responsible dischargers are also required to comply with TALs for Total Coliform, Fecal Coliform, and Enterococcus according to the Los Angeles Harbor TMDL. However, most if not all of these TMDL-derived monitoring requirements will be new to IGP Responsible Dischargers, who will not likely have data for these constituents. Thus, they will not have information to indicate whether or not storm water from their facility would exceed the NALs, whether control measures may be required, or the potential source(s) of those constituents at each facility. For this reason, LADWP requests that IGP dischargers be assigned Baseline Status for new constituents.

**2. Requirements from metals TMDLs should implement TALs using the dissolved fraction of the metal, and should provide several ways of demonstrating compliance.**

Since the dissolved phase of a metal is the bioavailable fraction, and because water quality criteria for metals (e.g., CTR criteria) are expressed as dissolved metals, LADWP proposes the requirement to be modified to implement the TALs for metals in the form of dissolved metals.

**3. The IGP should be amended to clarify that if TMDL requirements are met in receiving water bodies, IGP dischargers will be considered to be in compliance with applicable provisions of the amended IGP.**

Recent permit requirements adopted by the Los Angeles Regional Board recognize that water quality based effluent limitations (WQBELs) derived from TMDLs will be considered to be met if water quality objectives and TMDL targets are met in the receiving water body. LADWP proposes a similar approach should be applied to the NALs of the IGP as amended to incorporate TMDLs.

**4. The Regional Board should use TSS requirements already in the IGP as a surrogate for sediment impacts due to toxic pollutants.**

The Regional Board is proposing to apply the requirements of the Harbor Toxics TMDL for cadmium, chromium, mercury, PAHs, DDT, and Total PCBs using a TAL of 1 mg/L for Suspended Sediment Concentration (SSC). Specifically, the



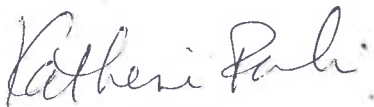
Regional Board proposes that SSC concentrations in stormwater discharges be measured, and if they exceed 1 mg/L, that the discharger must commence the Exceedance Response Actions (ERAs) process. Due to data that has been collected it appears that the selected limit of 1 mg/l as SSC is very low. Concentrations of 1 mg/L as SSC are near the detection limit for the method, and unrealistically low for storm water discharges. Further, this approach is inconsistent with the approach the Regional Board has taken in other permits, where the Regional Board has evaluated compliance with the Harbor Toxics TMDL sediment requirements using, at least in part, the permit's existing limitations for Total Suspended Solids (TSS). Rather than add a new analysis method and a limit inconsistent with the approach in other permits, LADWP requests that the Regional Board apply the existing TSS limits in the IGP in order to trigger further actions under the Harbor Toxics TMDL.

**5. The SWRCB should consider a regional approach to addressing issues related to non-industrial pollutant source demonstrations and natural background pollutant source demonstrations.**

Although data specific to LADWP's facilities are lacking, LADWP anticipates that, if TALs are exceeded in discharges from industrial facilities, sources outside the control of industrial dischargers (e.g., atmospheric deposition of metals, wildlife/bird sources of bacteria) may be important contributing factors. LADWP also anticipates that making the background and/or non-industrial source demonstrations allowed under the IGP may require extensive resource commitments. For this reason, LADWP requests that the IGP amendments allow industrial dischargers to conduct the studies that may be needed in coordinated fashion as a group, and allow these studies, if needed, to be performed on a regional basis.

LADWP appreciates the opportunity to provide these comments and looks forward to working with you. If you have any questions, please contact Mr. Maher Qassis at 213-367-2976.

Sincerely,



Katherine Rubin  
Manager, Wastewater Quality and Compliance

- c: Samuel Unger, Los Angeles Regional Water Quality Control Board (LARWQCB)
- Deborah Smith, LARWQCB
- Renee Purdy, LARWQCB
- Susan Paulsen, Exponent, Inc.
- Mark J. Sedlacek, LADWP
- Maher Qassis, LADWP

# Los Angeles World Airports

April 25, 2016

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

**Subject: Comments on Draft TMDL-Specific IGP Requirements –  
Dominguez Channel/LA Harbor Watershed**

LAX

LA/Ontario

Van Nuys

City of Los Angeles

Eric Garcetti  
Mayor

Board of Airport  
Commissioners

Sean D. Huron  
President

Vanessa C. Whelan  
Vice President

Jeffery J. Daar  
Gabriel L. Shapiro  
Beatrice C. Hsu  
Notary Public  
Los Angeles, California

Genevieve H. H.  
Executive Director

Dear Ms. Vitale:

The Los Angeles World Airports (LAWA) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ), hereafter Industrial General Permit or IGP, for the Dominguez Channel/LA Harbor Watershed.

LAWA manages storm water discharges from the Los Angeles Airport and the tenants at the Airport. LAWA has reviewed and concurs with the general comments submitted by the California Stormwater Quality Association (CASQA) and incorporates those comments by reference. LAWA specifically reiterates support of the CASQA recommendation that the TMDL language clearly state that compliance with its requirements constitutes compliance with Receiving Water Limitations of IGP Section VI.A, as well as Effluent Limitation Section V.C with respect to the particular constituent involved.

In addition to the general comments submitted by CASQA, LAWA requests reconsideration of TMDL Action Level (TAL) provided for suspended sediment concentration (SSC) to measure compliance with the sediment associated waste load allocations. The Draft Dominguez Channel/LA Harbor Watershed Toxic Pollutants TMDL proposes that Responsible Dischargers that have identified their facility as a potential source of cadmium, chromium, mercury, PAHs, DDT and/or PCBs in storm water discharges and/or in authorized Non-Storm Water Discharges shall comply with a TAL for SSC of 1 mg/L. This TAL is not practicable as the SSC MDL for ASTM D3977-97 by most commercial specialty laboratories is only 1 mg/l or slightly higher. It is recommended that the TAL for SSC be increased to a reasonable value consistent with standard background levels of SSC in southern California urban runoff.

Specific comments are provided for your consideration in attachment 1. LAWA would like to thank the Regional Water Board for the opportunity to comment on the Draft TMDL-specific Industrial General Permit Requirements for the Dominguez Channel/LA Harbor Watershed. For any questions or clarification please contact Kislev Ang of my staff at [kang@lawa.org](mailto:kang@lawa.org), 424-646-6506.

Sincerely,



Robert D. Freeman  
Airport Environmental Manager II

RDF:KA:gg

Attachment: Specific Comments on Draft TMDL IGP Requirements – Dominguez Channel/LA Harbor Watershed

cc: Lisa Trifiletti  
Jai Vaswani  
Mark Adams  
Lin Wang  
Somvang Meksavanh  
Matt Renaud  
Kislev Ang  
Jim Lites, California Airport Council  
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Attachment 1

Specific Comments on Draft TMDL-Specific IGP Requirements – Dominguez Channel/LA Harbor Watershed

	<b>Section</b>	<b>Comment</b>
<b>Bacteria Comments</b>		
1	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	General Comment, because the entire state is struggling with Bacteria TMDLs, we recommend that the Bacteria TMDL requirements to be removed from the IGP until the state determines the appropriate actions to assess and control bacteria. Currently, the science of understanding bacterial sources and threats to water quality is still in development. The state is also in the process of establishing Statewide Bacteria objectives for water-contact recreation (REC-1) and the associated control program. State Board targets April release and August adoption. If this is true, the Bacteria TMDLs should be removed from the IGP until Statewide plan is fully developed to prevent dischargers from acting on targets that may change on a statewide basis.
2	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 1.	Under Required Actions, where the actions require assessment of potential pollutant sources for bacteria. The TMDL required actions should specify which industries are required to assess for bacteria. Specifically, it should be related to the SIC Code required tests. Additionally, the TMDL should provide a list of the types of sources would warrant adding bacteria as a concern in the SWPPP. Bacteria sources can come from many anthropogenic and natural sources. Therefore, the actions should be specific to potential anthropogenic activities for the IGP.
3	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 1.	Footnote 1 on the Bacteria TMDL and Footnote 4 of the fact sheet suggests that “water not associated with industrial activities that is comingled with stormwater associated with industrial activities” would also need to be assessed. The footnote seems to be in conflict with the IGP that requires assessment of industrial activities. The footnote should be clarified as to the intent of what is to be assessed.
4	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 2.	The second bullet under Monitoring and Assessment requirements requires authorized NSWDs to be sampled twice per year. The requirement should be to only characterize the authorized NSWDs if the authorized NSWDs are consistent and unchanged from previous years. For example if A/C condensate is the same and an allowed NSWD, there would be no reason to sample it every year.
5	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 4.	The fact sheet specifies (under the Required Actions, second paragraph, last sentence) that “Industrial discharges are currently not expected to be a significant source of indicator bacteria”. If this is the case, then only specific SIC codes should be required to assess and test for indicator bacteria. The TMDL should also

	Section	Comment
		specify the methods to assess each facility and what specific sources would be expected to contribute to bacteria issues.
6	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 5.	The fact sheet specifies (under the Compliance with Wasteload Allocations, Item 1., first sentence) that “compliance with existing conditions and requirements in the IGP is generally expected to ensure compliance with summer and winter dry-weather WLAs applicable to industrial stormwater discharges. This is a confusing statement since it is referring to dry-weather and not stormwater. Also, if it is expected to ensure compliance, then why is there a requirement to test authorized NSWDS. Why would dry weather NSWDS be expected to contribute to dry weather bacteria exceedances? We recommend this sentence be clarified or removed.
7	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 6.	Where the TMDL requires BMPs to be implemented. The TMDL should provide a list of appropriate BMPs to be used for meeting bacteria TALS.
8	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 7.	The Second to last paragraph indicates wet weather days as defined by 0.1” of rain or more plus three days following the rain event. This should be clarified as wet weather runoff. Facilities generally only have wet weather runoff due to precipitation events or dry weather with no flow.
9	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 7.	Footnote 5 of the fact sheet specifies “Either in the facility’s existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below.” Please clarify what is described <b>below</b> . There is nothing <b>below</b> the footnote.
10	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 8.	On item 2. Updating the Facility SWPPP: Assessment of Potential Pollutant Sources, where the paragraph specifies assessing sources of the indicator bacteria. The TMDL should provide specific examples of what types of sources would contain indicator bacteria. Most dischargers or even QISPs for that matter would know what to look for when assessing bacteria. I include QISPs because the QISP/ToR training program did not include any items related to bacteria. Traditionally, industrial specialists do not have formal training in bacterial TMDLs making the requirement to have a QISP do the assessment a suspect requirement. Hence, the recommendation to have a specific checklist of items to review. This checklist should be prepared by the State’s TMDL Bacterial Specialists to guide dischargers and QISPs as to what specifically would warrant adding BMPs and monitoring for Bacterial Indicators to the SWPPP.
11	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL – Page 9.	The TMDL should specify the preferred methods that are to be used for Monitoring for consistency. The analytical methods section on Page 9 specifies that the monitoring and implementation plan in the SWPPP include U.S. EPA Approved Methods. The SWRCBs own ELAP program has fields of testing for

	Section	Comment
		<p>Drinking Water, Wastewater, and Recreational Waters. It is not clear what would be the appropriate method to use for stormwater or authorized NSWs. The FOTs for Wastewater lists approximately 33 different methods including Standard Methods and EPA Methods, however, the Recreational Water Methods are not EPA Methods. Additionally, the methods specified on the EPAs website appear to differ from those listed in ELAPs FOTs. <a href="https://www.epa.gov/water-research/microbiological-methods-and-online-publications">https://www.epa.gov/water-research/microbiological-methods-and-online-publications</a></p> <p>Therefore, we recommend that a list of approved bacteria methods be specified for clarity and consistency.</p>
<b>Toxic Pollutants TMDL Comments</b>		
12	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – General Comment	<p>General Comment. The SSC TMDL Action Level (TAL) of 1 mg/L is very restrictive. Stopping all sediment transport to the ocean would not be beneficial in the long term. Sediment transport is a natural and needed process. Therefore, limits should be placed on pollutants and not potentially unimpacted sediments. Dischargers should have the option for testing for the individual analytes in-lieu of testing solely for SSC.</p>
13	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – General Comment	<p>General Comment. Throughout the document where it specifies copper, lead, and zinc, it appears to imply that all three metals would be needed in combination to trigger the discharger to implement actions. We suggest that, where appropriate, the wording be changed to copper, lead, and/or zinc. Likewise, when the document refers to cadmium, chromium, mercury, PAHs, DDT, and PCBs it should use the term and/or to indicate it is not an all-inclusive list. Some may have one or more of these constituents.</p>
14	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – General Comment	<p>The term Discharger and Responsible Discharger should be defined. It is not clear what the difference is.</p>
15	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – General Comment	<p>The TALs for Cu, Pb, and Zn in the LA Harbor are based on California Toxic Rule (CTR) Saltwater Criterion Maximum Concentration. Because upstream discharges occur in freshwater and mix with other regional freshwater discharges. The upstream freshwater WLAs should be used for freshwater TALs.</p>
16	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 1.	<p>Footnote 1 of the TMDL and Footnote 8 of the fact sheet suggests that “water not associated with industrial activities that is comingled with stormwater associated with industrial activities” would also need to be assessed. The footnote seems to be in conflict with the IGP that requires assessment of industrial activities. The footnote should be clarified as to the intent of what is to be assessed.</p>
17	Dominguez Channel and Greater Los Angeles and Long Beach	<p>Under the Required Actions, Second Bullet, “The discharger re-evaluates with the assistance of a QISP...” Please clarify if this is a</p>

	Section	Comment
	Harbor Waters TMDL for Toxic Pollutants – Page 1.	requirement or a suggestion. Additionally, please consider clarifying the criteria for determining whether a discharge has the potential to contain copper, lead, or zinc? For example, any facility with a galvanized metal roof or zinc fencing has the potential to discharge zinc above the TAL. This is an architectural source and not an industrial source. Additionally, any facility with transportation or parking lots is likely to have copper associated with brake dust and zinc associated with tire wear. Again, these are transportation sources and not necessarily industrial sources. The TMDL should be explicit about sources may contain the constituents of concern and should specify which industrial sources should be included (i.e., by SIC code).
18	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 2.	The paragraph after the bullets should be indented to reflect the bullets above. It is not clear what demonstrations are required to be submitted as it is presented as a standalone paragraph.
19	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 2.	The discussion of the ERA Level I and Level II Process appears to be out of sync with the IGP. The discussion of the ERA process should simply follow the recommendations listed on page 10 of the TMDL where it states..."the Discharger shall commence the ERA process set forth in Section XII".
20	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 2.	The application of the metals TALs is not consistent with other TMDLs for the region. Applying the same TALs for the estuaries as the upstream reaches is overly protective and not consistent with the TMDL for Calleguas Creek which has less stringent TALs for the upstream reaches. The appropriate CTR values should be applied for the reaches for which they discharge. For example, the fact sheet presents freshwater WLAs but does not consider this for applying to dischargers located upstream.
21	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 3.	<p>There is a single sentence that is not clear why it is stated. "Comply with the conditions and requirements of this Industrial Storm Water General Permit..."</p> <p>Also, in the third paragraph below the Test Method Tables, there is a statement that says "...then Responsible Dischargers, as defined above,....". There is no definition above for this term.</p> <p>Also, in the same paragraph, where it states "... (Section X.I), shall be updated based on the results." It is not clear what results are being referred to. Please clarify.</p>
22	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 3.	Footnote 7 of the fact sheet specifies "Either in the facility's existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below." No description is provided.
23	Dominguez Channel and Greater Los Angeles and Long Beach	The discussion of SSC as an alternative to testing for cadmium, chromium, mercury, PAHs, DDT, and/or PCBs should be revised to

	Section	Comment
	Harbor Waters TMDL for Toxic Pollutants – Page 3.	allow dischargers the alternative to test for the individual parameters. Additionally, the corresponding SSC TAL value of 1 mg/L is too low and unrealistic. The TAL is just above the method detection limit for most laboratories that offer this analysis. Nearly all dischargers will have some sediment leaving their facility. The National Stormwater Quality Database (NSQD) with 3,390 TSS results had 99% of values detected above the reporting limit with nearly all results above 1 mg/L. This almost guarantees that all facilities testing for SSC will be in ERA Level I. If they are above the SSC value, they should be allowed to test for the individual analytes to demonstrate they are not contributing these pollutants above the mass load limits specified in the TMDL.
25	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 3.	<p>The TAL essentially prohibits the discharge of any measurable sediment in storm water from industrial sites, which is inconsistent and an order of magnitude lower than typical suspended solids NPDES discharge permit limits in the Los Angeles Region (for both General and Individual NPDES Permits) in the same watershed (typically range from 50-75 mg/l).</p> <p>Based on a review of stormwater treatment technology performance data from the International Stormwater BMP Database, there does not appear to be a treatment technology that can consistently meet the proposed SSC TAL value. Analysis of TSS results from industrial sites within SMARTS in the Los Angeles Region showed that greater than 95% of all results were higher than 1 mg/L.</p>
26	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 4.	The third bullet specifies that “U.S EPA Approved Methods be used with appropriate method detection and reporting limits relative to copper, lead, zinc, and SCC.” We believe this is a typo and SCC should be revised to SSC. Also, please specify that ASTM Method D3977-97 is an Approved EPA Method for SSC?
27	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 4.	For the reference above to the ASTM Method... SSC is not listed in ELAPs fields of testing for wastewater. If SSC is the method of choice, then laboratories performing this method should be certified by undergoing performance testing and demonstration for appropriate quality control verifications. Please specify whether SSC will be added to the FOTs for laboratories to be certified for and if not, whether the Water Board has considered a waiver that laboratories are authorized to provide this analysis with general ELAP certification and that FOT specific certification does not exist at this time.
28	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 4.	In the second paragraph, the TMDL states “...to implement additional actions to reduce copper, lead, zinc, cadmium, chromium, mercury, PAHS, DDT, and PCBs...” Please clarify the actions the Water Board is referring to. Or, clarify this to refer to the ERA Process to implement BMPs to identify and reduce pollutants of concern.



	<b>Section</b>	<b>Comment</b>
29	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 4.	Under the Monitoring and Reporting Requirements, the draft requires sampling twice per year for authorized NSWs. Please consider revising this to allow dischargers to analyze NSWs for the appropriate parameters to characterize the discharges. Once they have been characterized, they do not need to be tested again if the source is known and it does not change. Only new unauthorized NSWs that have not been characterized would require additional testing.
30	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 7.	The table listing Final Concentration-based Sediment WLA Assigned to Industrial General Permittees for Metals and Organic Compounds has values for mg/kg in dry sediment for Cadmium, Chromium, and Mercury. There are no organic compounds listed in the table. Please clarify whether these values can be used to demonstrate that if a site has soils below these levels, then they are not required to test for SSC or compare values to the SSC and could default back to the TSS NALs listed in the current IGP? Also, please clarify the intent of this table.
31	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants – Page 10.	Footnote 14 of the fact sheet specifies “Either in the facility’s existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below.” Please clarify, <u>as there is no additional information below to refer to.</u>



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GRACE ROBINSON HYDE  
Chief Engineer and General Manager

March 31, 2016

***Via Electronic Mail***

California Regional Water Quality Control Board  
Los Angeles Region  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013

Attention: Pavlova Vitale

**Comments on the Draft TMDL – Specific Permit Requirements for the State  
Water Resources Control Board’s Industrial General Storm Water Permit  
(Los Angeles River Watershed)**

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate the opportunity to submit comments to the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) on the proposed implementation of three Los Angeles River TMDLs into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ), hereafter referred to as the Industrial General Permit or the IGP. The Sanitation Districts support the effort made by the Regional Board but believes the proposed implementation of these TMDLs does not provide enough clarity to the Dischargers regarding their responsibilities for compliance with the applicable TMDLs as directed specifically by the State Water Resources Control Board (State Board) in the IGP itself.

**General Comments**

For the Los Angeles River Watershed, the Regional Board is proposing to implement three TMDLs through the IGP:

- Los Angeles River and Tributaries Metals TMDL
- Los Angeles River TMDL for Nitrogen Compounds and Related Effects
- Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria

***Pollutant Source Assessment and Exceedance Response Actions***

The implementation of the Los Angeles River and Tributaries Metals TMDL, which contains process language that is repeated in other TMDLs from this Regional Board, assumes the TMDL constituents are automatically in Level 1 (per the IGP) four months after the State Board incorporates the TMDL-specific language into the IGP. This approach is inconsistent with the pollutant source assessment process that exists in the IGP. The IGP applies to a wide variety of industrial facilities that have different industrial pollutant sources specific to their operations. The IGP recognizes that not all potential industrial pollutants are present in the industrial operations of all facilities and requires dischargers to conduct a pollutant source assessment of the industrial operations and industrial materials and wastes. Based upon this assessment, BMPs are selected and implemented and a monitoring program is designed for the industrial pollutants identified.

In contrast to the adopted IGP, the proposed language in the Los Angeles River and Tributaries Metals TMDL states that constituents are automatically Level 1 status. The TMDL language goes on to say:

“A Discharger that is newly assigned Level 1 Status, pursuant to Sections V.C, VII.A, X.B, and XII.C.1-2, shall conduct an “Initial Level 1 ERA Evaluation” for cadmium, copper, lead, zinc, and selenium, and shall certify and submit via SMARTS an “Initial Level 1 ERA Report” no later than 6 months after the incorporation of these TMDL-specific requirements in this Order. The Discharger shall also revise their facility’s SWPPP on the basis of the Initial Level 1 ERA Evaluation to include best management practices (BMPs) to prevent exceedances of TALs [TMDL-based NALs], as set forth in the tables below, in authorized NSWDS and storm water discharges associated with the facility’s industrial activities.”

The IGP assumes you have a baseline status for each constituent unless you have collected and analyzed stormwater samples for a year and identified a problem. However, under this TMDL language, a facility is defaulted into Level 1 status for all the constituents in the TMDL. Thus, a constituent at a facility may be placed into Level 1 without ever taking a stormwater sample and identifying if the constituent is present in runoff from their facility. And then a Level 1 ERA Report is due two months later. Given that a Level 1 ERA Evaluation is supposed to proceed the report, and the evaluation includes determining what BMPs can help you attain compliance with your target concentration, how exactly can that be performed given that the facility may have no stormwater samples with which to judge performance? The Sanitation Districts recommend that the adopted process in the IGP be used: the facility does a source assessment and decides what constituents to sample in a storm; after a year of data collection, an evaluation is made to determine if the constituent has exceeded its NAL; and if it has, the constituent enters a Level 1 process for the constituent as outlined in Section XII of the permit. Only the Los Angeles Region of all the Regional Boards takes the approach that TMDL constituents should be placed directly into Level 1 unless the discharger can prove otherwise. If the State Board adopts the proposed language from the Regional Board, all affected facilities in the Los Angeles Region will have implementation schedules that are different and more onerous than the rest of the state of California.

### ***Establishing Compliance with TMDL Waste Load Allocations***

The Sanitation Districts recommend that each set of TMDL-related requirements incorporated into the IGP have a statement of how compliance will be assessed. Compliance with the waste load allocations should be based upon control measure or BMP-based approaches coupled with numeric action levels (NALs). Exceedances of TMDL-based NALs should be addressed through the Exceedance Response Action (ERA) process defined in the IGP (XII). Where the Regional Water Board establishes a TMDL-based NAL, consistent and distinct terminology should be used to distinguish it from the IGP NALs in Table 2, and to clearly articulate that the numeric criteria are modified NALs derived from TMDLs and are intended to be used in lieu of existing NALs for the purpose of IGP compliance at facilities subject to the pollutant specific TMDL. Consistent use of this terminology would also clearly establish that the numeric criteria in the TMDL-related requirements are intended to modify NALs and are not numeric standards (actual or defacto numeric effluent limitations) intended to determine whether discharges have exceeded Receiving Water Limitations (Section VI). The adoption of the TMDL-based NAL during the middle of the IGP reporting year could lead to ambiguity regarding determining compliance with the NALs for that reporting year. The Sanitation Districts recommend that the use of a new TMDL-based NAL to commence with the beginning of the IGP reporting year. Each TMDL-related requirement incorporated into the IGP needs to clearly define how compliance with the IGP will be determined for both (1) the reporting year in which the TMDL is adopted, and (2) subsequent reporting years.

### **Specific Comments**

#### ***Los Angeles River and Tributaries Metals TMDL***

- Differentiation in Dry Weather and Wet Weather Wasteload Allocations (WLAs)

The implementation of this TMDL into the IGP states “(d)ry-weather WLAs apply to discharges when the maximum daily flow in the Los Angeles River at any location is less than 500 cubic feet per second.” The proposed implementation of this TMDL relies on all gauging stations in the Los Angeles River as a means of giving concentration limits for wasteload allocations but given the sheer length of the Los Angeles River and the variability in urban runoff and river construction, as well as varying weather patterns over the Los Angeles River, large differences in recorded flow at gauging stations often occur. One facility may be discharging due to stormwater while another facility in the watershed may be discharging as a result of a NSWD. Is each Discharger responsible for checking each gauging station on the Los Angeles River to determine the appropriate allocations? The Sanitation Districts suggest that all stormwater samples be treated as wet-weather and only NSWDs be governed by the dry-weather allocations.

- Conflict with IGP Regarding Exceedance Threshold Determination

The proposed implementation of this TMDL into the IGP states “[i]f there is an exceedance of a TAL [TMDL-based NAL], the Discharger will be required to follow the ERAs process described in Section XII. However, the definition of an instantaneous maximum exceedance in the IGP does not mean a single exceedance result. According to Section XII.2., “an instantaneous maximum NAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL value.” Therefore, the Sanitation Districts

suggest the proposed implementation TMDL language be revised to agree with the IGP before it is adopted.

### ***Los Angeles River TMDL for Nitrogen Compounds and Related Effects***

- **Conflict with IGP on Applicable Parameters**

Table 2 of the IGP specifies certain parameters to sample in a facility's stormwater based upon the Responsible Discharger's primary Standard Industrial Classification (SIC) code. Based on the SIC code, sites are required to sample for different constituents: both ammonia as nitrogen (ammonia-N) and nitrate and nitrite as nitrogen (nitrate+nitrite-N) are required sampling parameters for some SIC codes. The proposed implementation of the Los Angeles River TMDL for Nitrogen Compounds and Related Effects into the IGP also lists specific SIC codes that are subject to the "existing NALs for pH, ammonia-N, and nitrate+nitrite-N in Table 2" of the IGP "and TMDL Action Levels for ammonia-N, expressed as instantaneous maximum values." But the subject SIC codes are not the same between the IGP and the TMDL implementation language. Per the Industrial General Permit, there are two categories for SIC code 4953 and one of those has no nitrogen-related required sampling parameters, but the proposed TMDL implementation language makes no distinction between the two kinds of facilities and requires facilities with this SIC code to monitor and be subject to ammonia-N and nitrate+nitrite-N NALs. The Sanitation Districts request the proposed TMDL implementation language be revised to agree with the IGP; specifically, the nitrogen-related NALs should only be applied to the "Hazardous Waste Facilities" portion of SIC code 4953.

- **Conflict with IGP Regarding Exceedance Threshold Determination**

The proposed implementation of this TMDL into the IGP states "If there is an exceedance of a TAL, the Discharger will be required to follow the ERAs process described in Section XII. However, the definition of an instantaneous maximum exceedance in the IGP does not mean a single exceedance result. According to Section XII.2., "an instantaneous maximum NAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL value." Therefore, the Sanitation Districts suggest the proposed implementation TMDL language be revised to agree with the IGP before it is adopted.

### ***Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria***

- **Scope Different from Original TMDL**

The USEPA Long Beach City Beaches Bacteria and Los Angeles River Estuary TMDL (USEPA Beaches TMDL) addresses two primary drainages: referred to as the direct drainages, these include the Los Angeles River Estuary direct drainage and the Long Beach City beaches direct drainage. In addition to the direct drainages, adjacent drainages include the San Gabriel River and Los Angeles River drainages. However, the two primary drainage areas considered in the USEPA Beaches TMDL, and given TMDL allocations, are the Long Beach City beaches direct drainage and the Los Angeles River Estuary direct drainage (USEPA Beaches TMDL for Indicator Bacteria Section 3.4). The TMDL recognizes that a separate TMDL has been established for the Los Angeles River Bacteria impairment with its own waste load allocations that the San Gabriel River is also impaired and will be addressed by a separate TMDL.

In contrast, the proposed implementation language for the TMDL into the IGP states “[r]esponsible dischargers include both those that are dischargers within the direct drainages to the Long Beach City Beaches and the Los Angeles River Estuary, as well as those industrial storm water dischargers within adjacent and upstream drainages, including the Los Angeles River Watershed, San Gabriel River Watershed, and Alamitos Bay Watershed, since discharges from those adjacent and upstream drainages are ultimately conveyed to the Long Beach City Beaches and the Los Angeles River Estuary.” This implementation effectively gives TMDL limits to waterbodies that are addressed elsewhere in other TMDLs. (Both the Los Angeles River and San Gabriel River watersheds have indicator bacteria TMDLs that are either already in effect or are pending.) Therefore, these waterbody-specific TMDLs should be implemented into the IGP individually and not as part of a scope overreach of the USEPA Beaches TMDL. The Sanitation Districts request that the Los Angeles and San Gabriel River Watersheds be removed from the list of responsible dischargers throughout the implementation language that will be adopted into the IGP.

In summary, the proposed implementation of these three TMDLs seems problematic. It is unclear what efforts will bring Dischargers into compliance under the IGP. As proposed, the Sanitation Districts fear that the question of compliance will be left to a judge to decide, rather than that authority remaining where it belongs, with the State Board. As such, we encourage the State Board to revise these proposed TMDL implementation packages to 1) define clearly what the steps to compliance are for the Dischargers under each TMDL, and 2) to ensure agreement with the adopted Industrial General Permit. If you have any questions, please contact me at (562) 908-4288, extension 2440.

Very truly yours,



Beth C. Bax  
Supervising Engineer  
Water Quality Section  
Technical Services Department

BCB:NAS:lmb



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GRACE ROBINSON HYDE  
Chief Engineer and General Manager

April 18, 2016  
File No. 31-370-40.4A

***VIA ELECTRONIC MAIL***

Ms. Pavlova Vitale  
California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4th Street Suite 200  
Los Angeles, CA 90013

Dear Ms. Vitale:

**Comments on Draft TMDL-Specific IGP Requirements – Machado Lake Subwatershed  
(Machado Lake Pesticides and PCBs TMDL)**

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate the opportunity to submit comments to the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) on the proposed incorporation of the TMDL-Specific Industrial General Permit Requirements for Machado Lake Subwatershed (IGP Machado Lake TMDL Requirements) into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (IGP). The purpose of the IGP Machado Lake TMDL Requirements is to incorporate the industrial stormwater permit requirements for the Machado Lake Toxics TMDL and the Machado Lake Nutrients TMDL.

The Sanitation Districts own and operate the Joint Water Pollution Control Plant (JWPCP) located in Carson, California, which treats approximately 275 million gallons a day of wastewater from the Los Angeles County area. The JWPCP is covered under the IGP (WDID Nos. 4 19I007080) for stormwater discharges to the Wilmington Drain. Since the Wilmington Drain is a tributary to Machado Lake, the specific IGP requirements pertaining to the Machado Lake TMDLs are applicable to stormwater discharges from JWPCP. The Sanitation Districts have reviewed the IGP Machado Lake TMDL Requirements and have comments specific to the Machado Lake Toxics TMDL waste load allocations (WLAs), compliance determination, and TMDL action level (TAL). The Sanitation Districts also request clarification on the continuation of existing TMDL efforts, as described further below.

**Waste Load Allocations**

The Machado Lake Toxics TMDL assigns WLAs for contaminants associated with suspended sediment to stormwater dischargers in both wet and dry weather and states that the WLAs are applied with a 3-year averaging period.<sup>1</sup> IGP Machado Lake TMDL Requirements, however, include suspended sediment WLAs without the 3-year averaging period component. As written, the IGP Machado Lake TMDL Requirements for WLAs are inconsistent with the Machado Lake Toxics TMDL WLAs and could be incorrectly interpreted as instantaneous maximum values or for an averaging period other than three years.

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<sup>1</sup> Machado Lake Pesticides and PCBs TMDL: Elements, Attachment A to Resolution No. R10-008, page 5; November 23, 2010.

The Sanitation Districts request that the IGP Machado Lake TMDL Requirements be corrected to incorporate the 3-year averaging period included in the Machado Lake Toxics TMDL. The WLAs can be corrected by simply adding a footnote to the WLAs table on page 3 of the IGP Machado Lake TMDL Requirements, as shown below:

<b>Pollutant</b>	<b>Suspended Sediment-Associated Contaminants (ug/kg dry weight)<sup>1</sup></b>
Total PCBs	59.8
DDT (all congeners)	4.16
DDE (all congeners)	3.16
DDD (all congeners)	4.88
Total DDT	5.28
Chlordane	3.24
Dieldrin	1.9

<sup>1</sup>WLAs are applied with a 3-year averaging period.

As stated above, these revisions to the IGP Machado Lake TMDL Requirements provide consistency with the Machado Lake TMDL and are necessary to ensure that WLAs are not inappropriately interpreted as instantaneous maximum values or annual averages.

### **Compliance Determination**

The Machado Lake Toxics TMDL specifies monitoring provisions, including procedures for determining compliance, for responsible parties assigned WLAs<sup>2</sup>. As mentioned previously, the JWPCP treats wastewater from the Los Angeles County area. In terms of stormwater management, significant structural Best Management Practices (BMPs) have been implemented at JWPCP, including paving the entire industrial site (over 200 acres) and installing & operating storm water diversions throughout the site to divert as much storm water as possible into the onsite wastewater treatment plant. Currently, stormwater management practices at JWPCP include diverting, at a minimum, the first tenth of an inch of rainfall for storm events and all of the rainfall for most storm events into the onsite treatment plant. The diverted discharges are treated with incoming wastewater and discharged into the Pacific Ocean under a separate NPDES permit<sup>3</sup>.

The Machado Lake Toxics TMDL includes language essential to WLA compliance determinations for responsible parties' named in the TMDL. Specifically, the Machado Lake Toxics TMDL describes compliance determination procedures for stormwater dischargers that fully divert a stormwater discharge to the sanitary sewer, a crucial component to stormwater management at the JWPCP. This language, however, is not included in the IGP Machado Lake TMDL Requirements. As such, the Sanitation Districts request that the compliance determination language included in the Machado Lake Toxics TMDL be inserted into the IGP Machado Lake TMDL Requirements on page 5 as follows:

“...retain storm water onsite, and/or treat storm water prior to discharge from the industrial facility can be used.

Stormwater dischargers that fully divert a stormwater discharge to the sanitary sewer may document the diversion as a wet-weather monitoring event and report both the flow and pollutant concentration as zero. Unless all stormwater discharges are fully diverted to the sanitary sewer, at least one wet-weather event must be sampled according to the monitoring requirements above. Stormwater discharges that are not fully diverted are subject to the WLA compliance monitoring described. The reporting pollutant concentration of zero may be combined with other measures sampled concentrations (from stormwater discharges that are not fully diverted) when demonstrating compliance with the WLA over the 3-year averaging period.”

<sup>2</sup> Machado Lake Pesticides and PCBs TMDL: Elements, Attachment A to Resolution No. R10-008, page 6; November 23, 2010.

<sup>3</sup> California Regional Water Quality Control Board, Los Angeles Region; Order No. R4-2011-0151, NPDES No. CA0053813, Waste Discharge Requirements for the Joint Outfall System, Joint Water Pollution Control Plant Discharge to the Pacific Ocean; September 1, 2011.



The addition of this language is imperative for determining compliance with WLAs for the Machado Lake Toxics TMDL. These monitoring and compliance determination practices were specified in the Sanitation Districts' Machado Lake TMDL Monitoring and Reporting Program (MRP) and Quality Assurance Project Plan (QAPP) for JWPCP, which was approved by Regional Board on September 16, 2014. The addition of this language will ensure that the extensive resources invested at the site for compliance with the TMDL is not without cause.

#### **TMDL Action Level**

The IGP Machado Lake TMDL Requirements include a new provision for a suspended sediment concentration (SSC) TAL that was not included in the Machado Lake Toxics TMDL. Furthermore, the IGP includes ALs for total suspended solids (TSS) and does not contain requirements for SSC. TSS and SSC results are more or less similar when samples contain finer material. Given that pollutants of concern in this TMDL are more likely to adhere to smaller particulates and that industrial stormwater effluent sampling is more similar to wastewater sampling than sampling natural waters, the use of more common EPA-approved laboratory methods such as TSS or turbidity should be used. The Sanitation Districts recommend that the SSC method not be prescribed in the TMDL-specific requirements. The Sanitation Districts request further explanation to justify the use of SSC requirements as well as information used to determine the SSC TAL of 1 mg/L. In addition, the Sanitation Districts would like further clarification on TSS and SSC monitoring requirements. Given the existing language in the IGP Machado Lake TMDL Requirements, it is unclear if IGP TSS monitoring is a continuing requirement or if SSC monitoring replace the TSS monitoring requirements.

#### **Existing TMDL Efforts**

To date, the Sanitation Districts have followed the TMDL requirements set forth in the Machado Lake Toxics TMDL for the JWPCP. As part of the Machado Lake Toxics TMDL MRP and QAPP approved by the Regional Board, JWPCP TMDL Phase 1 Monitoring began on June 17, 2014 and will conclude on June 30, 2016. Next, the Sanitation Districts plan to compile and submit the *Phase 1 Results & Phase 2 Monitoring Plan* (Phase I Report), which is due by December 31, 2016. These efforts, however, are not detailed in the IGP Machado Lake TMDL Requirements. The Sanitation Districts request clarification on the continuation of the efforts set forth in the Machado Lake Toxics TMDL and how the efforts relate to the activities specified under the IGP Machado Lake TMDL Requirements. For example, please clarify if the Machado Lake Toxics TMDL MRP and QAPP and *Phase 1 Results & Phase 2 Monitoring Plan* are still applicable or if the activities specified under the IGP Machado Lake TMDL Requirements supersede the requirements set forth in the Machado Lake Toxics TMDL.

The Sanitation Districts appreciate the opportunity to provide comments on the IGP Machado Lake TMDL Requirements and request the changes herein are incorporated. If you have any questions, please contact Melissa Fischer by phone at (562) 908-4288 extension 2824 or by e-mail at [mfischer@lacsdsd.org](mailto:mfischer@lacsdsd.org).

Very truly yours,



Ann T. Heil  
Monitoring Section Head  
Technical Services Department

ATH:MF:SAB:DT:nm

cc: Karen Larson, State Water Resources Control Board

## Rastegarpour, Shuka@Waterboards

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**From:** Vitale, Pavlova@Waterboards  
**Sent:** Monday, May 02, 2016 3:54 PM  
**To:** Rastegarpour, Shuka@Waterboards  
**Cc:** Pineda, Francisco@Waterboards  
**Subject:** FW: Comments on Dominguez Channel/LA Harbor Watershed Draft TMDL-Specific Industrial General Permit Requirements

Kind Regards,

Pavlova N Vitale  
Senior Environmental Scientist

Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

感谢您

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**From:** IGP\_TMDL, Comments@Waterboards  
**Sent:** Monday, May 02, 2016 3:51 PM

**To:** Vitale, Pavlova@Waterboards

**Subject:** FW: Comments on Dominguez Channel/LA Harbor Watershed Draft TMDL-Specific Industrial General Permit Requirements

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**From:** Quidilla, Clarita@Waterboards on behalf of WB-RB4-losangeles

**Sent:** Tuesday, April 26, 2016 2:52 PM

**To:** IGP\_TMDL, Comments@Waterboards

**Subject:** FW: Comments on Dominguez Channel/LA Harbor Watershed Draft TMDL-Specific Industrial General Permit Requirements

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**From:** Bill Habenicht - Frog Environmental [<mailto:Bill@frogenv.com>]

**Sent:** Monday, April 25, 2016 4:57 PM

**To:** WB-RB4-losangeles

**Subject:** Comments on Dominguez Channel/LA Harbor Watershed Draft TMDL-Specific Industrial General Permit Requirements

To whom it may concern, please see our comments, below, on the proposed TMDLs for the Dominguez Channel/LA Harbor Watershed

1) How are Wasteload Allocations apportioned between the various sources of storm water discharge?

There are multiple sources of storm water that discharge into the Dominguez channel, including:

- Industrial users subject to the IGP
- Industrial users with NPDES discharge permits
- Industrial and commercial dischargers not subject to the IGP or NPDES permitting (example: stores, distribution warehouses)
- Municipal sources (streets, highways)
- Construction sources

There is no mention in the proposed TMDL of these other target pollutant sources in the watershed, nor does the proposal address how meeting the TMDL will be apportioned reasonably or fairly to all of the potential sources. Have these other sources been factored in to the target concentration-based numeric limits that IGP dischargers must meet, with the IGP TMDLs adjusted accordingly, or is the full burden of meeting the EPA's TMDL limits for the waterway to be born by IGP dischargers?

2) The numeric targets are substantially lower, by several orders of magnitude, than EPA's drinking water standards. Specifically, the proposed TAL for copper is 3.73 µg/L, compared to the EPA 1.3 mg/L maximum contaminant level (MCL) for copper in drinking water. To put it another way, the proposed TAL for copper is over 400x lower than EPA's drinking water standards.

We recognize that the drinking water standards have a completely different basis for their values and monitoring requirements, but on the other hand setting a storm water limit to a level so much lower than drinking water standards seems excessively burdensome, and in many cases may be unattainable without treating storm water to standards far more stringent than drinking water standards. Coupled with our concerns in #1, above (that IGP dischargers are disproportionately responsible for meeting the TMDLs compared to other users of the waterway), it seems problematic to burden industrial facilities with meeting standards that may frankly be unachievable by any method other than treatment, and unreasonable in context. When considering treatment of such large volumes of storm water run-off, and attempting to meet limits that are so far below drinking water standards, how can the cost/benefit be justified? Is it reasonable to

require industrial storm water discharges to achieve concentrations of contaminants that are 400x lower than water from the tap, or a fire hydrant, supplied by the municipality or water district?

**Thank you,**  
**Bill Habenicht**  
**Director of Environmental Health & Safety**  
REA #7211 / QISP ToR #145 / CPSWQ #886 / REPA #382645

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"Your **Cleaner** Business is Our Environment."

## Rastegarpour, Shuka@Waterboards

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**From:** Vitale, Pavlova@Waterboards  
**Sent:** Monday, May 02, 2016 3:53 PM  
**To:** Rastegarpour, Shuka@Waterboards  
**Cc:** Pineda, Francisco@Waterboards  
**Subject:** FW: Comments on Draft TMDL-Specific IGP Requirements Dominguez Channel.LA Harbor Watershed due 4.25.2016

**Flag Status:** Flagged

Kind Regards,

Pavlova N Vitale  
Senior Environmental Scientist

Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

感谢您

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**From:** Quidilla, Clarita@Waterboards on behalf of WB-RB4-losangeles  
**Sent:** Monday, April 25, 2016 10:28 PM  
**To:** IGP\_TMDL, Comments@Waterboards  
**Subject:** FW: Comments on Draft TMDL-Specific IGP Requirements Dominguez Channel.LA Harbor Watershed due 4.25.2016

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**From:** Joyce Dillard [<mailto:dillardjoyce@yahoo.com>]  
**Sent:** Monday, April 25, 2016 3:28 PM  
**To:** WB-RB4-losangeles  
**Subject:** Comments on Draft TMDL-Specific IGP Requirements Dominguez Channel.LA Harbor Watershed due 4.25.2016

Upstream watershed management and monitoring activities are unclear. Will it be outfall monitoring?

How does the MS4 interface with compliance issues especially in Enhanced Watershed Management Areas? If all stormwater is captured, it appears that industrial permits have no liability or compliance.

It is not clear how the Dry-Weather and Wet-Weather TMDLs are implemented in this industrial permit. Is it the Tetra Tech model or the LA County model?

Joyce Dillard  
P.O. Box 31377  
Los Angeles, CA 90031





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 26 2014

OFFICE OF WATER

MEMORANDUM

SUBJECT: Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs"

FROM: Andrew D. Sawyers, Director  
Office of Wastewater Management   
Benita Best-Wong, Director  
Office of Wetlands, Oceans and Watersheds 

TO: Water Division Directors  
Regions 1 - 10

This memorandum updates aspects of EPA's November 22, 2002 memorandum from Robert H. Wayland, III, Director of the Office of Wetlands, Oceans and Watersheds, and James A. Hanlon, Director of the Office of Wastewater Management, on the subject of "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs" (hereafter "2002 memorandum"). Today's memorandum replaces the November 12, 2010, memorandum on the same subject; the Water Division Directors should no longer refer to that memorandum for guidance.

This memorandum is guidance. It is not a regulation and does not impose legally binding requirements on EPA or States. EPA and state regulatory authorities should continue to make permitting and TMDL decisions on a case-by-case basis considering the particular facts and circumstances and consistent with applicable statutes, regulations, and case law. The recommendations in this guidance may not be applicable to a particular situation. EPA may change or revoke this guidance at any time.

Background

Stormwater discharges are a significant contributor to water quality impairment in this country, and the challenges from these discharges are growing as more land is developed and more impervious surface is created. Stormwater discharges cause beach closures and contaminate shellfish and surface drinking water supplies. The increased volume and velocity of stormwater discharges causes streambank erosion, flooding, sewer overflows, and basement backups. The decreased natural infiltration of rainwater reduces groundwater recharge, depleting

our underground sources of drinking water.<sup>1</sup> There are stormwater management solutions, such as green infrastructure, that can protect our waterbodies from stormwater discharges and, at the same time, offer many other benefits to communities.

Section III of the 2002 memorandum recommended that for NPDES-regulated municipal and small construction stormwater discharges, effluent limits be expressed as best management practices (BMPs) or other similar requirements, rather than as numeric effluent limits. The 2002 memorandum went on to provide guidance on using “an iterative, adaptive management BMP approach” for improving stormwater management over time as permitting agencies, the regulated community, and other involved stakeholders gain more experience and knowledge. EPA continues to support use of an iterative approach, but with greater emphasis on clear, specific, and measurable permit requirements and, where feasible, numeric NPDES permit provisions, as discussed below.

Since 2002, States and EPA have obtained considerable experience in developing TMDLs and WLAs that address stormwater sources (see Box 1 in the attachment for specific examples). Monitoring of the impacts of stormwater discharges on water quality has become more sophisticated and widespread.<sup>2</sup> The experience gained during this time has provided better information on the effectiveness of stormwater controls to reduce pollutant loadings and address water quality impairments. In many parts of the country, permitting agencies have issued several rounds of stormwater permits. Notwithstanding these developments, stormwater discharges remain a significant cause of water quality impairment in many places, highlighting a continuing need for more meaningful WLAs and more clear, specific, and measurable NPDES permit provisions to help restore impaired waters to their beneficial uses.

With this additional experience in mind, on November 12, 2010, EPA issued a memorandum updating and revising elements of the 2002 memorandum to better reflect current practices and trends in permits and WLAs for stormwater discharges. On March 17, 2011, EPA sought public comment on the November 2010 memorandum and, earlier this year, completed a nationwide review of current practices used in MS4 permits<sup>3</sup> and industrial and construction stormwater discharge permits. As a result of comments received and informed by the reviews of EPA and state-issued stormwater permits, EPA is in this memorandum replacing the

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<sup>1</sup> See generally [Urban Stormwater Management in the United States](#) (National Research Council, 2009), particularly the discussion in Chapter 3, *Hydrologic, Geomorphic, and Biological Effects of Urbanization on Watersheds*.

<sup>2</sup> Stormwater discharge monitoring programs have expanded the types pollutants and other indices (e.g., biologic integrity) being evaluated. This information is being used to help target priority areas for cleanup and to assess the effectiveness of stormwater BMPs. There are a number of noteworthy monitoring programs that are ongoing, including for example those being carried out by Duluth, MN, Capitol Region Watershed District, MN, Honolulu, HI, Baltimore or Montgomery County, MD, Puget Sound, WA, Los Angeles County, CA, and the Alabama Dept. of Transportation, among many others. See also Section 4.2 (Monitoring/Modeling Requirements) of EPA’s *Municipal Separate Storm Sewer System Permits: Post-Construction Performance Standards & Water Quality-Based Requirements – A Compendium of Permitting Approaches* (EPA, June 2014), or “MS4 Compendium” available at [http://water.epa.gov/polwaste/npdes/stormwater/upload/sw\\_ms4\\_compendium.pdf](http://water.epa.gov/polwaste/npdes/stormwater/upload/sw_ms4_compendium.pdf), for other examples of note.

<sup>3</sup> See [EPA’s MS4 Permit Compendium](#), referenced in the above footnote.



November 2010 memorandum, updating aspects of the 2002 memorandum and providing additional information in the following areas:

- Including clear, specific, and measurable permit requirements and, where feasible, numeric effluent limitations in NPDES permits for stormwater discharges;
- Disaggregating stormwater sources in a WLA; and
- Designating additional stormwater sources to regulate and developing permit limits for such sources.

**Including Clear, Specific, and Measurable Permit Requirements and, Where Feasible, Numeric Effluent Limitations in NPDES Permits for Stormwater Discharges**

At the outset of both the Phase I and Phase II stormwater permit programs, EPA provided guidance on the type of water quality-based effluent limits (WQBELs) that were considered most appropriate for stormwater permits. See Interim Permitting Policy for Water Quality-Based Limitations in Storm Water Permits [61 FR 43761 (August 26, 1996) and 61 FR 57425 (November 6, 1996)] and the Phase II rulemaking preamble 64 FR 68753 (December 8, 1999). Under the approach discussed in these documents, EPA envisioned that in the first two to three rounds of permit issuance, stormwater permits typically would require implementation of increasingly more effective best management practices (BMPs). In subsequent stormwater permit terms, if the BMPs used during prior years were shown to be inadequate to meet the requirements of the Clean Water Act (CWA), including attainment of applicable water quality standards, the permit would need to contain more specific conditions or limitations.

There are many ways to include more effective WQBELs in permits. In the spring of 2014, EPA published the results of a nationwide review of current practices used in MS4 permits in *Municipal Separate Storm Sewer Systems Permits: Post-Construction Performance Standards & Water Quality-Based Requirements – A Compendium of Permitting Approaches* (June 2014). This MS4 Compendium demonstrates how NPDES authorities have been able to effectively establish permit requirements that are more specifically tied to a measurable water quality target, and includes examples of permit requirements expressed in both numeric and non-numeric form. These approaches, while appropriately permit-specific, each share the attribute of being expressed in a clear, specific, and measurable way. For example, EPA found a number of permits that employ numeric, retention-based performance standards for post-construction discharges, as well as instances where permits have effectively incorporated numeric effluent limits or other quantifiable measures to address water quality impairment (see the attachment to this memorandum).

EPA has also found examples where the applicable WLAs have been translated into BMPs, which are required to be implemented during the permit term to reflect reasonable further progress towards meeting the applicable water quality standard (WQS). Incorporating greater specificity and clarity echoes the approach first advanced by EPA in the 1996 Interim Permitting Policy, which anticipated that where necessary to address water quality concerns, permits would be modified in subsequent terms to include “more specific conditions or limitations [which] may include an integrated suite of BMPs, performance objectives, narrative standards, monitoring triggers, numeric WQBELs, action levels, etc.”

EPA also recently completed a review of state-issued NPDES industrial and construction permits, which also revealed a number of examples where WQBELs are expressed using clear, specific, and measurable terms. Permits are exhibiting a number of different approaches, not unlike the types of provisions shown in the MS4 Compendium. For example, some permits are requiring as an effluent limitation compliance with a numeric or narrative WQS, while others require the implementation of specific BMPs that reduce the discharge of the pollutant of concern as necessary to meet applicable WQS or to implement a WLA and/or are requiring their permittees to conduct stormwater monitoring to ensure the effectiveness of those BMPs. EPA intends to publish a compendium of permitting approaches in state-issued industrial and construction stormwater permits in early 2015.

### Permits for MS4 Discharges

The CWA provides that stormwater permits for MS4 discharges “shall require controls to reduce the discharge of pollutants to the maximum extent practicable ... and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.” CWA section 402(p)(3)(B)(iii). Under this provision, the NPDES permitting authority has the discretion to include requirements for reducing pollutants in stormwater discharges as necessary for compliance with water quality standards. *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166 (9th Cir. 1999).

The 2002 memorandum stated “EPA expects that most WQBELs for NPDES-regulated municipal and small construction stormwater discharges will be in the form of BMPs, and that numeric limitations will be used only in rare instances.” As demonstrated in the MS4 Compendium, NPDES permitting authorities are using various forms of clear, specific, and measurable requirements, and, where feasible, numeric effluent limitations in order to establish a more objective and accountable means for reducing pollutant discharges that contribute to water quality problems.<sup>4</sup> Where the NPDES authority determines that MS4 discharges have the reasonable potential to cause or contribute to a water quality standard excursion, EPA recommends that the NPDES permitting authority exercise its discretion to include clear, specific, and measurable permit requirements and, where feasible, numeric effluent limitations<sup>5</sup> as necessary to meet water quality standards.

NPDES authorities have significant flexibility in how they express WQBELs in MS4 permits (see examples in Box 1 of the attachment). WQBELs in MS4 permits can be expressed as system-wide requirements rather than as individual discharge location requirements such as

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<sup>4</sup> The MS4 Compendium presents examples of different permitting approaches that EPA has found during a nationwide review of state MS4 permits. Examples of different WQBEL approaches in the MS4 Compendium include permits that have (1) a list of applicable TMDLs, WLAs, and the affected MS4s; (2) numeric limits and other quantifiable approaches for specific pollutants of concern; (3) requirements to implement specific stormwater controls or management measures to meet the applicable WLA; (4) permitting authority review and approval of TMDL plans; (5) specific impaired waters monitoring and modeling requirements; and (6) requirements for discharges to impaired waters prior to TMDL approval.

<sup>5</sup> For the purpose of this memorandum, and in the context of NPDES permits for stormwater discharges, “numeric” effluent limitations refer to limitations with a quantifiable or measurable parameter related to a pollutant (or pollutants). Numeric WQBELs may include other types of numeric limits in addition to end-of-pipe limits. Numeric WQBELs may include, among others, limits on pollutant discharges by specifying parameters such as on-site stormwater retention volume or percentage or amount of effective impervious cover, as well as the more traditional pollutant concentration limits and pollutant loads in the discharge.

effluent limitations on discharges from individual outfalls. Moreover, the inclusion of numeric limitations in an MS4 permit does not, by itself, mandate the type of controls that a permittee will use to meet the limitation.

EPA recommends that NPDES permitting authorities establish clear, specific, and measurable permit requirements to implement the minimum control measures in MS4 permits. With respect to requirements for post-construction stormwater management, consistent with guidance in the 1999 Phase II Rule, EPA recommends, where feasible and appropriate, numeric requirements that attempt to maintain pre-development runoff conditions (40 CFR § 122.34(b)(5)) be incorporated into MS4 permits. EPA's MS4 Compendium features examples from 17 states and the District of Columbia that have already implemented retention performance standards for newly developed and redeveloped sites. See Box 2 of the attachment for examples.

### Permits for Industrial Stormwater Discharges

The CWA requires that permits for stormwater discharges associated with industrial activity comply with section 301 of the Act, including the requirement under section 301(b)(1)(C) to contain WQBELs to achieve water quality standards for any discharge that the permitting authority determines has the reasonable potential to cause or contribute to a water quality standard excursion. CWA section 402(p)(3)(A), 40 CFR § 122.44(d)(1)(iii). When the permitting authority determines, using the procedures specified at 40 CFR § 122.44(d)(1)(ii), that the discharge causes or has the reasonable potential to cause or contribute to an in-stream excursion of the water quality standards, the permit must contain WQBELs as stringent as necessary to meet any applicable water quality standard for that pollutant. EPA recommends that NPDES permitting authorities use the experience gained in developing WQBELs to design effective permit conditions to create objective and accountable means for controlling stormwater discharges. See box 3 in the attachment for examples.

Permits should contain clear, specific, and measurable elements associated with BMP implementation (*e.g.*, schedule for BMP installation, frequency of a practice, or level of BMP performance), as appropriate, and should be supported by documentation that implementation of selected BMPs will result in achievement of water quality standards. Permitting authorities should also consider including numeric benchmarks for BMPs and associated monitoring protocols for estimating BMP effectiveness in stormwater permits. Benchmarks can support an adaptive approach to meeting applicable water quality standards. While exceeding the benchmark is not generally a permit violation, exceeding the benchmark would typically require the permittee to take additional action, such as evaluating the effectiveness of the BMPs, implementing and/or modifying BMPs, or providing additional measures to protect water quality.<sup>6</sup> Permitting authorities should consider structuring the permit to clarify that failure to implement required corrective action, including a corrective action for exceeding a benchmark, is a permit violation. EPA notes that, as many stormwater discharges are authorized under a general

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<sup>6</sup> For example, Part 6.2.1 of EPA's 2008 MSGP provides: "This permit stipulates pollutant benchmark concentrations that may be applicable to your discharge. The benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation. Benchmark monitoring data are primarily for your use to determine the overall effectiveness of your control measures and to assist you in knowing when additional corrective action(s) may be necessary to comply with the effluent limitations ..."

permit, NPDES authorities may find it more appropriate where resources allow to issue individual permits that are better tailored to meeting water quality standards for large industrial stormwater discharges with more complex stormwater management features, such as multiple outfalls and multiple entities responsible for permit compliance.

### All Permitted Stormwater Discharges

As stated in the 2002 memorandum, where a State or EPA has established a TMDL, NPDES permits must contain effluent limits and conditions consistent with the assumptions and requirements of the WLAs in the TMDL. See 40 CFR § 122.44(d)(1)(vii)(B). Where the TMDL includes WLAs for stormwater sources that provide numeric pollutant loads, the WLA should, where feasible, be translated into effective, measurable WQBELs that will achieve this objective. This could take the form of a numeric limit, or of a measurable, objective BMP-based limit that is projected to achieve the WLA. For MS4 discharges, CWA section 402(p)(3)(B)(iii) provides flexibility for NPDES authorities to set appropriate deadlines for meeting WQBELs consistent with the requirements for compliance schedules in NPDES permits set forth in 40 CFR § 122.47.

The permitting authority's decision as to how to express the WQBEL(s), either as numeric effluent limitations or as BMPs, with clear, specific, and measurable elements, should be based on an analysis of the specific facts and circumstances surrounding the permit, and/or the underlying WLA, including the nature of the stormwater discharge, available data, modeling results, and other relevant information. As discussed in the 2002 memorandum, the permit's administrative record needs to provide an adequate demonstration that, where a BMP-based approach to permit limitations is selected, the BMPs required by the permit will be sufficient to implement applicable WLAs. Permits should also include milestones or other mechanisms where needed to ensure that the progress of implementing BMPs can be tracked. Improved knowledge of BMP effectiveness gained since 2002<sup>7</sup> should be reflected in the demonstration and supporting rationale that implementation of the BMPs will attain water quality standards and be consistent with WLAs.

EPA's regulations at 40 CFR § 122.47 govern the use of compliance schedules in NPDES permits. Central among the requirements is that the effluent limitation(s) must be met "as soon as possible." 40 CFR § 122.47(a)(1). As previously discussed, by providing discretion to include "such other provisions" as deemed appropriate, CWA section 402(p)(3)(B)(iii) provides flexibility for NPDES authorities to set appropriate deadlines towards meeting WQBELs in MS4 permits consistent with the requirements for compliance schedules in NPDES permits set forth in 40 CFR § 122.47. See *Defenders of Wildlife v Browner*, 191 F.3d at 1166. EPA expects the permitting authority to document in the permit record the basis for determining that the compliance schedule is "appropriate" and consistent with the CWA and 40 CFR § 122.47. Where a TMDL has been established and there is an accompanying implementation plan that provides a schedule for an MS4 to implement the TMDL, or where a comprehensive, integrated plan addressing a municipal government's wastewater and stormwater obligations under the NPDES program has been developed, the permitting authority should consider such

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<sup>7</sup> See compilation of current BMP databases and summary reports available at [http://water.epa.gov/infrastructure/greeninfrastructure/gi\\_performance.cfm](http://water.epa.gov/infrastructure/greeninfrastructure/gi_performance.cfm), which has compiled current BMP databases and summary reports.

schedules as it decides whether and how to establish enforceable interim requirements and interim dates in the permit.

EPA notes that many permitted stormwater discharges are covered by general permits. Permitting authorities should consider and build into general permits requirements to ensure that permittees take actions necessary to meet the WLAs in approved TMDLs and address impaired waters. A general permit can, for example, identify permittees subject to applicable TMDLs in an appendix, and prescribe the activities that are required to meet an applicable WLA.

Lastly, NPDES permits must specify monitoring requirements necessary to determine compliance with effluent limitations. See CWA section 402(a)(2); 40 CFR 122.44(i). The permit could specify actions that the permittee must take if the BMPs are not performing properly or meeting expected load reductions. When developing monitoring requirements, the NPDES authority should consider the variable nature of stormwater as well as the availability of reliable and applicable field data describing the treatment efficiencies of the BMPs required and supporting modeling analysis.

### **Disaggregating Stormwater Sources in a WLA**

In the 2002 memorandum, EPA said it “may be reasonable to express allocations for NPDES-regulated stormwater discharges from multiple point sources as a single categorical wasteload allocation when data and information are insufficient to assign each source or outfall individual WLAs.” EPA also said that, “[i]n cases where wasteload allocations are developed for categories of discharges, these categories should be defined as narrowly as available information allows.” Furthermore, EPA said it “recognizes that the available data and information usually are not detailed enough to determine waste load allocations for NPDES-regulated stormwater discharges on an outfall-specific basis.”

EPA still recognizes that “[d]ecisions about allocations of pollutant loads within a TMDL are driven by the quantity and quality of existing and readily available water quality data,” but has noted the difficulty of establishing clear, specific, and measurable NPDES permit limitations for sources covered by WLAs that are expressed as single categorical or aggregated wasteload allocations. Today, TMDL writers may have more information—such as more ambient monitoring data, better spatial and temporal representation of stormwater sources, and/or more permit-generated data—than they did in 2002 to develop more disaggregated TMDL WLAs.

Accordingly, for all these reasons, EPA is again recommending that, “when information allows,” WLAs for NPDES-regulated stormwater discharges be expressed “as different WLAs for different identifiable categories” (e.g., separate WLAs for MS4 and industrial stormwater discharges). In addition, as EPA said in 2002, “[t]hese categories should be defined as narrowly as available information allows (e.g., for municipalities, separate WLAs for each municipality and for industrial sources, separate WLAs for different types of industrial stormwater sources or dischargers).” EPA does not expect states to assign WLAs to individual MS4 outfalls; however, some states may choose to do so to support their implementation efforts. These recommendations are consistent with the decision in *Anacostia Riverkeeper, Inc. v. Jackson*, 2011 U.S. Dist. Lexis 80316 (July 25, 2011).

In general, states are encouraged to disaggregate the WLA when circumstances allow to facilitate implementation. TMDL writers may want to consult with permit writers and local authorities to collect additional information such as sewer locations, MS4 jurisdictional boundaries, land use and growth projections, and locations of stormwater controls and infrastructure, to facilitate disaggregation. TMDLs have used different approaches to disaggregate stormwater to facilitate MS4 permit development that is consistent with the assumptions and requirements of the WLA. For example, some TMDLs have used a geographic approach and developed individual WLAs by subwatershed<sup>8</sup> or MS4 boundary (*i.e.*, the WLA is subdivided by the relative estimated load contribution to the subwatershed or the area served by the MS4). TMDLs have also assigned percent reductions<sup>9</sup> of the loading based on the estimated wasteload contribution from each MS4 permit holder. Where appropriate, EPA encourages permit writers to identify specific shares of an applicable wasteload allocation for specific permittees during the permitting process, as permit writers may have more detailed information than TMDL writers to effectively identify reductions for specific sources.

### **Designating Additional Stormwater Sources to Regulate and Developing Permit Limits for Such Sources**

The 2002 memorandum states that “stormwater discharges from sources that are not currently subject to NPDES regulation may be addressed by the load allocation component of a TMDL.” Section 402(p)(2) of the Clean Water Act (CWA) requires industrial stormwater sources, certain municipal separate storm sewer systems, and other designated sources to be subject to NPDES permits. Section 402(p)(6) provides EPA with authority to identify additional stormwater discharges as needing a permit.

In addition to the stormwater discharges specifically identified as needing an NPDES permit, the CWA and the NPDES regulations allow for EPA and NPDES authorized States to designate additional stormwater discharges for regulation. See: 40 CFR §§122.26 (a)(9)(i)(C), (a)(9)(i)(D), (b)(4)(iii), (b)(7)(iii), (b)(15)(ii) and 122.32(a)(2). Accordingly, EPA encourages permitting authorities to consider designation of stormwater sources in situations where coverage under NPDES permits would, in the reasonable judgment of the permitting authority and, considering the facts and circumstances in the waterbody, provide the most appropriate mechanism for implementing the pollution controls needed within a watershed to attain and maintain applicable water quality standards.

If a TMDL had previously included a newly permitted source as part of a single aggregated or gross load allocation for all unregulated stormwater sources, or all unregulated sources in a specific category, the NPDES permit authority could identify an appropriate allocation share and include a corresponding limitation specific to the newly permitted stormwater source. EPA recommends that any additional analysis used to identify that share and develop the corresponding limit be included in the administrative record for the permit. The

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<sup>8</sup> Wissahickon Creek Siltation TMDL (Pennsylvania) [www.epa.gov/reg3wapd/tmdl/pa\\_tmdl/wissahickon/index.htm](http://www.epa.gov/reg3wapd/tmdl/pa_tmdl/wissahickon/index.htm).

<sup>9</sup> Liberty Bay Watershed Fecal Coliform Bacteria TMDL (Washington).

<https://fortress.wa.gov/ecy/publications/SummaryPages/1310014.html> and Upper Minnehaha Creek Watershed Nutrients and Bacteria TMDL (Minnesota) <http://www.pca.state.mn.us/index.php/view-document.html?gid=20792>

permit writer's additional analysis would not change the TMDL, including its overall loading cap.

In situations where a stormwater source addressed in a TMDL's load allocation is not currently regulated by an NPDES permit but may be required to obtain an NPDES permit in the future, the TMDL writer should consider including language in the TMDL explaining that the allocation for the stormwater source is expressed in the TMDL as a "load allocation" contingent on the source remaining unpermitted, but that the "load allocation" would later be deemed a "wasteload allocation" if the stormwater discharge from the source were required to obtain NPDES permit coverage. Such language would help ensure that the allocation is properly characterized by the permit writer should the source's regulatory status change. This will help the permit writer develop limitations for the NPDES permit applicable to the newly permitted source that are consistent with the assumptions and requirements of the TMDL's allocation to that source.

If you have any questions please feel free to contact us or Deborah Nagle, Director of the Water Permits Division, or Tom Wall, Director of the Assessment and Watershed Protection Division.

cc: Association of Clean Water Administrators  
TMDL Program Branch Chiefs, Regions 1 – 10  
NPDES Permits Branch Chiefs, Regions 1 – 10

Attachment: MS4 and Industrial Stormwater Permit Examples

## ATTACHMENT: MS4 and Industrial Stormwater Permit Examples

### BOX 1. Examples of WQBELs in MS4 Permits:

1. Numeric expression of the WQBEL: The MS4 Permit includes a specific, quantifiable performance requirement that must be achieved within a set timeframe. For example:
  - Reduce fine sediment particles, total phosphorus, and total nitrogen loads by 10 percent, 7 percent, and 8 percent, respectively, by September 30, 2016 (2011 Lake Tahoe, CA MS4 permit)
  - Restore within the 5-year permit term 20 percent of the previously developed impervious land (2014 Prince George's County, MD MS4 permit)
  - Achieve a minimum net annual planting rate of 4,150 planting annually within the MS4 area, with the objective of an MS4-wide urban tree canopy of 40 percent by 2035 (2011 Washington, DC MS4 permit)
  - Discharges from the MS4 must not cause or contribute to exceedances of receiving water limits for Diazinon of 0.08µg/L for acute exposure (1 hr averaging period) or 0.05µg/L for chronic exposure (4-day averaging period), OR must not exceed Diazinon discharge limits of 0.072 µg/L for acute exposure or 0.045µg/L for chronic exposure (2013 San Diego, CA Regional MS4 permit)
  
2. Non-numeric expressions of the WQBEL: The MS4 Permit establishes individualized, watershed-based requirements that require each affected MS4 to implement specific BMPs within the permit term, which will ensure reasonable further progress towards meeting applicable water quality standards.
  - To implement the corrective action recommendations of the Issaquah Creek Basin Water Cleanup Plan for Fecal Coliform Bacteria (part of the approved Fecal Coliform Bacteria TMDL for the Issaquah Creek Basin), King County is required during the permit term to install and maintain animal waste education and/or collection stations at municipal parks and other permittee owned and operated lands reasonably expected to have substantial domestic animal use and the potential for stormwater pollution. The County is also required to complete IDDE screening for bacteria sources in 50 percent of the MS4 subbasins, including rural MS4 subbasins, by February 2, 2017 and implement the activities identified in the Phase I permit for responding to any illicit discharges found (2013 Western Washington Small MS4 General Permit)
  - For discharges to Segment 14 of the Upper South Platte River Basin associated with WLAs from the approved *E. coli* TMDL, the MS4 must identify outfalls with dry weather flows; monitor priority outfalls for flow rates and *E. coli* densities; implement a system maintenance program for listed priority basins (which includes storm sewer cleaning and sanitary sewer investigations); install markers on at least 90% of storm drain inlets in areas with public access; and conduct a public outreach program focused on sources that contribute *E. coli* loads to the MS4. By November 30, 2018, dry weather discharges from MS4 outfalls of concern must not contribute to an exceedance of the *E. coli* standard (126 cfu per 100 ml for a geometric mean of all samples collected at a specific outfall in a 30-day period) (2009 Denver, CO MS4 Permit)
  
3. Hybrid approach with both numeric and non-numeric expressions of the WQBEL:
  - Discharges of trash from the MS4 to the LA River must be reduced to zero by Sept. 2016. Permittees also have the option of complying via the installation of defined "full capture systems" to prevent trash from entering the MS4 (2012 Los Angeles County, CA MS4 Permit).
  - To attain the shared, load allocation of 27,000 metric tons/year of sediment in the Napa River sediment TMDL, municipalities shall determine opportunities to retrofit and/or reconstruction of road crossings to minimize road-related sediment delivery ( $\leq 500$  cubic yards/mile per 20-year period) to stream channels (2013 CA Small MS4 General Permit).



**Box 2. Examples of Retention Post Construction Standards for New and Redevelopment in MS4 Permits**

- 2009 WV small MS4 permit: Keep and manage on site the first one inch of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation.
- 2011 DC Phase I MS4 permit: Achieve on-site retention of 1.2" of stormwater from a 24-hour storm with a 72-hour antecedent dry period through evapotranspiration, infiltration and/or stormwater harvesting.
- 2012 Albuquerque, NM Phase I MS4 permit: Capture the 90<sup>th</sup> percentile storm event runoff to mimic the predevelopment hydrology of the previously undeveloped site.
- 2010 Anchorage, AK Phase I MS4 permit: Keep and manage the runoff generated from the first 0.52 inches of rainfall from a 24 hour event preceded by 48 hours of no measureable precipitation.
- 2013 Western WA small MS4 permit: Implement low impact development performance standards to match developed discharge durations to pre-developed durations for the range of pre-developed discharge rates from 8% of the 2-year flow to 50% of the 2-year flow.

**BOX 3. Examples of QBELs in Industrial (including Construction) Stormwater Permits:**

1. Numeric expression of the QBEL: The permit includes a specific, quantifiable performance requirement that must be achieved:
  - Pollutant concentrations shall not exceed the stormwater discharge limits specified in the permit (based on state WQS), including (for example): Cadmium-0.003 mg/l; Mercury-0.0024 mg/l; Selenium-0.02 mg/l (2013 Hawaii MSGP)
  - Beginning July 1, 2010, permittees discharging to impaired waters without an EPA-approved TMDL shall comply with the following effluent limits (based on state WQS), including (for example): Turbidity-25 NTU; TSS-30 mg/l; Mercury-0.0021 mg/l; Phosphorus, Ammonia, Lead, Copper, Zinc-site-specific limits to be determined at time of permit coverage (2010 Washington MSGP)
  - If discharging to waters on the 303(d) list (Category 5) impaired for turbidity, fine sediment, or phosphorus, the discharge must comply with the following effluent limit for turbidity: 25 NTU (at the point of discharge from the site), or no more than 5 NTU above background turbidity when the background turbidity is 50 NTU or less, or no more than a 10% increase in turbidity when background turbidity is more than 50 NTU. Discharges to waterbodies on the 303(d) list (Category 5) for high pH must comply with the numeric effluent limit of pH 6.5 to 8.5 su (2010 Washington CGP) (2010 Washington CGP)
2. Narrative expression of the QBEL: The permit includes narrative effluent limits based on applicable WQS:
  - New discharges or new dischargers to an impaired water are not eligible for permit coverage, unless documentation or data exists to show that (1) all exposure of the pollutant(s) of concern to stormwater is prevented; or (2) the pollutant(s) of concern are not present at the facility; or (3) the discharge of the pollutant(s) of concern will meet instream water quality criteria at the point of discharge (for waters without an EPA-approved TMDL), or there is sufficient remaining WLAs in an EPA-approved TMDL to allow the discharge and that existing dischargers are subject to compliance schedules to bring the waterbody into attainment with WQS (2011 Vermont MSGP; similar requirements in RI, NY, MD, VA, WV, SC, AR, TX, KS, NE, AZ, CA, AK, OR, and WA permits)
  - In addition to other applicable QBELs, there shall be no discharge that causes visible oil sheen, and no discharge of floating solids or persistent foam in other than trace amounts. Persistent foam is foam that does not dissipate within one half hour of point of discharge (2014 Maryland MSGP)
3. Requirement to implement additional practices or procedures for discharges to impaired waters:
  - For sediment-impaired waters (without an approved TMDL), the permittee is required to maintain a minimum 50-foot buffer zone between any disturbance and all edges of the receiving water (2009 Kentucky CGP)
  - For discharges to impaired waters, implement the following: (1) stabilization of all exposed soil areas immediately, but in no case later than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased (as compared to 14 days for no-impaired waters); (2) temporary sediment basins must meet specified design standards if they will serve an area of 5 or more acres (as compared to 10 or more acres for other sites); (3) retain a water quality volume of 1 inch of runoff from the new impervious surfaces created by the project (though this volume reduction requirement is for discharges to all waters, not just impaired waters) (2013 Minnesota CGP).
  - If the site discharges to a water impaired for sediment or turbidity, or to a water subject to an EPA-approved TMDL, the permittee must implement one or more of the following practices: (1) compost berms, compost blankets, or compost socks; (2) erosion control mats; (3) tackifiers used with a perimeter control BMP; (4) a natural buffer of 50 feet (horizontally) plus 25 feet (horizontally) for 5 degrees of slope; (5) water treatment by electro-coagulation, flocculation, or filtration; and/or (6) other substantially equivalent sediment or turbidity BMP approved by the state (2010 Oregon CGP)



Ms. Renee Purdy  
Environmental Program Manager  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street  
Los Angeles, CA 90013

March 8, 2016

RE: Written Responses to Comments Received on Enhanced Watershed Management Programs

Dear Ms. Purdy:

We are submitting this letter as a follow-up to the testimony delivered by Los Angeles Waterkeeper, Heal the Bay, and the Natural Resources Defense Council, (collectively, "Environmental Groups") at the March 3 revised EWMPs workshop. The purpose of the letter is to provide citations and a written explanation of our position that both federal and California law require the Regional Board to issue written responses to comments prior to any decision by the Board or Executive Officer approving or denying the Enhanced Watershed Management Programs ("EWMPs") currently under review submitted by various permittees pursuant to Part VI.C.4 of the Los Angeles County Municipal Separate Storm Sewer System ("MS4") Permit (NPDES Permit No. CAS004001) ("2012 MS4 Permit").

We appreciate your assurances during a February 29 conference call that the Regional Board staff have considered comments submitted by the Environmental Groups on the EWMPs. The Environmental Groups spent significant time and resources reviewing the draft EWMPs, including retaining outside technical experts, participating in last November's workshop, and reviewing the revised EWMPs submitted by the permittees, again retaining outside experts and participating in a workshop. Despite participating in the review process, it is very difficult to determine which EWMP groups have even considered our comments, or have taken steps to address those comments. From the EWMPs we have reviewed, it appears that no EWMP group has specifically responded to our consultant's technical comments on the draft EWMPs. To the extent that some EWMP groups might have responded to certain aspects of our comments, it appears to be because those comments were similar to or incorporated into comments made by Regional Board staff. Moreover, the consideration of comments from stakeholders other than the Regional Board staff seems highly variable among EWMPs, and the process itself of considering those comments has lacked uniformity, accountability, rigor, and

transparency mainly because the Regional Board has not prepared written responses to comments. We understand from our call that the Regional Board does not intend to prepare written responses, or require EWMP groups to prepare such written responses, prior to the decision to approve or deny EWMPs in April. We urge the Regional Board to reconsider this position.

I. The Public Participation Process Provided by the Regional Board, Devoid of Written Responses to Comments, Does Not Ensure “Rigor and Accountability” in the EWMP Review Process.

The Regional Board’s refusal to prepare written responses to comments frustrates the intent of the State Water Resources Control Board (“SWRCB”) Order WQ 2015-0075 approving the 2012 MS4 permit establishing the WMP and EWMP alternative compliance approach. The SWRCB recognized that the WMPs and EWMPs require a “public review and comment period.” (See Order WQ 2015-0075, p. 37.) In a section entitled “Rigor and Accountability in the Process,” the SWRCB called the public review and comment period associated with the WMPs/EWMPs “essential to ensuring” the success of the EWMPs. The SWRCB set clear expectations for public comment.<sup>i</sup> “We expect this public process to *vet the proposed WMPs/EWMPs and facilitate revisions to strengthen the program as needed.*” (See *Id.*, emphasis added.) This concern from the SWRCB mirrors EPA’s concern that technical issues with NPDES permits be decided in “the most open, accessible forum possible.” (See 44 Fed. Reg. 32,854, 32, 885.) Yet the process allowed by the Regional Board—which includes only verbal assurances that the Regional Board staff has considered comments on the EWMPs, and no assurances of any kind that the EWMP groups have considered these comments—falls far short of ensuring a proper vetting and facilitation of revisions.

We reiterate, for the reasons discussed on March 3 at the workshop, why we believe the EWMPs as currently drafted must be denied by the Executive Officer as inconsistent with the terms of the underlying permit. The inadequate “vetting” provided by an informal and irregular approach to public comment is a major procedural shortcoming. Especially given the clear direction from the SWRCB, the Environmental Groups expected that revised EWMPs would include written responses to comments, and are disappointed by the lack thereof. We believe the Regional Board should consider the lack of responses to comments as part of its decision-making process. Nonetheless, regardless of the EWMP groups’ responsibilities to respond to comments as permittees, both federal and state law impose upon the Regional Board a legal duty to respond *in writing* to comments received prior to any decision approving or denying the EWMPs.

II. The Clean Water Act Requires the Regional Board to Prepare and Circulate Written Responses to Comments Received on Draft EWMPs.

The Clean Water Act requires public participation be provided for in the revision of any plan or program developed pursuant to the Act. (33 USC 1251(e) [“Public participation in...development, revision, and enforcement...of any plan or program established...under this Act...shall be provided for, encouraged, and assisted...”]) The EWMPs are clearly subject to this public participation requirement, because if approved, they would become enforceable provisions of a NPDES permit.

While the workshops help meet the public participation requirement, the Clean Water Act regulations impose much more specific requirements with which the Board has yet to comply. For

example, the Regional Board must issue a response to comments at the time any final permit decision is issued, describing and responding to all significant comments on the draft permit and specifying which provisions have been changed, either in response to comments or otherwise. (See 40 C.F.R. 124.17, Responses to Comments.) “Final permit decision” includes any final decision to modify an existing permit. (See 40 CFR 124.15(a).) Approval by the Regional Board or by its Executive Officer on behalf of the Board of the EWMPs would clearly constitute a final decision to modify the underlying MS4 permit. The Regional Board or Executive Officer’s approval of the EWMPs would add a large addendum with substantive requirements and timelines to the 2012 MS4 permit, and would greatly affect how the Board pursues permit enforcement. (See 2012 MS4 Permit, Part VI.C.4.e.)<sup>ii</sup>

The 9<sup>th</sup> Circuit has held that subsequent agency review of substantive plans allowed by an underlying NPDES permit and adding substantive components to the permit are subject to the same public participation requirements as the underlying permit itself. *Environmental Defense Center et. al. v. EPA* 344 F. 3d 832 (9<sup>th</sup> Cir. 2003)(“*EDC*”) involved a challenge to an EPA permitting regime that allowed small MS4 permit holders to submit Notices of Intent (“NOI”) for enrollment in a NPDES General Permit without an opportunity for a public hearing and comment process. In *EDC*, EPA had argued that NOI were not “permits” and therefore not subject to the full public review requirements of the Clean Water Act. The Court roundly rejected this argument. (*EDC, supra*, 344 F. 3d at 856-57.) Much like the EWMPs now under consideration, in *EDC* it was the NOI, rather than the permit itself, that contained the detailed “substantive information.” (*Id.* at 857.) The Court, therefore, ruled that the NOI were the “functional equivalent” of permits and thus would benefit from the “greater scope, greater certainty, and greater uniformity” of a review process that included an opportunity for a hearing and a requirement for a formal evaluation of comments. (*Ibid.*) Here, the EWMPs, like the NOI at issue in *EDC*, serve as the functional equivalent of MS4 permits and thus are also subject to the Clean Water Act’s public participation requirements.

Furthermore, in *Waterkeeper Alliance, Inc. v. United States EPA* 399 F 3d. 486 (2<sup>nd</sup> Cir. 2005) (“*Waterkeeper Alliance*”), the Court was confronted by a situation analogous to the current EWMP review process. *Waterkeeper Alliance* involved a rulemaking regarding Concentrated Animal Feeding Operations (“CAFO”) and required subsequent development of a nutrient plan, but did not include a rigorous formal process of public participation in subsequent reviews of the nutrient plans. The CAFO regulation instead relied on an “expectation” by EPA that authors of the nutrient plans would accommodate public access to and review of the plans. (*Waterkeeper Alliance, supra*, 399 F. 3d at 504.) The Court vacated that section of the CAFO regulation as inconsistent with the plain language of 33 U.S.C §1251(e). (*Ibid.*) Like the Plaintiffs in *Waterkeeper Alliance*, the Environmental Groups here are forced to rely on assurances by a government agency that comments have been considered. The lack of written responses to comments on the EWMPs forestalls, rather than encourages, public participation, as it did in *Waterkeeper Alliance*, and is inconsistent with the Clean Water Act.

The Clean Water Act and its regulations therefore require the Regional Board to consider and respond, in writing, to comments received on the EWMPs.

III. State Law Includes Two Independent Statutory Requirements for the Regional Board to Prepare and Circulate Written Responses to Comments Received on the EWMPs.

a. *The Porter-Cologne Act Requires Written Responses to Comments from The Regional Board.*

The Porter-Cologne Water Quality Act (Cal. Water Code Section 13020 et seq.) incorporates all federal Clean Water Act requirements, including federal regulations, and thus also requires written responses to comments for the same reasons discussed above. (See Cal. Water Code Section 13370(c).)

b. *The California Environmental Quality Act (CEQA) Applies to the Approval or Denial of the EWMPs, and Independently Requires Written Responses to Comments from the Regional Board.*

Approval of the EWMPs, which would add substantive plans and requirements to an existing NPDES permit, would clearly qualify as an action related to a NPDES permit. The Water Code exempts actions related to NPDES permits from *Chapter 3* of CEQA. (See Cal. Water Code Section 13389.) Thus, Chapter 3 of CEQA (containing the mechanical elements of an Environmental Impact Reports) is clearly inapplicable. However, the plain language of the Water Code does not exempt NPDES-related actions from other sections of CEQA, including Chapter 2, which remains applicable to these proceedings. It is *Chapter 2* of CEQA—outside the scope of the Water Code exemption—that requires written responses to comments received. Chapter 2 mandates include good faith, reasoned written responses to comments, especially if the agency is considering an action at variance with recommendations made in the comments. (See Pub. Res. Code Section 21092(d)(1); 14 Cal. Code Regs. Section 15088.)

In *County of Los Angeles v. State Water Resources Control Board* 143 Cal. App. 4<sup>th</sup> 985 (2006) (“*County of Los Angeles*”), the petitioner municipalities argued that a requirement in Chapter 2 of CEQA that agencies develop procedures for preparation of EIR review of discretionary projects had the effect of rendering the exemption from Chapter 3 superfluous. (See *Id.* at 1003.) Giving effect to both CEQA provisions, the Court of Appeal held that the more specific Water Code exemption from Chapter 3 of CEQA is not negated by the more general procedural requirements to develop EIR review procedures in Chapter 2 of CEQA. (See *Id.* at 1005.) The Court of Appeal said nothing about an exemption from Chapter 2 requirements to respond to comments, or an exemption from any of the other substantive requirements of CEQA. Indeed, construing the Court of Appeal decision as allowing or creating a broad CEQA exemption would create a direct conflict between *County of Los Angeles* and the California Supreme Court’s unambiguous holding that CEQA exemptions be narrowly construed. (See *Mountain Lion Foundation v. Fish and Game Commission* 16 Cal. 4<sup>th</sup> 105, 125 (1997).) Therefore, CEQA also requires written responses to EWMPs comments from the Regional Board prior to any approval of the EWMPs.

IV. Written Responses to Comments Received on the EWMPs from the Regional Board are Critical to Provide Uniformity and Transparency to the EWMP Approval Process.

The SWRCB expected “rigor and accountability” in the public review of the EWMPs. The Regional Board invited public comments in its Notices of Availability on both the draft EWMPs last November and most recently the February 5 notice on the revised EWMPs. Having invited comment, as it is legally required to do, the Regional Board cannot now avoid the legal obligation to consider and respond to comments received. The highly variable approach taken by the EWMP groups in considering comments, and the difficulty in ascertaining whether the EWMP groups have considered some comments at all, only further underscores the need for the Regional Board to respond to the comments received in a formal, written manner. This is the only way to ensure the degree of uniformity, transparency, accountability, and rigor that is required by the SWRCB but is currently lacking from the EWMP approval process.

The Regional Board has an active role in approving or denying the EWMPs, and that decision will have a major impact on how the Regional Board enforces the underlying NPDES permit. That role also comes with a duty under both state and federal law to respond in writing to the comments received on the EWMPs. The Regional Board has yet to comply with the requirements for written responses to comments, but the decision timetable on the EWMPs allows for the Regional Board to cure this error. We urge the Board to do so.

Sincerely,



Arthur Pugsley  
Senior Attorney  
Los Angeles Waterkeeper

Cc: Jennifer Fordyce, Office of Chief Counsel

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<sup>i</sup> Regional Board Member Madelyn Glickfeld also expressed frustration at the public review process for the WMPs, and urged a more transparent approach to the EWMPs review. (See Transcript of September 10, 2015 Regular Board Meeting, pp. 318-321.)

<sup>ii</sup> The Environmental Groups continue to maintain that this section creates an illegal “safe harbor” provision. LA Waterkeeper and NRDC are currently pursuing state court litigation over this issue, and several others. See *Natural Resources Defense Council and Los Angeles Waterkeeper v. State Water Resources Control Board et al*, Los Angeles County Superior Court Case BS156962.



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
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320 West 4<sup>th</sup> Street Suite 200  
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April 27, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Los Angeles Area Lakes  
TMDL for Pesticides and PCBs**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Los Angeles Area Lakes Pesticides and PCBs TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

**General Permittees Should Meet WLAs Protective of Human Health, and Much More Information and Analysis Is Needed Regarding the Proposed Approach to Incorporation.**

For Dieldrin, DDTs, Chlordane, and PCBs, the numeric Waste Load Allocations (WLAs) are expressed as a mass based concentration (mg/kg) in dry sediment for each individual pollutant. (Fact Sheet, p.4.). In contrast, the "TMDL Action Level" (TAL) for all toxics is expressed as a single limit (1 mg/L) for Suspended Sediment Concentration (SSC). Better justification is needed for this change in methodology, as well as an explanation of the analytic route underlying the use of SSC as a proxy for multiple pollutants. Without more information, including on whether the Water Boards undertook supporting modeling or data analysis, it is premature to conclude that the 1 mg/L SSC standard is appropriate.

In addition, according to EPA documents related to the promulgation of the TMDLs, the WLAs in tables A,B, and C are protective of human health, whereas the WLAs in Table D are protective of aquatic life, but not human health. (See Fact Sheet, pp. 4-5.) If certain conditions are met, the WLAs in Table D could supersede the WLAs in Tables A, B, and C. The WLAs in Table D are in some cases orders of magnitude less protective.<sup>1</sup> Such an outcome could leave human populations at risk for exposure to toxic levels of pollutants through the process of bioaccumulation, a known risk with many toxics including PCBs. Fishing is a beneficial use of the lakes, and LAW staff have frequently observed people fishing at Echo Park Lake, to take one example. Human consumption of fish from the lakes is thus likely.

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<sup>1</sup> For example, in the case of PCBs, the WLAs could change by a factor of 34 at Echo Lake, a factor of 46 at Peck Road Park Lake, and a factor of 100 at Puddingstone Reservoir.



The area around Echo Lake Park also contains several economically disadvantaged communities already struggling with cumulative environmental hazards. It is reasonably foreseeable that members of these disadvantaged communities are disproportionately likely to use fish caught at Echo Lake (or at any of the lakes subject to the WLAs) for consumption. Any proposed weakening of standards thus raises serious Environmental Justice concerns as well as more general concerns with human health.

Moreover, the substitution of the less protective standards could occur after minimal analysis. Table D could supersede the more protective standards upon a showing that fish tissue targets are met for as little as three years, based on as few as five tissue samples, and by approval of the Regional Board Executive Officer alone.<sup>2</sup> (See Fact Sheet pp. 4-5.) The Water Boards should disclose what type of public process, including what type of environmental review, would be undertaken in the event that the WLAs in Tables A, B, and C are proposed to be superseded by the WLAs in Table D. The process must be transparent at all stages, and scientifically rigorous. Would the proposed change in WLAs be considered a Basin Plan Amendment, and accompanied by approval of a work plan? Would the Water Boards prepare some type of CEQA documents? Would there be public hearings and opportunities for comment, and at what stages of the review? Would the Water Boards evaluate consumption of fish by humans, to understand whether some communities bear an oversize risk of exposure to toxics related to changes in the WLAs? Would the Regional Board augment the studies required in the implementation plan to enhance the scientific rigor of the process?

The Current Approach to Incorporation Is Unlikely to Succeed in Improving Water Quality.

Even if the Water Boards can provide data and analysis to justify the use of a 1 mg/L limit for SSC, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone WQBELs for all toxics, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Additionally, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of PCBs and/or pesticides, and only those who have so identified themselves are subject to the TAL for SSC. The General Permit does not require any enrollees to monitor for DDTs, PCBs, Chlordane, or Dieldrin. (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it upon themselves to sample for these parameters, and thus very likely that almost all facilities that have the potential to discharge these toxics will go undiscovered. The Fact Sheet includes backstop assurances (pp. 7) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to constrained enforcement staffing levels at the Regional Board, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.

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<sup>2</sup> EPA would have 60 days to register any objections to the approval of the Executive Officer before the standards took effect.

Also, only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the WLAs. This approach creates an illegal compliance schedule under the California Toxics Rule and is inconsistent with the Basin Plan. The incorporation approach taken has a high likelihood of failure to achieve compliance with the TMDLs for the targeted pollutants in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever absent self-identification as a source. The entire proposed approach needs to be substantially reworked.

The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the 1 mg/L SSC standard. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards for all toxics and metals. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.

Even if the SSC approach can be justified based on an analysis that meets the standards of the Clean Water Act, *all* General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis the wholesale proposed exclusions from the SSC monitoring requirement. The Water Boards should fully explain which land uses are least likely to be sources of the targeted constituents and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to "look the other way" even if facility operators had good reason to suspect the facility might be a source of PCBs and/or pesticides, and provides little in the way of accountability.

#### The Water Boards Should Conduct an Environmental Analysis of the Proposal.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, fully enforceable TMDL-specific General Permit requirements. LAW urges the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Los Angeles Area Lakes PCBs and Pesticides TMDL and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. LAW also recommends studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. The Water Boards should present information to justify the use of the consolidated concentration-based SSC TAL. The SED should also investigate an alternative incorporation approach relying on WLAs for individual toxic constituents rather than relying on SSC as a proxy for multiple pollutants. The Water Boards must justify the numeric levels and units chosen and explain the analytic route taken.

In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>3</sup> As the Regional Board recognizes,<sup>4</sup> the incorporation of the WLA would clearly modify the underlying permit, so the reasoning and case authorities in the attached letter remain on point here.

In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with the WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually potentially required of some subset of enrollees will achieve compliance with the WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

#### WQBELs Must be an Element of the Incorporation Approach.

The use of a “TMDL Action Level” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Fact Sheet, footnote 6, p.6.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to a SWPPP update, and only after a minimum of 6 months (and likely much longer) must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised. The California Toxics Rule does not permit such extended (and indefinite) compliance schedules for *any* of the constituents subject to the TAL. The current proposed incorporation relying on a TAL is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

#### The Proposed Incorporation Approach Needs Thorough Rethinking.

In conclusion, the proposed approach to incorporating the WLAs for PCBs and pesticides in Echo Park Lake, Peck Road Park Lake, and Puddingstone Reservoir into the General Permit needs to be substantially reworked, in many aspects completely from scratch. Much better justification for use of a

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<sup>3</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

<sup>4</sup> See p.1 of the Notice, referring to State Board’s “proceedings to consider amendment” of the General Permit by adding TMDL-specific requirements.

single, concentration-based TAL for SSC as a proxy for multiple pollutants is necessary. WQBELs must be an element of all the WLAs. The process for substituting standards that are not protective of human health must be clearly spelled out.

Also, fundamental change is needed to a proposed approach that first excludes possibly every Responsible Discharger from monitoring for PCBs and pesticides, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of indeterminate length. The proposed approach falls far short of complying with the Clean Water Act.

We urge the Water Boards to include appropriate WQBELs for PCBs and pesticides, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for the constituents covered by the WQBELs, at least until better data is available. The Water Boards should also include a requirement to implement BMPs necessary to achieve the numeric effluent limitations.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Arthur I. Pugsley".

Arthur Pugsley

Senior Staff Attorney

attachment

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April 18, 2016

**ELECTRONIC MAIL**

Submitted via e-mail: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Attention: Pavlova Vitale

Dear Ms. Vitale:

**SUBJECT: COMMENTS ON DRAFT TMDL-SPECIFIC PERMIT REQUIREMENTS FOR THE STATE WATER RESOURCES CONTROL BOARD'S INDUSTRIAL GENERAL STORM WATER PERMIT (MACHADO LAKE SUBWATERSHED)**

The City of Los Angeles (City) Bureau of Sanitation (LASAN) appreciates the Los Angeles Regional Water Quality Control Board's (Regional Board) efforts to incorporate specific Total Maximum Daily Load (TMDL) requirements into the statewide General Permit for Storm Water Discharges Associated with Industrial Activities (Industrial General Permit [IGP]) [Order No. 2014-0057-DWQ, National Pollutant Discharge Elimination System [NPDES] Permit No. CAS000001]. Runoff from areas addressed by the IGP has the potential to enter the municipal separate storm sewer system (MS4) and affect the City's ability to meet the requirements of the 2012 MS4 Permit [Order No. R4-2012-0175; NPDES Permit No. CAS004001]. As such, the appropriate application of the TMDL requirements is needed to ensure that all responsible parties actively participate in solving the region's water quality issues. Furthermore, it is important that the incorporation of the TMDL wasteload allocations (WLAs) are consistent, as appropriate, with the manner in which those requirements are incorporated into the City's MS4 Permit.

The City commits significant resources to protect water quality as it strives to ensure that pollutant sources within its control do not contribute to exceedances of water quality standards. In addition, the City has been an active participant in TMDLs in watersheds located within its jurisdiction. When facilities

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or types of activities are not adequately regulated, they can cause or contribute to exceedances of TMDL targets, receiving water limitations (RWLs), and/or water quality based effluent limitations (WQBELs), which could result in impacts to water quality and permit violations for which the City could be held responsible. Per the City's MS4 Permit, runoff from IGP sites becomes the City's responsibility when it enters its MS4. As such, the City seeks equitable accountability from IGP sites that may discharge pollutants. This equitability will ensure that the responsibilities and costs placed on dischargers are born fully by all parties that play a role in pollutant generation, and are fairly divided between public and private sources. The inclusion of these TMDLs into the IGP will help to ensure that all dischargers in the Los Angeles region are active in their stewardship of the local environment and that those waters deemed in need of greatest protection will receive the extra attention provided by these requirements. We support the Regional Board's efforts and have the following technical comments for your consideration.

### **Machado Lake TMDL for Pesticides and PCBs**

The Machado Lake TMDL for Pesticides and PCBs (Toxics TMDL) assigns WLAs for contaminants associated with suspended sediment to Industrial Stormwater Permittees for total polychlorinated biphenyls (PCBs), all congeners of dichlorodiphenyltrichloroethane (DDT), all congeners of dichlorodiphenyldichloroethylene (DDE), all congeners of dichlorodiphenyldichloroethane (DDD), total DDT, chlordane, and dieldrin. However, TMDL Action Levels (TALs) are not established for these constituents. Rather, a TAL for Suspended Sediment Concentration (SSC) is established instead. While the City supports the control of sediment discharged from industrial facilities to the MS4, TALs that are more closely tied to the constituents being addressed by the TMDL also seem appropriate to prevent a situation where an industrial discharger is meeting the SSC-based TAL, but is not meeting the WLA for all constituents. Given that the Toxics TMDL Basin Plan Amendment explicitly states that "**TMDL WLAs shall be incorporated into the** MS4, Caltrans, and general construction and **industrial stormwater NPDES permits**", the City requests that TALs consistent with the table in the Fact Sheet titled "WLAs Assigned to Storm Water Discharges and Authorized NSWDS from Industrial Storm Water General Permittees" be included.

### **Machado Lake Trash TMDL**

The Machado Lake Trash TMDL (Trash TMDL) does not specifically assign WLAs to industrial sources; however, industrial facilities have the potential to generate trash which is transported via wind and runoff into the City's MS4 where, per the MS4 Permit, it becomes the City's responsibility. The City believes that IGP dischargers should be equally diligent about trash management as the other specifically allocated parties in the Trash TMDL. Therefore, to the extent that IGP dischargers contribute trash to the City's MS4 and that additional trash load becomes part of a larger load of trash for which the City is responsible under the Trash TMDL to manage, the IGP dischargers should be required to exert an equivalent effort to control that trash before it leaves their sites.

The State acknowledges the contribution of trash to MS4s in its most recent Statewide efforts<sup>1</sup> to address trash in stormwater (Trash Amendments). The Trash Amendments are structured around each jurisdiction calculating and subsequently managing a trash load from specific land uses. The five priority land uses

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<sup>1</sup> Amendment to the Water Quality Control Plan for the Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. 2015.

are presumed to generate the most trash and thus contribute the most to the problem, and industrial is one of these five; and thus, is deemed a significant source of trash.

At this time the IGP does not include the Trash Amendments or other significant specific trash controls, therefore, to ensure that IGP dischargers are fully responsible for their share of the trash loads, the City requests that the State reopen the IGP and fully incorporate the Trash Amendments as part of the permit.

### **Monitoring**

The data collected as part of IGP monitoring should be utilized to evaluate not only attainment of NALs/TALs, but should also be considered in the context of monitoring requirements. An agency, such as the City, should be able to propose modifications to monitoring frequencies based on the results of monitoring. The City requests that the IGP reflect an ability to propose modified monitoring requirements based on data analysis to the Regional Board, and for the Regional Board Executive Officer to allow for revision based on the analysis.

The City would like to reiterate that by equitably sharing the responsibilities of pollutant control the State will help ensure that all potentially responsible sources are doing their part to protect water quality.

If you have any questions regarding our comments, please contact me at [Shahram.Kharaghani@lacity.org](mailto:Shahram.Kharaghani@lacity.org) or (213) 485-0587.

Sincerely,



SHAHRAM KHARAGHANI, Ph.D., PE, BCEE  
Program Manager

SK:VM:vm  
WPDCR9266

cc: Adel Hagekhalil, LASAN  
Hassan Rad, LASAN  
Alfredo Magallanes, LASAN  
Vivian Marquez, LASAN



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

March 31, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- LA River Watershed  
Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

The Proposed Approach to Incorporation is a Recipe for Failure.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice and Fact Sheet.

However, the proposed incorporation of the WLAs as "TMDL Action Levels" rather than water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Regional Board apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Moreover, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of Indicator Bacteria. The General Permit does not require any land use category to monitor for Indicator Bacteria. (CAS000001 pp. 41-43) It is thus very unlikely that any enrolled facility would take it upon themselves to sample for Indicator Bacteria, and thus very likely that these WLAs will exist only in theory. The backstop assurances (Fact Sheet, p.6) that the Water Boards could require a facility to revise its SWPPP or obtain an individual permit if the Boards, despite the many self-imposed obstacles in the current proposed approach, somehow determined that the facility is a source for Indicator Bacteria, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.

Only after self-identification as a bacterial source (which would require that a facility monitor a parameter not required by the General Permit) does the requirement to meet the "TMDL Action Levels"



(TALs) kick in, and then only indirectly, after a potentially lengthy period of updating a Discharger's Stormwater Pollution Prevention Plan (SWPPP) to incorporate Best Management Practices (BMPs) sufficient to meet the TALs. The current proposed incorporation is a pathway to near complete avoidance of the TMDL and a virtual guarantee of failure to control Indicator Bacteria in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the TALs, since it is effectively fails to require any monitoring whatsoever. The entire proposed approach needs to be fundamentally rethought. A TMDL that would very likely never be triggered is not a TMDL at all.

*All* General Permit enrollees should be required to monitor for Indicator Bacteria, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis that excluding *every* enrolled facility from the Indicator Bacteria monitoring requirement is somehow justifiable, or absent such demonstration, which land uses are least likely to be sources and why, and what type of monitoring would be appropriate for various land uses.

The current system allows Responsible Dischargers to "look the other way" even if facility operators had good reason to suspect the facility might be a source of Indicator Bacteria. For example, a Municipal Recycling Facility or a landfill- land uses known to be potentially significant sources of Indicator Bacteria- would not monitor for Indicator Bacteria based on the parameters at pp. 41-43 of the General Permit. Thus, these facilities would never report an exceedance of the TALs or take measures to stop the exceedance. Yet such facilities would likely be causing or contributing to an exceedance of the TAL nonetheless.

To make matters even worse, the WLAs are incorporated as triggers for an adaptive management process, for those dischargers who, for whatever reason, have taken it upon themselves to monitor for and identify themselves as possible sources of Indicator Bacteria. Even for those parties who do self-report as potential sources, relying on a TAL means eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation. The proposed incorporation approach thereby creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. The TALs are not lawful substitutes for WQBELs even if the Water Boards could solve the other serious problems with the proposed approach.

#### Environmental Review Process Issues

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, enforceable incorporation alternatives. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Long Beach City Beaches and LA River Estuary Indicator Bacteria TMDLs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. The Water Boards must do a better job than assuming, without evidence, that no Responsible Dischargers whatsoever are potential sources of Indicator Bacteria.

In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in a the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water

Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the WLAs would clearly modify the underlying permit, since currently the WLAs are not incorporated into the General Permit, so most of the reasoning and case authorities in the attached letter remain on point here.

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should analyze WLAs that have an effective mechanism to trigger to applicability of numeric standards. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually required of will achieve compliance with the WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

We are concerned that the use of “TMDL Action Levels” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Notice, footnote 3, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after a minimum of 10 months past incorporation must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the TAL. Using TALs is also needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

The lack of WQBELs also means that the proposed monitoring program must be revised to include monitoring sufficient to adequately determine compliance with a WLA based WQBEL.

#### The Incorporation Approach Needs Fundamental Reworking.

In conclusion, the proposed approach to incorporating WLAs for Long Beach City Beaches and LA River Estuary Indicator Bacteria into the General Permit needs to be completely reworked. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed monitoring regime that first excludes every Responsible Discharger from monitoring, and then relies on self-reporting by

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually achieving a numerical standard, assuming BMPs are adequate.

We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for Indicator Bacteria and implement BMPs necessary to achieve the numeric effluent limitations.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Arthur D. Pugsley".

Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

March 28, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- San Gabriel River Watershed  
San Gabriel River Metals TMDL**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Los Cerritos Channel Metals TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice. However, the proposed incorporation of the WLAs as "TMDL Action Levels" (TALs, a variant of "Numeric Action Levels, or NALs) rather than water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Regional Board apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that permittees implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs.

Because the WLAs are incorporated as triggers for an adaptive management process eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation, the proposed incorporation creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. While the current proposal to develop a trigger for an adaptive management process leading to additional BMPs might ultimately play some useful role in implementing the TMDLs, it cannot be the exclusive approach taken, as is now the case. The TALs are not lawful substitutes for WQBELs.

Environmental Review Process Issues

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the San Gabriel River Metals TMDLs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. In addition, the SED should include written Responses to

Comments. We have attached a letter we recently sent to the Regional Board in a the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the TMDLs would clearly modify the underlying permit, since currently the TMDLs are not incorporated into the General Permit, so most of the reasoning and case authorities in the attached letter remain on point here.

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs/NALs. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the BMPs eventually required will achieve compliance with the WLAs.

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

We are concerned that the use of TALs as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as NALs. (Regional Board Fact Sheet, footnote 3, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TALs are used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after a minimum of 10 months past incorporation must a discharger demonstrate that the facility's Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the TAL. Using TALs is also needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

Using TALs to trigger an adaptive management program leading to SWPPP revisions and an eventual requirement for prevention of exceedances of the TAL also effectively creates a compliance schedule for metals regulated by the California Toxics Rule (CTR). Such compliance schedules are not permitted beyond 2005 (or 2010 at the latest in a few cases).

The lack of WQBELs also means that the proposed monitoring program must be revised to include monitoring sufficient to adequately determine compliance with a WLA based WQBEL.

#### The Numeric Limits Should be Incorporated as WQBELs, not TALs.

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

In conclusion, while the use of TALs might be an appropriate adaptive management measure, TALs can never be the sole, or even primary, approach to incorporating WLAs for San Gabriel River metals into the General Permit, as WQBELs must be an element of the WLAs. We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that permittees implement BMPs necessary to achieve the numeric effluent limitations, and undertake sufficient monitoring to demonstrate compliance.

Direct incorporation of a WQBEL is much simpler, more direct, has much less potential for confusion than the current proposal, and is legally required.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Arthur D. Pugsley".

Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street  
Los Angeles, CA 90013

March 25, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- LA River Watershed  
Los Angeles River and Tributaries Metals TMDL**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed LA River Metals TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice. However, the proposed incorporation of the WLAs as "TMDL Action Levels" rather than water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Regional Board apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that permittees implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs.

Because the WLAs are incorporated as triggers for an adaptive management process eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation, the proposed incorporation creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. While the current proposal to develop a trigger for an adaptive management process leading to additional BMPs might ultimately play some useful role in implementing the TMDLs, it cannot be the exclusive approach taken, as is now the case. The TALs are not lawful substitutes for WQBELs.

Environmental Review Process Issues

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the LA River Metals TMDLs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an MS4 Permit,

explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the TMDLs would clearly modify the underlying permit, since currently the TMDLs are not incorporated into the General Permit, so most of the reasoning and case authorities in the attached letter remain on point here.

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should look at WLAs that do not include Water Effects Ratios, which have the potential to lead to dramatic changes undermining the underlying standards. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the BMPs eventually required will achieve compliance with the WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs.

More information is also needed on the Water Effects Ratios included as part of the WLAs. The footnote at the bottom of p.6 of the Regional Board Notice states that all WERs used for determining WLAs will have a default value of 1.0, because no site-specific values have been approved for industrial stormwater. However, the inclusion of WERs raises several questions. Are site-specific values reasonably foreseeably possible in the future? If no, why include WERs at all? If yes, what process would be followed to approve non-default WERs, and what would be the geographic reach of each WER? What is the relationship to the WERs included in the WLAs to the WERs recently approved for the LA River System as part of a process of developing site specific water quality objectives for copper? Why are WERs included in WLAs for industrial stormwater for LA River Metals, but not for the similar WLA incorporations for metals in the Los Cerritos Channel or the San Gabriel River?

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

We are concerned that the use of “TMDL Action Levels” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Notice, footnote 10, p.8.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after a minimum of 10 months past incorporation must a discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.



the TAL. Using TALs is also needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

Using TALs to trigger an adaptive management program leading to SWPPP revisions and an eventual requirement for prevention of exceedances of the TAL also effectively creates a compliance schedule for metals regulated by the California Toxics Rule (CTR). Such compliance schedules are not permitted beyond 2005 (or 2010 at the latest in a few cases).

The lack of WQBELs also means that the proposed monitoring program must be revised to include monitoring sufficient to adequately determine compliance with a WLA based WQBEL.

The Numeric Limits Should be Incorporated as WQBELs, not TALs.

In conclusion, while the use of TALs might be an appropriate adaptive management measure, TALs can never be the sole, or even primary, approach to incorporating WLA s for LA River metals into the General Permit, as WQBELs must be an element of the WLAs. We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that permittees implement BMPs necessary to achieve the numeric effluent limitations.

Direct incorporation of a WQBEL is much simpler, more direct, has much less potential for confusion than the current proposal, and is legally required.

Thank you for this opportunity to comment.

Sincerely,



Arthur Pugsley

Senior Staff Attorney

attachment



GAIL FARBER, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (626) 458-5100  
<http://dpw.lacounty.gov>

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

May 9, 2016

IN REPLY PLEASE  
REFER TO FILE: **WM-9**

Mr. Samuel Unger, P.E.  
Executive Officer  
California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4th Street, Suite 200  
Los Angeles, CA 90013

Attention Pavlova Vitale

Dear Mr. Unger:

### **COMMENTS ON DRAFT TOTAL MAXIMUM DAILY LOAD-SPECIFIC INDUSTRIAL GENERAL PERMIT REQUIREMENTS – ALL TOTAL MAXIMUM DAILY LOADS IN THE COUNTY OF LOS ANGELES**

The County of Los Angeles and the Los Angeles County Flood Control District appreciate the opportunity to provide comments on the draft Total Maximum Daily Load specific permit requirements for incorporation into the statewide Industrial General Permit. Enclosed are our comments for your review and consideration.

If you have any questions, please contact me at (626) 458-4300 or [ageorge@dpw.lacounty.gov](mailto:ageorge@dpw.lacounty.gov) or your staff may contact Mr. Paul Alva at (626) 458-4325 or [palva@dpw.lacounty.gov](mailto:palva@dpw.lacounty.gov).

Very truly yours,

GAIL FARBER  
Director of Public Works

  
ANGELA R. GEORGE  
Assistant Deputy Director  
Watershed Management Division

El:ba

P:\wmpub\Secretarial\2016 Documents\Letters\Industrial General Permit Comment\_cover.doc\C16089

Enc.

cc: County Counsel (Judith Fries, Lillian Salinger)

**COMMENTS BY THE COUNTY OF LOS ANGELES AND  
THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT  
ON THE DRAFT TMDL-SPECIFIC PERMIT REQUIREMENTS FOR THE INDUSTRIAL  
GENERAL STORM WATER PERMIT**

The County of Los Angeles (County) and the Los Angeles County Flood Control District (LACFCD) appreciate the opportunity to comment on the draft Total Maximum Daily Load (TMDL)-specific permit requirements for the statewide General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ, NPDES Permit No. CAS000001 (Industrial General Permit). The County and the LACFCD support the incorporation of the TMDLs into the Industrial General Permit. At the same time, we have concerns that the approach taken in the Industrial General Permit is incongruous with the requirements of the Municipal Separate Storm Sewer System (MS4) Permits as it pertains to compliance with TMDLs.

Many of the priority pollutants that end up in our storm drains, and eventually in the receiving waterbodies, are generated from industrial activities. Due to these and other sources, many waterbodies in the Los Angeles Region are impaired and have had TMDLs developed. MS4 permittees have invested significant resources to implement TMDL and MS4 permit actions designed to improve water quality. These programs are estimated to cost the 86 MS4 permittees in Los Angeles County \$20 billion over the next 20 years. These programs would be more cost-effective if pollutants are adequately addressed at the source. To that end, the County and LACFCD are encouraged by the opportunity to comment on industrial sources of water quality impairments, and potential TMDL related improvements in water quality. It is paramount that all stormwater permits in the State, including the MS4s, the Industrial General Permit, the Construction General Permit, and the Caltrans Permit incorporate and implement TMDL requirements in a consistent manner. Finally, the Permit Program should incentivize collaboration between these Permits in addressing TMDLs and other water quality requirements.

Below are our specific comments. Initially, we would like to clarify that while the draft TMDL-specific permit requirements were noticed separately for each watershed, our comments herein apply to all of the TMDLs that address waterbodies within Los Angeles County.

**A. Incorporation of TMDL Compliance Timelines and Reasonable Assurance Analysis into the Industrial General Permit**

All TMDLs, except those developed by the U.S. Environmental Protection Agency (EPA), have interim and/or final compliance deadlines. These deadlines have been incorporated into the Los Angeles MS4 permit, requiring permittees to meet both

interim and final compliance deadlines. Further, the Los Angeles MS4 permit requires the establishment of deadlines for EPA-developed TMDLs as well as for 303(d) listings with no TMDLs. As currently drafted, the TMDL requirements in the Industrial General Permit neither include specific TMDL compliance dates for Regional Board-developed TMDLs nor require establishing compliance deadlines for EPA-developed TMDLs or 303(d) listed waterbodies.

Further, unlike the MS4 Permit, the Industrial General Permit does not require industrial permittees to provide assurance that their proposed implementation actions will meet TMDL Action Levels (TALs) by the specified TMDL deadlines. In fact, the accompanying Fact Sheets for all of the TMDLs concluded that the existing conditions and requirements in the Industrial General Permit for unauthorized and authorized stormwater and non-stormwater discharges are likely sufficient in preventing a compliant discharger from discharging TMDL pollutants above the applicable waste load allocations from industrial areas. The Fact Sheets concluded that:

“[N]o additional requirements beyond complying with the Industrial Storm Water General Permit, including updating and implementing the Storm Water Pollution Prevention Plan (SWPPP) and undertaking exceedance response actions for TALs, are necessary to comply with the waste load allocations assigned to industrial storm water discharges at this time.”

This determination essentially diffuses the effect of incorporating the TMDLs into the Industrial General Permit. It does not provide assurance that the SWPPPs will be designed to completely address TMDL waste load allocations within the timelines specified in the TMDLs. Instead, Industrial Permittees can be considered in full compliance with their permit as long as they continue updating their SWPPP in response to exceedances, even if their update does not provide assurance that future discharges will meet the TALs by the TMDL-specified date.

This is inconsistent with the requirements specified in the MS4 permits, where permittees are required to provide quantifiable assurance that their proposed implementation actions would meet TMDL targets in accordance with the timeline specified for the TMDLs. By virtue of MS4s being receivers of stormwater runoff from industrial sites, this inconsistency in implementation of TMDL requirements may hinder a MS4 permittee's ability to meet its TMDL-imposed effluent limitations and receiving water limitations.

The County and the LACFCD, therefore, request that

- a) TMDL compliance dates be incorporated into the Industrial General Permit for all TMDLs in the same manner as they are for the MS4s, and

- b) The following language or similar language to that effect be added to the Industrial General Permit:

*The SWPPP shall include a Reasonable Assurance Analysis to demonstrate that the applicable TALs can be achieved by implementing the actions or BMPs specified in the SWPPP by the Permittee.*

## **B. Incorporation of Remaining TMDLs Into the Industrial General Permit**

Per Attachment E of the Industrial General Permit, only 21 TMDLs for Los Angeles County have been identified for incorporation into the Industrial General Permit, where the Los Angeles MS4 permit incorporated all of the then-existing TMDLs for Los Angeles County. It should be noted that 33 of the 35 TMDLs in Los Angeles County are incorporated into the Los Angeles MS4 permit as the remaining two unincorporated TMDLs, the Malibu Creek Benthics TMDL and the San Gabriel Bacteria TMDL, were developed after the Los Angeles MS4 permit was issued in 2012.

It is unclear why 13 of the TMDLs included in the Los Angeles County MS4 Permit are not included in Attachment E for incorporation into the Industrial General Permit. Industrial activities should be considered sources of all of the pollutants addressed by TMDLs until it is demonstrated through monitoring that they do not contribute these specific pollutants. For example, none of the Trash TMDLs are incorporated into the Industrial General Permit despite the fact that the recently adopted statewide Trash Amendment identifies industrial areas as among the highest trash generation areas.

Therefore, the County and LACFCD request that the following TMDLs be incorporated into the Industrial General Permit:

1. Los Angeles River Bacteria TMDL
2. Los Angeles River Trash TMDL
3. Ballona Creek Trash TMDL
4. Ballona Creek Wetlands Sediment TMDL
5. Santa Monica Bay Bacteria TMDL
6. San Gabriel River Bacteria TMDL
7. Malibu Creek Bacteria TMDL
8. Malibu Creek Nutrients TMDL
9. Malibu Creek Benthics TMDL
10. Malibu Creek Trash TMDL
11. Machado Lake Trash TMDL
12. Legg Lake Trash TMDL
13. Upper Santa Clara Lakes Trash TMDL

### **C. Coordination with MS4 Permittees, where feasible**

Many MS4 permittees across the State, in particular those in Southern California, have either completed or are working on the development of Watershed Management Program plans to address water quality, including TMDLs, at a watershed or sub-watershed scale. In the Los Angeles Region, the Watershed Management Program (WMP) and Enhanced Watershed Management Program (EWMP) plans are innovative approaches that not only address water quality, but also help augment local water supply and provide flood protection, habitat restoration and recreational amenities.

The WMP/EWMP plans are designed to encourage partnership among MS4 permittees to help tackle water quality at a regional scale and provide additional benefits for local communities. Many of the proposed projects are large scale with the goal to capture and infiltrate stormwater from a sub-watershed area. In situations where an Industrial General Permittee is located within a sub-watershed area served by EWMP regional projects, it may be more cost-effective for the Industrial Permittee to participate and contribute to those regional projects than to address stormwater quality at a site level. In particular, this option may be attractive to industries where the local conditions limit the implementation of BMPs at a site level to address TMDL pollutants.

The County and LACFCD suggest that TMDL compliance options and provisions incentivize partnerships with MS4 programs be included into the Industrial General Permit.

Los Angeles  Department of Water & Power

ERIC GARCETTI  
*Mayor*

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MEL LEVINE, *President*  
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MICHAEL F. FLEMING  
CHRISTINA E. NOONAN  
BARBARA E. MOSCHOS, *Secretary*

MARCIE L. EDWARDS  
*General Manager*

March 31, 2016

Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Via email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Dear Ms. Vitale:

Subject: Comments on Draft TMDL-Specific IGP Requirements – LA River Watershed

The Los Angeles Department of Water and Power (LADWP) is pleased to provide comments in response to the recent notices regarding the incorporation of Total Maximum Daily Load (TMDL)-specific permit requirements for the State Water Resources Control Board's Industrial General Storm Water Permit (IGP).

LADWP is a municipal utility that is vertically integrated, meaning it owns its own transmission, distribution, and generation. It has four in-basin generating stations that are the backbone of its power system. These local plants provide the capacity, inertia, voltage stability and support necessary to retain system grid reliability and allow for a safe and reliable supply of electricity to 1.5 million customers in the City of Los Angeles in an environmentally responsible manner as required per the City of the Los Angeles City Charter.

Since LADWP's grid system was built out from its coastal plants and the areas around these plants have become densely urbanized, LADWP's system is much like an isolated island or cul-de-sac where locational generation can only be provided by the existing generating units. The four generating stations crucial to LADWP's generating system are registered under the State wide General Industrial Storm Water Permit program, and will be directly impacted by the implementation of the TMDL specific permit requirements. One of these stations is directly impacted by the Los Angeles River TMDL. Environmental stewardship is a commitment for LADWP and compliance with the IGP is a number one priority. LADWP always supports regulations that protect the environment and its beneficial uses, but the TMDL-specific requirements do pose certain challenges, and therefore LADWP submits the following comments for consideration.

**Los Angeles Aqueduct Centennial Celebrating 100 Years of Water 1913-2013**

111 N. Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles, CA 90051-5700  
Telephone: (213) 367-4211 [www.LADWP.com](http://www.LADWP.com)

**Dischargers should be assigned Baseline Status for new constituents.** The Los Angeles Regional Water Quality Control Board (Los Angeles Regional Board) proposes to incorporate each TMDL waste load allocation (WLA) as a numeric "TMDL Action Level (TAL)," which would be treated in the same manner as a Numeric Action Level (NAL) in the IGP. The Los Angeles Regional Board also proposes that Responsible Dischargers would be assigned Level 1 compliance status. However, most if not all of these TMDL-derived monitoring requirements will be new to IGP Responsible Dischargers, who will not likely have data for these constituents. Thus, they will not have information to indicate whether or not storm water from their facility would exceed the NALs, whether control measures may be required, or the potential source(s) of those constituents at each facility. For this reason, LADWP requests that IGP dischargers be assigned Baseline Status for new constituents.

**The IGP amendments should incorporate the WER for copper and the recalculated criteria for lead for relevant water bodies in the Los Angeles River watershed.** On April 9, 2015, the Los Angeles Regional Board adopted site-specific objectives (SSOs) for copper and lead (Order No. R15-004) applicable to certain reaches of the Los Angeles River and its tributaries. Although these SSOs have not made it through the approval process, the IGP revisions should state that these SSOs will be applicable, when adopted and approved by the relevant agencies, to discharges from industrial facilities in the affected watershed areas.

**Requirements from metals TMDLs should implement TALs using the dissolved fraction of the metal, and should provide several ways of demonstrating compliance.** Because the dissolved phase of a metal is the bioavailable fraction, and because water quality criteria for metals (e.g., CTR criteria) are expressed as dissolved metals, the proposal should be modified to implement the TALs for metals in the form of dissolved metals.

**The IGP should be amended to clarify that if TMDL requirements are met in receiving water bodies, IGP dischargers will be considered to be in compliance with applicable provisions of the amended IGP.** Recent permit requirements adopted by the Los Angeles Regional Board recognize that water quality based effluent limitations (WQBELs) derived from TMDLs will be considered to be met if water quality objectives and TMDL targets are met in the receiving water body. A similar approach should be applied to the NALs of the IGP as amended to incorporate TMDLs.

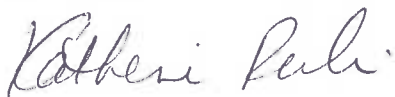
**TALs for indicator bacteria should be applied only to discharges that drain directly to the receiving waters covered by the TMDL; water quality criteria for marine waters should not be applied to discharges to freshwater bodies.** LADWP requests clarification from the Regional Water Board that the TMDL requirements for salt water bodies (e.g., ocean beaches) will not be applied to discharges to freshwater bodies, consistent with the approach taken in the Los Angeles Region MS4 permit (see Table K-5 at p. K-5 of the 2012 Los Angeles MS4 permit, Order No. R4-2012-0175).



**The SWRCB should consider a regional approach to addressing issues related to non-industrial pollutant source demonstrations and natural background pollutant source demonstrations.** Although data specific to LADWP's facilities are lacking, LADWP anticipates that, if TMDL-NALs are exceeded in discharges from industrial facilities, sources outside the control of industrial dischargers (e.g., atmospheric deposition of metals, wildlife/bird sources of bacteria) may be important contributing factors. LADWP also anticipates that making the background and/or non-industrial source demonstrations allowed under the IGP may require extensive resource commitments. For this reason, LADWP requests that the IGP amendments allow industrial dischargers to conduct the studies that may be needed in coordinated fashion as a group, and allow these studies, if needed, to be performed on a regional basis.

We thank you for the opportunity to provide these comments and look forward to working with you. If you have any questions, please contact Mr. Maher Qassis at 213-367-2976

Sincerely,



Katherine Rubin  
Manager, Wastewater Quality and Compliance

c: Samuel Unger, Los Angeles Regional Water Quality Control Board (LARWQCB)  
Deborah Smith, LARWQCB  
Renee Purdy, LARWQCB  
Susan Paulsen, Exponent, Inc.  
Mark J. Sedlacek, LADWP  
Maher Qassis, LADWP

Naval Base Ventura County  
Comments on Draft TMDL – Specific Permit Requirements for the State Water Resources Control  
Board’s Industrial General Storm Water Permit Calleguas Creek Watershed

Comment No.	Page No.	Document Section	Draft-Specific Requirements text	Suggested Comments/ Considerations
1	1	Required Actions Bullet 2/  Footnote number 2	Footnote 2 applies to a permittee that reassesses its potential pollutant sources and finds that “its non-storm water discharges and its storm water discharges associated with industrial activities <b>do not have the potential</b> (emphasis added) to contain TMDL pollutant(s) <sup>2</sup> ;  <sup>2</sup> “At which point, the Discharger remains in baseline status for the TMDL parameter.”	Since Responsible Dischargers are defined by the potential for discharges to contain TMDL pollutant(s), a finding that discharges do not have the potential to contain TMDL pollutant(s) should exempt the discharger from additional monitoring and reporting requirements.  Recommend to revise the footnote 2 to state “At which point, the Discharger is required to submit its revised SWPPP. The Discharger is not required to conduct TMDL monitoring until such time as its Assessment of Potential Pollutant Sources indicates that discharges have the potential to contain TMDL pollutant(s).”  The definition of Responsible Dischargers on Page 1 limits applicability of the TMDL to permittees that  “... <b>have the potential</b> (emphasis added) to contain copper, nickel, mercury, or selenium and that discharge to the impaired waterbodies either directly or via a municipal separate storm sewer system (MS4) or an upstream reach or tributary.”
2	1 and 2	Required Actions Bullet 3/sub-bullet 1	“For storm water discharges, a demonstration that sampling results from the last 4 Qualifying Storm Events (QSEs) did not exceed the TMDL Action Levels (TALs) <sup>3</sup> , set forth in the tables below,”	This year Southern California continues to have below normal season precipitation to date in many areas, including Ventura County. Therefore some dischargers may not have collected and analyzed samples from four QSEs by the deadline. Additionally, some discharges may have discontinued monitoring for a particular pollutant based on their most recent assessment of its potential pollutant sources and finds that “its non-storm water discharges and its storm water discharges associated with industrial activities <b>do not have the</b>

Naval Base Ventura County  
 Comments on Draft TMDL – Specific Permit Requirements for the State Water Resources Control  
 Board’s Industrial General Storm Water Permit Calleguas Creek Watershed

				<p><b>potential</b> to contain a particular pollutant. Their most recent sample results should qualify them under this exemption.</p> <p>Recommend to revise the text to state “For storm water discharges, a demonstration that sampling results from 4 of the most recent Qualifying Storm Events (QSEs) sampled, analyzed, and reported in SMARTS prior to January 2017 did not exceed the TMDL Action Levels (TALs)<sup>3</sup>, set forth in the tables below,”</p>
3	5	Monitoring and Reporting Requirements Bullet 1	--	<p>Some dischargers may have multiple industrial drainage areas, some areas that <b>do not</b> have the potential to contain TMDL pollutants and some areas that have the potential to contain TMDL pollutants. In between bullets 1 and 2 please insert the following bullet.</p> <ul style="list-style-type: none"> <li>• For dischargers with multiple storm water monitoring locations, sampling and analysis for copper, nickel, mercury, or selenium is only required at storm water monitoring locations where the copper, nickel, mercury, or selenium have been identified as a potential pollutant based on the industrial activity.</li> </ul>



April 25, 2016

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Subject: Comments on Draft TMDL-Specific IGP Requirements –  
Dominguez Channel/LA Harbor Watershed

Dear Ms. Vitale:

The Pacific Merchant Shipping Association (PMSA) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ) focused on the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants (Harbor Toxics TMDL).

PMSA represents marine terminal operators and ocean carriers operating at west coast ports. Several of our members are major tenants operating hundreds of acres of leased property at the Ports of Los Angeles and Long Beach. Water and sediment quality at these ports has improved greatly over the years. We support feasible and sustainable storm water runoff practices to protect water quality and reduce pollution.

PMSA members are very concerned the TMDL Action Levels or (TALs) proposed in the Draft Harbor Toxics TMDL-specific permit requirements are not scientifically based and not technologically or economically feasible. There are currently no treatment or source control best practices commercially available that are capable of achieving the draft permit requirements. We respectfully requests that the draft TALs be revised to ensure that the final requirements are scientifically based and technologically and economically feasible.

We look forward to working with you on these requirements. Please feel free to contact me if you have any questions.

Sincerely,

Michele Grubbs  
Vice President



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

MAY 16 2016

Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Re: Proposed TMDL Requirements for General Permit No. CAS000001

Dear Ms. Vitale:

The following are EPA Region 9's comments on the Los Angeles Regional Board's proposals for incorporating the requirements of the following TMDLs into the State Water Board's industrial general permit (IGP) for stormwater discharges associated with industrial activity (NPDES permit No. CAS000001).

- Santa Monica Bay Nearshore and Offshore Debris TMDL
- Santa Monica Bay TMDL for DDTs and PCBs

The Regional Board's proposals were released for the public review on April 18, 2016.

The Regional Board's proposals appear to be intermingling requirements associated with TMDLs and those associated with Numeric Action Levels (NALs). Given the differences between the two, we recommend keeping them separate.

As explained in the Findings for the IGP, NALs are not intended to serve as either technology-based or water quality-based effluent limits, and exceedances of NALs by themselves are not violations of the permit. However, water quality-based effluent limits derived from applicable wasteload allocations (WLAs) from a TMDL are intended to be enforceable limits. NPDES regulations at 40 CFR 122.44(d)(1)(vii)(B) require effluent limits consistent with assumptions and requirements of applicable TMDLs.

Footnote #3 in the proposed IGP modification for the Santa Monica Bay Nearshore and Offshore Debris TMDL, and a similar footnote in the other proposal listed above, indicate that the WLAs from the TMDLs (referred to as TMDL Action Levels) are treated in the same manner as NALs for permit requirements. Incorporation of the WLAs as NALs (as proposed) would be inconsistent with 40 CFR 122.44(d)(1)(vii)(B) and EPA reserves the right to object to issuance of the proposed IGP modification unless this concern is addressed. The IGP modification must be revised to incorporate the relevant WLAs from the above TMDLs into the IGP as numeric effluent limits.

The proposal for the Santa Monica Bay TMDL for DDTs and PCBs includes a TMDL Action Level of 1 mg/l for the suspended sediment concentration. However, no explanation is provided concerning how this particular value was determined; further explanation is needed.

We appreciate the opportunity to provide our views on the proposals. If you have any questions regarding this matter, please contact Eugene Bromley of the NPDES Permits Section at (415) 972-3510.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Smith', with a stylized flourish at the end.

David Smith, Manager  
NPDES Permits Section (WTR-2-3)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

MAR 31 2016

Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Re: Proposed TMDL Requirements for General Permit No. CAS000001

Dear Ms. Vitale:

The following are EPA Region 9's comments on the Los Angeles Regional Board's proposals for incorporating the requirements of the following TMDLs into the State Water Board's industrial general permit (IGP) for stormwater discharges associated with industrial activity (NPDES permit No. CAS000001).

- Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL
- Santa Clara River TMDL for Nitrogen Compounds
- Santa Clara River Reach 3 Chloride TMDL

The Regional Board's proposals were released for the public review on March 2, 2016.

The Regional Board's proposals appear to be intermingling requirements associated with TMDLs and those associated with Numeric Action Levels (NALs). Given the differences between the two, we recommend keeping them separate.

As explained in the Findings for the IGP, NALs are not intended to serve as either technology-based or water quality-based effluent limits, and exceedances of NALs by themselves are not violations of the permit. However, water quality-based effluent limits derived from applicable wasteload allocations (WLAs) from a TMDL are intended to be enforceable limits. NPDES regulations at 40 CFR 122.44(d)(1)(vii)(B) require effluent limits consistent with assumptions and requirements of applicable TMDLs.

Footnote #3 in the proposed IGP modification for the Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL, and similar footnotes in the other proposals listed above, indicate that the WLAs from the TMDLs (referred to as TMDL Action Levels) are treated in the same manner as NALs for permit requirements. Incorporation of the WLAs as NALs (as proposed) would be inconsistent with 40 CFR 122.44(d)(1)(vii)(B) and EPA reserves the right to object to issuance of the proposed IGP modification unless this concern is addressed. The IGP modification must be revised to incorporate the relevant WLAs from the above TMDLs into the IGP as numeric effluent limits.

We appreciate the opportunity to provide our views on the proposals. If you have any questions regarding this matter, please contact Eugene Bromley of the NPDES Permits Section at (415) 972-3510.

Sincerely,

A handwritten signature in black ink, appearing to read "David Smith". The signature is fluid and cursive, with the first name "David" and last name "Smith" clearly distinguishable.

David Smith, Manager  
NPDES Permits Office (WTR-2-3)



Commenter	IGP Fact Sheet	Comment Date	Comment No.	Comment	Comment Response
Los Angeles Water Keeper	Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria, Pudding Stone Reservoir Mercury TMDL, Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria, Peck Road Park Lake, Echo Park Lake TMDL for Trash, Los Angeles Area Lakes Pesticides and PCBs TMDL, Santa Monica Bay Nearshore and Offshore Debris TMDL.	3/25/2016, 4/22/2016, 4/27/2016, 5/4/2016, 5/13/2016	1.01	The LA Water Keeper supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice. However, the proposed incorporation of the WLAs as “TMDL Action Levels” rather than water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Regional Board apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that permittees implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs.	Comment noted;
Los Angeles Water Keeper	Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary	3/25/2016, 4/27/2016	1.02	The current proposal allows the Responsible Dischargers themselves to determine whether they are a source of Indicator Bacteria. The General Permit does not require any land use category to monitor for Indicator Bacteria. (CAS000001 pp. 41-43) It is thus very unlikely that any enrolled facility would take it upon themselves to sample for Indicator Bacteria, and thus very likely that these WLAs will exist only in theory. The backstop assurances (Fact Sheet, p.6) that the Water Boards could require a facility to revise its SWPPP or obtain an individual permit if the Boards, despite the many self-imposed	

	<b>TMDL for indicator bacteria, Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria, Los Angeles Area Lakes Pesticides and PCBs TMDL</b>			obstacles in the current proposed approach, somehow determined that the facility is a source for Indicator Bacteria, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.	
<b>Los Angeles Water Keeper</b>	<b>Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria</b>	<b>3/25/2016</b>	<b>1.03</b>	Only after self-identification as a bacterial source (which would require that a facility monitor a parameter not required by the General Permit) does the requirement to meet the “TMDL Action Levels” kick in, and then only indirectly, after a potentially lengthy period of updating a Discharger’s Stormwater Pollution Prevention Plan (SWPPP) to incorporate Best Management Practices (BMPs) sufficient to meet the TALs. The current proposed incorporation is a pathway to near complete avoidance of the TMDL and a virtual guarantee of failure to control Indicator Bacteria in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the TALs, since it is effectively fails to require any monitoring whatsoever. The entire proposed approach needs to be fundamentally rethought. A TMDL that would very likely never be triggered is not a TMDL at all.	
<b>Los Angeles Water Keeper</b>	<b>Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria</b>	<b>3/25/2016</b>	<b>1.04</b>	All General Permit enrollees should be required to monitor for Indicator Bacteria, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis that excluding every enrolled facility from the Indicator Bacteria monitoring requirement is somehow justifiable, or absent such demonstration, which land uses are least likely to be sources and why, and what type of monitoring would be appropriate for various land uses.	

<p><b>Los Angeles Water Keeper</b></p>	<p><b>Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria, Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria</b></p>	<p><b>3/25/2016, 4/20/2016</b></p>	<p><b>1.05</b></p>	<p>The current system allows Responsible Dischargers to “look the other way” even if facility operators had good reason to suspect the facility might be a source of Indicator Bacteria. For example, a Municipal Recycling Facility or a landfill- land uses known to be potentially significant sources of Indicator Bacteria- would not monitor for Indicator Bacteria based on the parameters at pp. 41-43 of the General Permit. Thus, these facilities would never report an exceedance of the TALs or take measures to stop the exceedance. Yet such facilities would likely be causing or contributing to an exceedance of the TAL nonetheless.</p>	
<p><b>Los Angeles Water Keeper</b></p>	<p><b>Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria, Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria</b></p>	<p><b>3/25/2016, 4/20/2016</b></p>	<p><b>1.06</b></p>	<p>The proposed approach to incorporating WLAs for Long Beach City Beaches and LA River Estuary Indicator Bacteria into the General Permit needs to be completely reworked. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed monitoring regime that first excludes every Responsible Discharger from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually achieving a numerical standard, assuming BMPs are adequate.</p>	
<p><b>Los Angeles Water Keeper</b></p>	<p><b>Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator</b></p>	<p><b>3/25/2016, 4/20/2016</b></p>	<p><b>1.07</b></p>	<p>To make matters even worse, the WLAs are incorporated as triggers for an adaptive management process, for those dischargers who, for whatever reason, have taken it upon themselves to monitor for and identify themselves as possible sources of Indicator Bacteria. Even for those parties who do self-report as potential sources, relying on a TAL means eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation. The proposed incorporation approach thereby creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. The TALs are not lawful substitutes for</p>	

	bacteria, Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria			WQBELs even if the Water Boards could solve the other serious problems with the proposed approach.	
Los Angeles Water Keeper	Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria	3/25/2016	1.08	Because the WLAs are incorporated as triggers for an adaptive management process eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation, the proposed incorporation creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. While the current proposal to develop a trigger for an adaptive management process leading to additional BMPs might ultimately play some useful role in implementing the TMDLs, it cannot be the exclusive approach taken, as is now the case. The TALs are not lawful substitutes for WQBELs.	Comment noted;
Los Angeles Water Keeper	Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria, Peck Road Park Lake, Echo Park Lake TMDL for Trash, Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria, Marina Del Rey Toxics, Santa Monica Bay DDT and PCBs, Santa Monica Bay Nearshore and	3/25/2016, 4/20/2016, 4/22/2016, 5/4/2016, 4/11/2016, 4/9/2016, 5/13/2016, 4/14/2016, 4/20/2016	1.09	<p>Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Los Cerritos Channel Metals TMDLs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the TMDLs would clearly modify the underlying permit, since currently the TMDLs are not incorporated into the General Permit.</p> <p>We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will comply with applicable WLAs. Currently, data is lacking as to whether the BMPs eventually required will achieve compliance with the WLAs.</p>	Comment noted; Since the Industrial General Permit is a State Board issued permit, written responses to comments will be provided by State Board

	<b>Offshore Debris TMDL, Dominquez Channel and LA/ Long Beach Harbor Toxics</b>				
<b>Los Angeles Water Keeper</b>	<b>Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria, Puddingstone Reservoir TMDL for mercury, Los Angeles Area Lakes Pesticides and PCBs TMDL, Dominguez Channel and LA/ Long Beach Harbor TMDL</b>	<b>3/25/2016 4/22/2016, 4/27/2016, 4/20/2016</b>	<b>1.10</b>	We are concerned that the use of TALs as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NDPES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections and 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.	Comment noted
<b>Los Angeles Water Keeper</b>	<b>Los Cerritos Channel Metals, San Gabriel River Metals, Los Angeles River Metals, Long Beach City Beaches and Los Angeles River Estuary TMDL for indicator bacteria, Puddingstone Reservoir TMDL for mercury, Los Angeles Area Lakes Pesticides</b>	<b>3/25/2016, 4/22/2016, 4/27/2016, 4/20/2016, 4/14/2016</b>	<b>1.11</b>	The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as NALs. (Regional Board Fact Sheet, footnote 3, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TALs are used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after a minimum of 10 months past incorporation must a discharger demonstrate that the facility's Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the TAL. Using TALs is also needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.	Comment noted

	and PCBs TMDL, Dominguez Channel and LA/Long Beach Harbor Toxics, Machado Lake Toxics				
Los Angeles Water Keeper	Los Angeles River Metals	3/25/2016	1.12	In addition to the comments listed above, the LA Water Keeper made the following comment: We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should look at WLAs that do not include Water Effects Ratios, which have the potential to lead to dramatic changes undermining the underlying standards.	Water Effect Ratios are water body specific criteria adjustment factors that account for the effect of site-specific waterbody characteristics on pollutant bioavailability and toxicity to aquatic life. These factors are important in determining the toxicity of a particular toxic pollutant in the receiving water and should be incorporated in determinations of numeric targets, and waste load allocations when available for a specific water body.
Los Angeles Water Keeper	Los Angeles River Metals	3/25/2016	1.13	More information is also needed on the Water Effects Ratios included as part of the WLAs. The footnote at the bottom of p.6 of the Regional Board Notice states that all WERs used for determining WLAs will have a default value of 1.0, because no site-specific values have been approved for industrial stormwater. However, the inclusion of WERs raises several questions. Are site-specific values reasonably foreseeably possible in the future? If no, why include WERs at all? If yes, what process would be followed to approve non-default WERs, and what would be the geographic reach of each WER? What is the relationship to the WERs included in the WLAs to the WERs recently approved for the LA River System as part of a process of developing site specific water quality objectives for copper? Why are WERs included in WLAs for industrial stormwater for LA River Metals, but not for the similar WLA incorporations for metals in the Los Cerritos Channel or the San Gabriel River?	

<p><b>Los Angeles Water Keeper</b></p>	<p><b>Machado Lake Subwatershed Machado Lake TMDL for Eutrophics and Related Effects</b></p>	<p><b>4/14/2016</b></p>	<p><b>1.14</b></p>	<p>The current proposal limits monitoring for eutrophics and related effects to a handful of Standard Industrial Classification Codes (SICs), thereby exempting some General Permit enrollees (how many are exempted is unclear from the Fact Sheet) from the monitoring requirements. We are concerned that primary reliance on SICs, many of which are quite old, could lead to some discharges of nitrogen compounds remaining undetected (for example, from newer industries not covered by existing SICs or existing industries whose technological evolution has increased potential discharges of nitrogen compounds since the SICs were developed). The Water Boards need to back up the proposed limitations to certain SICs with a reasonable assurance analysis (RAA), as required by the Clean Water Act, the Porter-Cologne Act, and the General Permit. In addition, the Water Boards are treating the TALs for nitrogen and phosphorus as proxies for other pollutants, including algae, ammonia, and odors. The Water Boards should also conduct a RAA to demonstrate that the proposed TALs are sufficiently protective with respect to these other pollutants as well.</p>	
<p><b>LA water keeper</b></p>	<p><b>Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria</b></p>	<p><b>4/20/2016</b></p>	<p><b>1.15</b></p>	<p>The currently proposed system allows Responsible Dischargers to “look the other way” even if facility operators had good reason to suspect the facility might be a source of Indicator Bacteria, with little fear of accountability. For example, a Municipal Recycling Facility or a landfill- land uses known to be potentially significant sources of Indicator Bacteria- would not monitor for Indicator Bacteria based on the parameters at pp. 41-43 of the General Permit. Thus, these facilities would likely never report an exceedance of the TALs or take measures to stop the exceedance. Yet such facilities would likely be causing or contributing to an exceedance of the WLAs nonetheless.</p>	
<p><b>LA water keeper</b></p>	<p><b>Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria</b></p>	<p><b>4/20/2016</b></p>	<p><b>1.16</b></p>	<p>To make matters even worse, the WLAs are incorporated as triggers for an adaptive management process, for those dischargers who, for whatever reason, have taken it upon themselves to monitor for and identify themselves as sources of Indicator Bacteria. Even for those parties who do self-report as potential sources, relying on a TAL means eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation. The TALs are not lawful substitutes for WQBELs even if the Water Boards could solve the other serious problems with the proposed approach.</p>	

LA water keeper	Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria	4/20/2016	1.17	The proposed approach to incorporating WLAs for Indicator Bacteria in Los Angeles Harbor into the General Permit needs to be completely reworked. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed approach that first excludes every Responsible Discharger from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually achieving a numerical standard, assuming BMPs are adequate.	
LA water keeper	Los Angeles Harbor (Cabrillo Beach, and Main Ship Channel) TMDL indicator for bacteria	4/20/2016	1.18	We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for Indicator Bacteria and implement BMPs necessary to achieve the numeric effluent limitations.	
LA water keeper	Puddingstone Reservoir TMDL for mercury	4/22/2016	1.19	The current proposal limits the obligation to conduct an assessment of potential mercury discharges to a single Standard Industrial Code (SIC 4953). The Fact Sheet includes backstop assurances (p.6) that the Water Boards could require other facilities to revise stormwater pollution prevention plans (SWPPP) or obtain an individual permits if the Boards were able to determine that such facilities have the potential to discharge mercury. The Water Boards should conduct a Reasonable Assurance Analysis to provide support for the limitation to a single SIC, or else expand the assessment/monitoring requirements.	
LA water keeper	Puddingstone Reservoir TMDL for mercury, Marina Del Rey Harbor Toxic Pollutants TMDL	4/22/2016, 4/11/2016, 4/14/2016	1.20	Only after self-identification as a source- proposed to be limited to a single SIC- does the potential requirement to update the facility's SWPPP apply. Then, six months later, the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the WLAs, which in this Puddingstone Reservoir TMDL Incorporation for Mercury case are identical to the proposed TALs. The proposed approach is needlessly roundabout. More importantly, it effectively creates an illegal	



				compliance schedule under the California Toxics Rule.	
LA water keeper	Puddingstone Reservoir TMDL for mercury	4/22/2016	1.21	Absent a Reasonable Assurance Analysis that justifies the exclusion of all but one SIC from any assessment and monitoring requirements, <i>all</i> General Permit enrollees should be required to monitor for mercury, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should fully explain which land uses are least likely to be sources of mercury and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers who are not included in SIC 4953 to “look the other way” even if facility operators had good reason to suspect the facility might be a source of mercury, and provides little in the way of accountability for such facilities.	
LA water keeper	Puddingstone Reservoir TMDL for mercury	4/22/2016	1.22	LAW also recommends studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on a TAL.	
LA water keeper	Puddingstone Reservoir TMDL for mercury, Machado Lake Toxics, Dominguez channel and LA/ Long Beach Harbor Toxics	4/22/2016, 4/20/2016	1.23	The use of a “TMDL Action Level” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NDPES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections <i>and</i> 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.	
LA water keeper	Puddingstone Reservoir TMDL for mercury, Colorado Lagoon Toxics, Dominguez Channel and LA/ Long Beach Harbor	4/22/2016, 4/20/2016	1.24	The current proposal relying on a TAL represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Fact Sheet, footnote 2, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to a SWPPP update, and only after a minimum of 6 months (and realistically much longer) must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the WLAs, but not the numerically identical TALs. The current	

				proposed incorporation relying on a TAL is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.	
<b>LA Waterkeeper</b>	<b>Los Angeles Area Lakes Pesticides and PCBs TMDL, Machado Lake Subwatershed Pesticides and PCBs, Marina Del Rey Toxics TMDL, Colorado Lagoon, Dominguez Channel and Greater LA/ Long Beach Harbor Toxics</b>	<b>4/27/2016, 4/14/2016, 4/11/2016, 4/20/2016</b>	<b>1.25</b>	For Dieldrin, DDTs, Chlordane, and PCBs, the numeric Waste Load Allocations (WLAs) are expressed as a mass based concentration (mg/kg) in dry sediment for each individual pollutant. (Fact Sheet, p.4.). In contrast, the “TMDL Action Level” (TAL) for all toxics is expressed as a single limit (1 mg/L) for Suspended Sediment Concentration (SSC). Better justification is needed for this change in methodology, as well as an explanation of the analytic route underlying the use of SSC as a proxy for multiple pollutants. Without more information, including on whether the Water Boards undertook supporting modeling or data analysis, it is premature to conclude that the 1 mg/L SSC standard is appropriate.	
<b>LA Waterkeeper</b>	<b>Los Angeles Area Lakes Pesticides and PCBs TMDL</b>	<b>4/27/2016</b>	<b>1.26</b>	<p>According to EPA documents related to the promulgation of the TMDLs, the WLAs in tables A, B, and C are protective of human health, whereas the WLAs in Table D are protective of aquatic life, but not human health. (See Fact Sheet, pp. 4-5.) If certain conditions are met, the WLAs in Table D could supersede the WLAs in Tables A, B, and C. The WLAs in Table D are in some cases orders of magnitude less protective.<sup>1</sup> Such an outcome could leave human populations at risk for exposure to toxic levels of pollutants through the process of bioaccumulation, a known risk with many toxics including PCBs. Fishing is a beneficial use of the lakes, and LAW staff have frequently observed people fishing at Echo Park Lake, to take one example. Human consumption of fish from the lakes is thus likely.</p> <p>The area around Echo Lake Park also contains several economically disadvantaged communities already struggling with cumulative environmental hazards. It is reasonably foreseeable that members of these disadvantaged communities are disproportionately likely to use fish caught at Echo Lake (or at any of the lakes subject to the WLAs) for consumption. Any proposed weakening of standards thus raises serious Environmental Justice concerns as well as more general concerns with human health.</p>	

<p><b>LA Waterkeeper</b></p>	<p><b>Los Angeles Area Lakes Pesticides and PCBs TMDL</b></p>	<p><b>4/27/2016</b></p>	<p><b>1.27</b></p>	<p>The substitution of the less protective standards could occur after minimal analysis. Table D could supersede the more protective standards upon a showing that fish tissue targets are met for as little as three years, based on as few as five tissue samples, and by approval of the Regional Board Executive Officer alone.<sup>2</sup> (See Fact Sheet pp. 4-5.) The Water Boards should disclose what type of public process, including what type of environmental review, would be undertaken in the event that the WLAs in Tables A, B, and C are proposed to be superseded by the WLAs in Table D. The process must be transparent at all stages, and scientifically rigorous. Would the proposed change in WLAs be considered a Basin Plan Amendment, and accompanied by approval of a work plan? Would the Water Boards prepare some type of CEQA documents? Would there be public hearings and opportunities for comment, and at what stages of the review? Would the Water Boards evaluate consumption of fish by humans, to understand whether some communities bear an oversize risk of exposure to toxics related to changes in the WLAs? Would the Regional Board augment the studies required in the implementation plan to enhance the scientific rigor of the process?</p>	
<p><b>LA Waterkeeper</b></p>	<p><b>Los Angeles Area Lakes Pesticides and PCBs TMDL, Colorado Lagoon, Santa Monica Bay, Dominguez Channel and Greater LA/ Long Beach Harbor Toxics, Machado Lake</b></p>	<p><b>4/27/2016, 4/11/2016, 4/20/2016, 4/14/2016</b></p>	<p><b>1.28</b></p>	<p>Even if the Water Boards can provide data and analysis to justify the use of a 1 mg/L limit for SSC, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone WQBELs for all toxics, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.</p>	
<p><b>LA Waterkeeper</b></p>	<p><b>Los Angeles Area Lakes Pesticides and PCBs TMDL</b></p>	<p><b>4/27/2016</b></p>	<p><b>1.29</b></p>	<p>Only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the WLAs. This approach creates an illegal compliance schedule under the California Toxics Rule and is inconsistent with the Basin Plan. The incorporation approach taken has a high likelihood of failure to achieve compliance with the TMDLs for the targeted pollutants in industrial stormwater. As a corollary, the current scheme fails to require monitoring</p>	

				sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever absent self-identification as a source. The entire proposed approach needs to be substantially reworked.	
<b>LA Waterkeeper</b>	<b>Los Angeles Area Lakes Pesticides and PCBs TMDL, Machado Lake Toxic Pollutants , TMDL, Marina Del Rey TMDL Toxic, Colorado Lagoon, Dominguez channel and LA/Long Beach Harbor Toxics</b>	<b>4/27/2016, 4/14/2016, 4/11/2016</b>	<b>1.30</b>	The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the 1 mg/L SSC standard. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards for all toxics and metals. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.	
<b>LA Waterkeeper</b>	<b>Los Angeles Area Lakes Pesticides and PCBs TMDL, Machado Lake Toxic Pollutants, TMDL, Marina Del Rey Harbor Toxic Pollutants TMDL, Colorado Lagoon, Santa Monica Bay DDTs and PCBs, Dominquez Channel and LA/ Long Beach Harbor Toxic</b>	<b>4/27/2016, 4/14/2016, 4/11/2016, 4/9/2016, 4/20/2016</b>	<b>1.31</b>	Even if the SSC approach can be justified based on an analysis that meets the standards of the Clean Water Act, <i>all</i> General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis the wholesale proposed exclusions from the SSC monitoring requirement. The Water Boards should fully explain which land uses are least likely to be sources of the targeted constituents and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to “look the other way” even if facility operators had good reason to suspect the facility might be a source of PCBs and/or pesticides, and provides little in the way of accountability.	
<b>LA Waterkeeper</b>	<b>Los Angeles Area Lakes Pesticides and PCBs TMDL</b>	<b>4/27/2016</b>	<b>1.32</b>	Fundamental change is needed to a proposed approach that first excludes possibly every Responsible Discharger from monitoring for PCBs and pesticides, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of indeterminate length. The proposed approach falls far short of complying with the Clean Water Act.	

<b>LA Waterkeeper</b>	<b>Peck Road Park Lake, Echo Park Lake TMDL for Trash</b>	<b>5/4/2016</b>	<b>1.33</b>	<p>LAW supports maximum use of FCS. The current proposal gives permittees the option of either installing, operating, and maintaining FCS, or opting for an “Assessment and Collection” (A&amp;C) approach which could involve FCS, but does not require FCS. The Water Boards should undertake a Reasonable LAW Comments on Peck Road Park and Echo Park Lake Trash TMDLs Assurance Analysis that the availability of the A&amp;C alternative will not undermine the zero trash standards.</p>	
<b>LA Waterkeeper</b>	<b>Marina Del Rey Harbor Toxic Pollutants</b>	<b>4/11/2016</b>	<b>1.34</b>	<p>The proposed approach to incorporating the WLAs for toxics in Marina del Rey Harbor into the General Permit needs to be substantially reworked, in many aspects completely from scratch. Much better justification for use of a single, concentration-based TAL for SSC is necessary. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed approach that first excludes possibly every Responsible Discharger from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually requiring compliance with mass-based annual numerical standards, assuming BMPs are adequate, but not the instantaneous concentration-based TAL. The proposed approach falls far short of complying with the Clean Water Act.</p>	
<b>LA Waterkeeper</b>	<b>Santa Monica Bay DDT and PCB, Colorado Lagoon Toxics, Machado Lake Toxics</b>	<b>4/9/2016, 4/11/2016, 4/14/2016</b>	<b>1.35</b>	<p>The numeric Waste Load Allocations (WLAs), which are quite low, are expressed as pollutant masses in grams per year (Fact Sheet, p.3), but the “TMDL Action Level” (TAL) is expressed as a single concentration of 1 mg/L for Suspended Sediment Concentration (“SSC,” Fact Sheet, p. 4.) Better justification is needed for this change in methodology, as well as an explanation of the analytic route underlying the conversion from annual, mass-based WLAs for individual toxics to a consolidated, instantaneous concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL, it is premature to conclude that the TAL is appropriate.</p>	

<p><b>LA Waterkeeper</b></p>	<p><b>Santa Monica Bay DDT and PCB, Machado Lake Toxics, Colorado Lagoon</b></p>	<p><b>4/9/2016 4/14/2016, 4/11/2016</b></p>	<p><b>1.36</b></p>	<p>The current proposal allows the Responsible Dischargers themselves to determine whether they are a source of DDTs and/or PCBs, and only those who have so identified themselves are subject to the TAL. The General Permit does not require enrollees to monitor for either family of these substances. (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it upon itself to sample for these parameters, and thus very likely that facilities that have the potential to discharge these toxics will go undiscovered. The Fact Sheet includes backstop assurances (p.5) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.</p>	
<p><b>LA Waterkeeper</b></p>	<p><b>Santa Monica Bay DDT and PCBs, Machado Lake Toxics, Dominguez Channel and LA/ Long Beach Harbor Toxics</b></p>	<p><b>4/9/2016, 4/14/2016, 4/20/2016</b></p>	<p><b>1.37</b></p>	<p>Only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the mass-based WLAs. Actual compliance with the mass-based WLAs will likely not occur until substantially beyond the updating of the SWPPP, effectively creating a lengthy compliance schedule. The promulgation of an open-ended compliance schedule for substances covered by the California Toxics Rule is illegal. Compliance schedules of any length are banned after 2005 (or at the latest in 2010 in a few cases). In addition, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever of enrollees who have not self-identified as sources for toxics.</p>	
<p><b>LA Waterkeeper</b></p>	<p><b>Santa Monica Bay Nearshore and Offshore Debris TMDL</b></p>	<p><b>5/13/2016</b></p>	<p><b>1.38</b></p>	<p>The current proposal limits monitoring for plastic pellets to a handful of Standard Industrial Classification Codes (SICs), and facilities with the word "plastic" in the name, thereby exempting some General Permit enrollees (how many are exempted is unclear from the Fact Sheet) from the monitoring requirements. We are concerned that heavy reliance on SICs, many of which are quite old, could lead to some discharges remaining</p>	

				<p>undetected (for example, from newer industries not covered by existing SICs or existing industries whose technological evolution has increased potential discharges of plastic pellets since the SICs were developed). Similarly, not every user of plastic pellets necessarily includes the word “plastic” in the facility name. While using both SICs and names of facilities helps to reduce the risk of an unduly limited definition of “Responsible Discharger,” the Water Boards need to back up the proposed limitations to certain SICs and names of facilities with a reasonable assurance analysis (RAA).</p> <p>The backstop assurance (Fact Sheet, p.6) that the Water Boards could require a facility to monitor for plastic pellets and/or obtain an Individual Permit if evidence later emerges that the facility is causing or contributing to an exceedance of a WLA assumes that the Water Boards would have the time and resources to enforce such a requirement against all potential dischargers who in hindsight were erroneously excluded from the initial list of Responsible Dischargers. A much better approach is to ensure that all potential dischargers of pollutants covered by the WLA monitor for those pollutants up front. Absent a demonstration that the listed SICs and facilities containing the name “plastic” capture the universe of General Permit enrollees with potential to discharge plastic pellets, the Water Boards should greatly expand the monitoring requirements for plastic pellets, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. Also, a monitoring program sufficient to determine compliance with WQBELs (as opposed to TALs) needs to be developed</p>	
<b>LA waterkeeper</b>	<b>Santa Monica Bay Nearshore and Offshore Debris TMDL</b>	<b>5/13/2016</b>	<b>1.39</b>	WQBELs must be an element of the WLAs for the Santa Monica Bay Nearshore and Offshore Debris TMDL. Additional information should be also provided to confirm that the limitations on the definition of “Responsible Discharger” will not undermine the TMDL, and the Water Boards should conduct at least a programmatic environmental review of the proposed incorporation, including written responses to comments.	
<b>LA waterkeeper</b>	<b>Machado Lake TMDL, Colorado Lagoon Toxics, Dominguez Channel and LA/ Long Beach Harbor Toxics</b>	<b>4/14/2016, 4/11/2016, 4/20/2016</b>	<b>1.40</b>	The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the TAL. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.	

LA waterkeeper	Machado Lake TMDL, Colorado Lagoon	4/14/2016, 4/11/2016	1.41	The use of a "TMDL Action Level" coupled with the omission of WQBELs is unlawful. Permitting agencies must ensure that NDPES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections <i>and</i> 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.	
LA waterkeeper	Dominguez Channel and Greater LA/ Long Beach Harbor TMDL for Toxics	4/20/2016	1.42	For Dieldrin, DDT, PAHs, Chlordane, and PCBs, the numeric Waste Load Allocations (WLAs) are expressed as concentrations in micrograms per liter. The WLAs for cadmium, chromium, and mercury are expressed as a mass based concentration (mg/kg) in dry sediment. (Fact Sheet, p.7.). The "TMDL Action Level" (TAL) for all toxics except copper, lead, and zinc is expressed as a single concentration (1 mg/L) for Suspended Sediment Concentration (SSC). Better justification is needed for this change in methodology, as well as an explanation of the analytic route underlying the conversion from a mix of mass-based and concentration-based WLAs for individual toxics to a consolidated, instantaneous concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL for SSC, it is premature to conclude that the TAL is appropriate.	
LA waterkeeper	Dominguez Channel and Greater LA/ Long Beach Harbor TMDL for Toxics, Machado Lake	4/20/2016, 4/14/2016	1.43	Even if the Water Boards can provide data and analysis to justify the use of a single concentration-based TAL for SSC, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. (This problem also applies to the TALs for copper, lead, and zinc as well.) LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone WQBELs for all toxics/metals, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.	
LA waterkeeper	Dominguez Channel and Greater LA/ Long Beach Harbor TMDL for Toxics, Machado Lake	4/20/2016, 4/14/2016	1.44	The current proposal allows the Responsible Dischargers themselves to determine whether they are a source of cadmium, chromium, mercury, PAHs, DDT, and PCBs, and only those who have so identified themselves are subject to the TAL for SSC. The General Permit does not require any enrollees to monitor for DDT, PCBs, PAHs, cadmium, or chromium. <sup>1</sup> (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it	



				upon themselves to sample for these parameters, and thus very likely that almost all facilities that have the potential to discharge these toxics will go undiscovered. The Fact Sheet includes backstop assurances (pp. 11-12) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.	
<b>LA waterkeeper</b>	<b>Colorado Lagoon</b>	<b>4/14/2016</b>	<b>1.45</b>	The numeric Waste Load Allocations (WLAs) are expressed as annual pollutants masses in gr/yr/ac for each toxic pollutant of concern (chlordane, dieldrin, lead, zinc, PAHs, PCBs, and DDT, Fact Sheet, p.3), but the "TMDL Action Level" (TAL) is expressed as a single concentration (1 mg/L) for Suspended Sediment Concentration (SSC). Better justification is needed for this abrupt change in methodology, as well as an explanation of the analytic route underlying the conversion from annual mass-based WLAs for individual toxics to a consolidated, instantaneous concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL, it is premature to conclude that the TAL is appropriate.	
<b>Naval Base Ventura County</b>	<b>Calleguas Creek</b>	<b>3/23/2016</b>	<b>2.01</b>	Since Responsible Dischargers are defined by the potential for discharges to contain TMDL pollutant(s), a finding that discharges do not have the potential to contain TMDL pollutant(s) should exempt the discharger from additional monitoring and reporting requirements.	Comment noted;
<b>Naval Base Ventura County</b>	<b>Calleguas Creek</b>	<b>3/23/2016</b>	<b>2.02</b>	Recommend to revise the footnote 2 to state "At which point, the Discharger is required to submit its revised SWPPP. The Discharger is not required to conduct TMDL monitoring until such time as its Assessment of Potential Pollutant Sources indicates that discharges have the potential to contain TMDL pollutant(s)."	Comment noted; monitoring should be required of facilities whose Assessment of Pollutant Sources show that there is a source of metals in the storm water runoff.

<b>Naval Base Ventura County</b>	<b>Calleguas Creek</b>	<b>3/23/2016</b>	<b>2.03</b>	This year Southern California continues to have below normal season precipitation to date in many areas, including Ventura County. Therefore some dischargers may not have collected and analyzed samples from four QSEs by the deadline. Additionally, some dischargers may have discontinued monitoring for a particular pollutant based on their most recent assessment of its potential pollutant sources and finds that “its non-storm water discharges and its storm water discharges associated with industrial activities do not have the potential to contain a particular pollutant. Their most recent sample results should qualify them under this exemption.	Comment noted; Since the TMDL requirements take effect during the new Industrial General Permit, these requirements can not be retroactive to data collected under a prior permit
<b>Naval Base Ventura County</b>	<b>Calleguas Creek</b>	<b>3/23/2016</b>	<b>2.04</b>	Recommend to revise the text to state “For storm water discharges, a demonstration that sampling results from 4 of the most recent Qualifying Storm Events (QSEs) sampled, analyzed, and reported in SMARTS prior to January 2017 did not exceed the TMDL Action Levels (TALs) <sup>3</sup> , set forth in the tables below,”	See response to comment 10
<b>Naval Base Ventura County</b>	<b>Calleguas Creek</b>	<b>3/23/2016</b>	<b>2.05</b>	Some dischargers may have multiple industrial drainage areas, some areas that do not have the potential to contain TMDL pollutants and some areas that have the potential to contain TMDL pollutants. Please insert the following: For dischargers with multiple storm water monitoring locations, sampling and analysis for copper, nickel, mercury, or selenium is only required at storm water monitoring locations where the copper, nickel, mercury, or selenium have been identified as a potential pollutant sources based on the industrial activity.	comment noted; this requirement should be revised to include clarification of the monitoring points that require monitoring for TMDL pollutants
<b>US EPA</b>	<b>Los Angeles River Metals, Los Angeles River Nitrogen Compounds, San Gabriel River and Tributaries Metals and Selenium, Los Cerritos Channel Metals, Long Beach City Beaches, Harbor Beaches of Ventura County, and Los Angeles River Estuary Indicator Bacteria,</b>	<b>3/29/2016 5/10/2016, 5/16/2016</b>	<b>3.01</b>	As explained in the findings of the Industrial General Permit, Numeric Action Levels are not intended to serve as either technology based or water quality based effluent limits, and exceedances of NALs by themselves are not violations of the permit. However, water quality based effluent limits derived from applicable wasteload allocations from a TMDL are intended to be enforceable limits. NPDES regulations in 40 CFR 122.44(d)(1)(vii)(B) require effluent limits consistent with assumptions and requirements of applicable TMDLs.  Footnotes in the factsheets indicate that the WLAs from the TMDLs (referred to as TMDL Action Levels) are treated in the same manner as NALs for permit requirements. Incorporation of the WLAs as NALs (as proposed) would be inconsistent with 40 CFR 122.44(d)(1)(vii)(B) and EPA reserves the right to object to issuance of the proposed permit modification unless this concern is addressed. The permit modification must be revised to incorporate the relevant WLAs from the above TMDLs into the permit as numeric effluent limits	Comment noted

	<p>Peck Road Park Lake, Echo Park Lake, and Puddingstone reservoir for Chlordane, Dieldrin, PCBs and DDT, Puddingstone Reservoir Mercury TMDL, Peck Road Park Lake and Echo Park Lake Trash TMDLs , Santa Monica Bay Nearshore and Offshore debris TMDL, Santa Monica Bay TMDL for DDTs and PCBs</p>				
<p>US EPA</p>	<p>Los Angeles River Metals, Los Angeles River Nitrogen Compounds, San Gabriel River and Tributaries Metals and Selenium, Los Cerritos Channel Metals, Long Beach City Beaches, Harbor Beaches of Ventura County, and Los Angeles River Estuary Indicator Bacteria, Peck Road Park Lake, Echo Park Lake, and Puddingstone</p>	<p>3/29/2016 5/10/2016, 5/16/2016</p>	<p>3.02</p>	<p>The Regional Board's proposals appear to be intermingling requirements associated with TMDLs and those associated with Numeric Action Levels. Given the differences between the two, we recommend keeping them separate.</p>	<p>Comment noted</p>

	reservoir for Chlordane, Dieldrin, PCBs and DDT, Puddingstone Reservoir Mercury TMDL, Peck Road Park Lake and Echo Park Lake Trash TMDLs, Santa Monica Bay Nearshore and Offshore Debris TMDL, Santa Monica Bay TMDL for DDTs and PCBs				
US EPA	Peck Road Park Lake, Echo Park Lake, and Puddingstone reservoir for Chlordane, Dieldrin, PCBs and DDT, Puddingstone Reservoir Mercury TMDL, Peck Road Park Lake and Echo Park Lake Trash TMDLs	5/10/2016	3.03	Footnote #6 in the proposed IGP modification for the TMDLs for Chlordane, Dieldrin, PCBs, and DDT in Peck Road Park Lake, Echo Park Lake, and Puddingstone Reservoir, and similar footnotes in the other proposals listed above, indicated that the WLAs form the TMDLs (referred to as TMDL action levels) are treated in the same manner as NALs for permit requirements. Incorporation of the WLAs as NALs (as proposed) would be inconsistent with the 40 CFR 122.44(d)(1)(vii)(B) and EPA reserves the right to object to issuance of the proposed IGP modification unless concern is addressed. The IGP modification must be revised to incorporate the relevant WLAs from above TMDLs into IGP as numeric effluent limits.	
US EPA	Peck Road Park Lake, Echo Park Lake, and Puddingstone reservoir for Chlordane, Dieldrin, PCBs and DDT, Puddingstone Reservoir Mercury TMDL, Peck Road Park	5/10/2016	3.04	The proposal for the TMDLs for chlordane, Dieldrin, PCBs and DDT in Peck Road Park Lake, Echo Park Lake, and Puddingstone Reservoir Includes a TMDL action Level of 1 mg/l for the suspended sediment concentration. However, no explanation is provided concerning how this particular value was determined; further explanation is needed.	

	Lake and Echo Park Lake Trash TMDLs				
US EPA	Santa Monica Bay Nearshore and Offshore Debris TMDL, Santa Monica Bay TMDL for DDTs and PCBs	5/16/2016	3.05	Footnote #3 in the proposed IGP modification for the Santa Monica Bay Nearshore and Offshore Debris TMDL, and a similar footnote in the other proposal listed above, indicate that the WLAs from the TMDLs(referred to as TMDL action Levels) are treated in the Same manner as NALs for permit requirements. Incorporation of the WLAs as NALs (as proposed) would be inconsistent with 40 CFR 122.44(d)(1)(vii)(B) and EPA reserves the right to object to issuance of the proposed IGP modification unless this concern is addressed. The IGP modification must be revised to incorporate the relevant WLAs from the above TMDLs into the IGP as numeric effluent Limits	
Wishtoyo and Ventura Coast Keeper	Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitorgen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria		4.01	Our overarching request to sufficiently protect water quality and to ensure the Draft Incorporation of Ventura County TMDLs' Waste Load Allocations ("WLAs") into the IGP comply with the Clean Water Act and are otherwise legally adequate, is that the Draft Incorporation of Ventura County TMDLs' Waste Load Allocations into the IGP includes stand alone effluent limitation requiring dischargers to demonstrate that their BMPs are sufficient to achieve compliance with WLAs from the TMDLs, and that that this demonstration would be made by sampling.	

<p><b>Wishtoyo and Ventura Coast Keeper</b></p>	<p><b>Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitorgen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria</b></p>		<p><b>4.02</b></p>	<p>VCK supports the importation of the numeric Waste Load Allocations (“WLAs”) from the TMDLs directly into the General Permit at the levels specified in the Regional Board notice. However, the proposed incorporation of the WLAs as “TMDL Action Levels” (“TALS”), rather than water quality based effluent limitations (WQBELs), is inconsistent with the requirements of the Clean Water Act and its implementing regulations. VCK requests that the Regional Board apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that permittees implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs.</p>	
<p><b>Wishtoyo and Ventura Coast Keeper</b></p>	<p><b>Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitorgen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria</b></p>		<p><b>4.03</b></p>	<p>Because the WLAs are incorporated as triggers for an adaptive management process eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation, the proposed incorporation creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. While the current proposal to develop a trigger for an adaptive management process leading to additional BMPs might ultimately play some useful role in implementing the TMDLs, it cannot be the exclusive approach taken, as is now the case. The TALS are not lawful substitutes for WQBELs.</p>	

<p><b>Wishtoyo and Ventura Coast Keeper</b></p>	<p><b>Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitorgen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria</b></p>		<p><b>4.04</b></p>	<p>Further to the point that using NALs (or TALs) for the WLA creates an illegal compliance schedule that is not authorized by the Basin Plan, Clean Water Act, and other applicable laws, for metals and toxics, no compliance schedule in the IGP is allowed for CTR listed constituents. The CTR prohibits all compliance schedules for metals with CTR water quality objectives.</p>	
<p><b>Wishtoyo and Ventura Coast Keeper</b></p>	<p><b>Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitorgen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria</b></p>		<p><b>4.05</b></p>	<p>Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal. We urge the Water Boards to prepare a Substitute Environmental Document (“SED”) that, at a minimum, programmatically examines incorporation of the Ventura County TMDLs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in a the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the TMDLs would clearly modify the underlying permit, since currently the TMDLs are not incorporated into the General Permit, so most of the reasoning and case authorities in the attached letter remain on point here.</p>	

<p><b>Wishtoyo and Ventura Coast Keeper</b></p>	<p><b>Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitrogen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria</b></p>		<p><b>4.06</b></p>	<p>We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should look at WLAs that do not include Water Effects Ratios, which have the potential to lead to dramatic changes undermining the underlying standards. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the BMPs eventually required will achieve compliance with the WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs.</p>	
<p><b>Wishtoyo and Ventura Coast Keeper</b></p>	<p><b>Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitrogen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria</b></p>		<p><b>4.07</b></p>	<p>More information is also needed on the Water Effects Ratios included as part of the WLAs. The Regional Board Notices states that: The copper TALs for Mugu Lagoon and Calleguas Creek below Potrero Road are calculated using approved site-specific Water Effects Ratios (WERs) of 1.51 and 3.69, respectively. Site-specific WERs have not been approved for other reaches in the Calleguas Creek Watershed; therefore, the other copper TALs are based on the default WER value of 1.0. The inclusion of WERs raises several questions. Are site-specific values reasonably foreseeably possible in the future? If no, why include WERs at all? If yes, what process would be followed to approve non-default WERs, and what would be the geographic reach of each WER? What is the relationship to the WERs included in the WLAs to the WERs recently approved for the Calleguas Creek System as part of a process of developing site specific water quality objectives for copper?</p>	



<p><b>Wishtoyo and Ventura Coast Keeper</b></p>	<p><b>Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitorgen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria</b></p>		<p><b>4.08</b></p>	<p>We are concerned that the use of “TMDL Action Levels” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NDPES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections and 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23- 26), the inclusion of WQBELs consistent with WLAs is non-discretionary. The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (“NALs”). (Regional Board Notice, footnote 10, p.8.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after a minimum of 10 months past incorporation must a discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (“SWPPP”) is revised to include BMPs to prevent an exceedance of the TAL. Using TALs is also needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs. Furthermore, the Draft Incorporation of Ventura County TMDLs’ Waste Load Allocations impermissibly fails to included data and analysis establishing that the BMPs in the IGP will achieve WLAs.</p>	
<p><b>Wishtoyo and Ventura Coast Keeper</b></p>	<p><b>Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitorgen compounds, Santa</b></p>		<p><b>4.09</b></p>	<p>Using TALs to trigger an adaptive management program leading to SWPPP revisions and an eventual requirement for prevention of exceedances of the TAL also effectively creates a compliance schedule for metals regulated by the California Toxics Rule (“CTR”). Such compliance schedules are not permitted beyond 2005 (or 2010 at the latest in a few cases). The lack of WQBELs also means that the proposed monitoring program must be revised to include monitoring sufficient to adequately determine compliance with a WLA based WQBEL.</p>	

	Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria				
Wishtoyo and Ventura Coast Keeper	Mugu Lagoon Metals, Calleguas Creek boron, chloride, sulfate, and TDS, Oxnard Drain for pesticides, PCBs, sediment toxicity; Santa Clara River Estuary and Reaches 3, 5, 6, 7 indicator bacteria; Santa Clara River nitrogen compounds, Santa Clara River Reach 3 chloride, harbor beaches of Ventura County bacteria		4.10	While the use of TALs might be an appropriate adaptive management measure, TALs can never be the sole, or even primary, approach to incorporating WLAs for Ventura County TMDL constituents into the General Permit, as WQBELs must be an element of the WLAs. We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that permittees implement BMPs necessary to achieve the numeric effluent limitations. Direct incorporation of a WQBEL is much simpler, more direct, has much less potential for confusion than the current proposal, and is legally required.	
TECS Environmental Compliance Services		3/30/2016	5.01	The current Los Angeles County MS4 Permit is under legal challenge from the cities of Gardena, Duarte, and Huntington Park. Others may join as well. Included in that challenge is opposition to the TMDLs as water quality based effluent limitation requirements (WQBELs), and waste load allocations (WLA) limitations in receiving waters. It is for this reason that none of the TMDLs, including those for the several watersheds located in the Los Angeles Basin, should be recommended for inclusion into the State Water Boards General Industrial Storm Water Activity Permit (GIASP) – until litigation is resolved.	Comment noted

<p><b>TECS Environmental Compliance Services</b></p>			<p><b>5.02</b></p>	<p>The problem with almost all of the TMDLs, as water quality standards is that they were developed based on wet weather conditions of receiving waters instead of ambient or dry weather conditions. According to a National Research Council publication entitled <i>assessing the TMDL Approach to Water Quality Management: Section 303(d) of the CWA makes it a responsibility of the states to assess whether ambient standards are being achieved for individual watersheds</i>. This is affirmed by federal regulations and State Water Resources Control Board Order 2001-15, which asserted that neither federal nor state law require compliance with wet weather water quality standards. Because they were not properly established and could be voided through litigation, the State Board should not include any of the Los Angeles Basin TMDLs into the GIASP.</p>	
<p><b>TECS Environmental Compliance Services</b></p>			<p><b>5.03</b></p>	<p>Further, several TMDLs incorporated into the L.A. MS4 Permit have been incorrectly assigned to water quality segments (reaches). Metals (copper, lead, and zinc) are listed in the MS4 Permit as being applicable to Reach 2 of the Rio Hondo. The same is true for Reaches 1 and 2 of the Arroyo Seco and for Reach 3 of the San Gabriel River. The Regional Board has also misapplied TMDLs for the harbors to upstream reaches of the Dominguez Channel. Thus, if subject industrial facilities are located in one of the aforementioned reaches subject to invalid TMDLs, they could be compelled to spend money needlessly on monitoring and best management practices (BMPs), including treatment controls.</p>	
<p><b>TECS Environmental Compliance Services</b></p>			<p><b>5.04</b></p>	<p>Several TMDLs adopted by the Regional Board do not comply with <i>Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List</i>. Specifically, TMDLs were placed on the 303(d) list without regard for compliance with "listing factors" contained in Section 3 of the listing policy. The policy requires meeting several criteria before a pollutant can be 303(d) listed. For example, there is no indication in the Los Angeles River Metals or the San Gabriel River Metals TMDL staff report, or any other supporting documentation, that a binomial distribution test was performed to determine if measured exceedances supported the rejection of a null hypothesis. Therefore, these non-conforming TMDLs cannot be applied to the GIASP – or any other stormwater permit for that matter.</p>	

<p><b>TECS Environmental Compliance Services</b></p>			<p><b>5.05</b></p>	<p>Since the Industrial/Commercial Inspection Program was implemented through the 2001 Los Angeles County MS4 Permit, thousands of inspections of industrial facilities have been performed by MS4 Permittees. By the end of FY 2006, MS4 Permittees reported thousands of non-filers to the Regional Board. Yet, the majority of them have not been brought into compliance by the Board. This was discovered through inspection visits conducted under the current MS4 Permit adopted in November of 2012. Many of the industrial facilities that reported to the Board as non-filers by 2006 were identified through the current inspection program as not having obtained GIASP coverage. Therefore, it would make sense not to even consider incorporating TMDLs into the GIASP until the Board makes sure that nonfilers are covered either under the GIASP or under a non-exposure certification.</p>	
<p><b>TECS Environmental Compliance Services</b></p>			<p><b>5.06</b></p>	<p>Before subjecting any of the Los Angeles Basin TMDLs to GIASP facilities, the applicability of each TMDL to every GIASP category must be determined. For example, how would the bacteria TMDL apply to a transit facility? Or, how would the metals TMDL apply to a food processing facility? Further, how would waste load allocations for GIASPs be determined and how would compliance monitoring be performed -- at the last point of discharge at the facility, in the nearest downstream catch basin, or at an MS4 outfall? How would water quality based effluent limitations (WQBELs) be determined? Would they be strictly numeric as is the current case with Los Angeles County MS4s, or would they be in the form of best management practices (BMPs)? And who would be responsible for performing these tasks, Regional Board inspectors or MS4 Permittees implemented through the industrial facilities inspection program?</p>	
<p><b>LA Department of Water and Power</b></p>	<p><b>Los Angeles River Watershed, Dominguez Channel/ LA Harbor Watershed</b></p>	<p><b>3/31/2016, 4/25/2016</b></p>	<p><b>6.01</b></p>	<p>The Los Angeles Regional Board proposes that responsible dischargers would be assigned Level 1 compliance status. However, most if not all of these TMDL derived monitoring requirements will be new to the industrial general permit's responsible dischargers, who will not likely have data for these constituents. Thus they will not have information to indicate whether or not storm water from their facility would exceed the NALs, whether control measures may be required, or the potential sources of those constituents at each facility. For this reason, LADWP requests that IGP dischargers be assigned baseline status for new constituents.</p>	

LA Department of Water and Power	Los Angeles River Watershed	3/31/2016	6.02	On April 9, 2015, the LA Regional Board adopted site specific objectives (SSO's) for copper, and lead (Order No. R15-004) applicable to certain reaches of the LA River and tributaries. Although these SSOs have not made it through the approval process, the IGP revisions should state that these SSO's will be applicable, when adopted and approved by the relevant agencies, to discharges from industrial facilities in the affected watershed areas.	
LA Department of Water and Power	Los Angeles River Watershed, Dominguez Channel/ LA Harbor Watershed	3/31/2016, 4/25/2016	6.03	because the dissolved phase of a metal is the bioavailable fraction, and because water quality criteria for metals are expressed as dissolved metals, the proposal should be modified to implement the TALs for metals in the form of dissolved metals	
LA Department of Water and Power	Los Angeles River Watershed, Dominguez Channel/ LA Harbor Watershed	3/31/2016, 4/25/2016	6.04	Recent permit requirements adopted by the LA Regional Board recognize that water quality based effluent limits derived from TMDLs will be considered to be met if water quality objectives and TMDL targets are met in the receiving water body. A similar approach should be applied to the NALs of the IGP as amended to incorporate TMDLs.	
LA Department of Water and Power	Los Angeles River Watershed	3/31/2016	6.05	LADWP requests clarification from the Regional Board that the TMDL requirements for salt water bodies (ocean beaches) will not be applied to discharges to freshwater bodies, consistent with the approach taken in the LA Region MS4 permit (see table K-5 at page K-5 of the 2012 LA MS4 permit Order No. R4-2012-0175	
LA Department of Water and Power	Los Angeles River Watershed, Dominguez Channel/ LA Harbor Watershed	3/31/2016, 4/25/2016	6.06	Although data specific to LADWP's facilities are lacking, LADWP anticipates that, if TMDL NALs are exceeded in discharges from industrial facilities, sources outside the control of industrial dischargers (atmospheric deposition of metals, wildlife/bird sources of bacteria) may be important contributing factors. LADWP also anticipates that making the background and/or non-industrial source demonstrations allowed under the IGP may require extensive resource commitments. For this reason, LADWP requests that the IGP amendments allow industrial dischargers to conduct the studies that may be needed in coordinated fashion as a group, and allow these studies, if needed, to be performed on a regional basis.	

LA Department of Water & Power	Dominguez Channel / LA Harbor Watershed	4/25/2016	6.07	<p>The Regional Board is proposing to apply the requirements of the Harbor Taxies TMDL for cadmium, chromium, mercury, PAHs, DDT, and Total PCBs using a TAL of 1 mg/L for Suspended Sediment Concentration (SSC). Specifically, the Regional Board proposes that SSC concentrations in stormwater discharges be measured, and if they exceed 1 mg/L, that the discharger must commence the Exceedance Response Actions (ERAs) process. Due to data that has been collected it appears that the selected limit of 1 mg/L as SSC is very low. Concentrations of 1 mg/L as SSC are near the detection limit for the method, and unrealistically low for storm water discharges. Further, this approach is inconsistent with the approach the Regional Board has taken in other permits, where the Regional Board has evaluated compliance with the Harbor Taxies TMDL sediment requirements using, at least in part, the permit's existing limitations for Total Suspended Solids (TSS). Rather than add a new analysis method and a limit inconsistent with the approach in other permits, LADWP requests that the Regional Board apply the existing TSS limits in the IGP in order to trigger further actions under the Harbor Taxies TMDL.</p>	
LA Department of Water & Power	Dominguez Channel / LA Harbor Watershed	4/25/2016	6.08	<p>Although data specific to LADWP's facilities are lacking, LADWP anticipates that, if TALs are exceeded in discharges from industrial facilities, sources outside the control of industrial dischargers (e.g., atmospheric deposition of metals, wildlife/bird sources of bacteria) may be important contributing factors. LADWP also anticipates that making the background and/or non-industrial source demonstrations allowed under the IGP may require extensive resource commitments. For this reason, LADWP requests that the IGP amendments allow industrial dischargers to conduct the studies that may be needed in coordinated fashion as a group, and allow these studies, if needed, to be performed on a regional basis.</p>	
California Storm water Quality Association (CASQA)	Los Angeles Area Lakes	3/31/2016, 5/13/2016	7.01	<p>CASQA recommends that the TMDL language follow this industrial pollutant source assessment process and limit the application of the pollutant specific TMDL-based requirements to those IGP facilities that identify the presence of the TMDL pollutant(s) in their pollutant source assessment.</p>	
California Storm water Quality Association (CASQA)	Los Angeles Area Lakes	3/31/2016 5/13/2016	7.02	<p>CASQA recommends that each set of TMDL-related requirements incorporated into the IGP have a statement of how compliance will be assessed. Compliance with the waste load allocations should be based upon control measure or BMP-based approaches coupled with numeric action levels (NALs). Exceedances of TMDL-based NALs would be addressed through the Exceedance Response Action (ERA) process defined in the IGP (XII).</p>	

California Storm water Quality Association (CASQA)	Los Angeles Area Lakes	3/31/2016, 5/13/2016	7.03	CASQA recommends that where the Regional Water Board establishes a TMDL-based NAL, consistent and distinct terminology should be used to distinguish it from the IGP NALs in Table 2, and to clearly articulate that the numeric criteria are modified NALs derived from TMDLs and are intended to be used in lieu of existing NALs for the purpose of IGP compliance at facilities subject to the pollutant specific TMDL.	
California Storm water Quality Association (CASQA)	Los Angeles Area Lakes	3/31/2016, 5/13/2016	7.04	7.4 CASQA recommends that the use of a new TMDL-based NAL to commence with the beginning of the IGP reporting year. Each TMDL-related requirement incorporated into the IGP needs to clearly define how compliance with the IGP will be determined for both (1) the reporting year in which the requirement is adopted, and (2) subsequent reporting years.	
California Storm water Quality Association (CASQA)		3/31/2016	7.05	7.5 TMDL-based permit requirements are intended to satisfy Clean Water Act requirements for provisions necessary to attain water quality objectives. As is recognized in other California NPDES permits, compliance with the TMDL-based permit requirements satisfies receiving water limits for the relevant constituent. CASQA recommends that the TMDL-related language state that compliance with these TMDL-related requirements constitutes compliance with Receiving Water Limitations of IGP Section VI.A, as well as Effluent Limitation Section V.C, with respect to the particular constituent involved.	The discharges from IGP facilities contribute a load large enough to require a waste load allocation in the TMDL; the NALs are concentration based rather than mass based and as a result, it is not possible to state with certainty that compliance with the NAL will constitute compliance with the receiving water limitations.

<p><b>California Storm water Quality Association (CASQA)</b></p>		<p><b>3/31/2016</b></p>	<p><b>7.06</b></p>	<p>7.6 CASQA is concerned with the achievability of some of the TMDL-based NALs, where neither treatment control nor source control best management practices (BMPs) appear to be available, feasible, or capable of achieving the NAL concentrations. There is a larger issue of the appropriateness of these levels as NALs measured against varying and periodic storm water discharges. Ideally, achieving these levels in-stream should be harmonized with the pollutant load reduction measures in watershed planning at the municipal level. CASQA recommends that the Regional Water Board think broadly about how industrial facilities can achieve compliance consistent with assumptions underlying TMDL waste load allocations. One compliance path would be to allow facilities credit for volume reduction BMPs, when comparing sample results to NALs or other performance measures.</p>	
<p><b>California Storm water Quality Association (CASQA)</b></p>		<p><b>3/31/2016</b></p>	<p><b>7.07</b></p>	<p>Significant load reductions can be achieved by sites that have the ability to collect, infiltrate, use stormwater and not discharge it or that can discharge to sewer systems the runoff volumes from most events, or a large proportion of runoff volumes from events. For sites that can reduce the load of pollutants, concentration TMDL-based NALs may not be appropriate. CASQA recommends that compliance options also include the option for industrial facilities to coordinate with municipal permittees' watershed planning efforts, including WMPs, EWMPs, and/or watershed/waterbody restoration plans and regional BMPs that are designed to achieve load reductions at the watershed level.</p>	



<p><b>California Storm water Quality Association (CASQA)</b></p>		<p><b>3/31/2016</b></p>	<p><b>7.08</b></p>	<p>A watershed level compliance option may be particularly useful where waste load allocations have not been disaggregated amongst the responsible parties (that is, a single waste load allocation is collectively applied to all permittees in a watershed, e.g., the Los Peñasquitos Lagoon Sediment TMDL assigns 2,580 tons/wet season collectively to all identified responsible parties in the watershed). A compliance option that engages responsible parties in the restoration plan for the waterbody may well achieve better outcomes than efforts to reduce pollutants at specific facilities. The details of such a plan are difficult to develop in this format. CASQA encourages the Regional Water Board to include language that allows for this option and leaves the details of such a plan to be developed and submitted for approval. To this end we suggest the following language: The Regional Water Board may approve proposals to substitute an acceptable watershed-based program if it determines that participation in a watershed-based program will provide customized strategies, control measures, and BMPs that would be implemented in coordination with municipalities and/or TMDL responsible parties to achieve the required load reductions at a watershed scale. Dischargers participating in a watershed-based TMDL compliance program shall continue to implement the site specific BMPs and monitoring program in compliance with the requirements of this General Permit. The Regional Water Board may approve proposals for appropriate site-specific pollutant load reduction programs that provide load reductions credits achieved by reducing stormwater and non-stormwater runoff volume through collection and infiltration, use, or diversion to sanitary sewers.</p>	
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CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed	4/7/2016, 4/14/2016	7.9	The IGP applies to a wide variety of industrial facilities that have different industrial pollutant sources specific to their operations. The IGP recognizes that not all potential industrial pollutants are present in the industrial operations of all facilities and requires dischargers to conduct a pollutant source assessment of the industrial operations and industrial materials and wastes (X.G). Based upon this assessment, BMPs are selected and implemented (X.H) and a monitoring program (X.I) is designed for the industrial pollutants identified. CASQA recommends that the TMDL language follow this industrial pollutant source assessment process and limit the application of the pollutant specific TMDL-based requirements to those IGP facilities that identify the presence of the TMDL pollutant(s) in their pollutant source assessment.	
CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed	4/7/2016, 4/14/2016, 5/13/2016, 3/31/2016	7.10	CASQA recommends that in cases where a Basin Plan Amendment and assumptions in the TMDL staff report require actions beyond those required in the IGP to be consistent with the assumptions underlying TMDL waste load allocations, these additional requirements need to be clearly and explicitly defined in the TMDL-related language and supported in the Permit fact sheet. CASQA recommends General Permit language, which affects a large number of dischargers, provide clear direction to dischargers and establish a common understanding of the compliance expectations for dischargers, regulators, and other stakeholders.	

CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed	4/7/2016, 4/14/2016, 3/31/2016	7.11	CASQA recommends that each set of TMDL-related requirements incorporated into the IGP have a statement of how compliance will be assessed. Compliance with the waste load allocations should be based upon control measure or BMP-based approaches coupled with numeric action levels (NALs). Exceedances of TMDL-based NALs would be addressed through the Exceedance Response Action (ERA) process defined in the IGP (XII). CASQA recommends that where the Regional Water Board establishes a TMDL-based NAL, consistent and distinct terminology should be used to distinguish it from the IGP NALs in Table 2, and to clearly articulate that the numeric criteria are modified NALs derived from TMDLs and are intended to be used in lieu of existing NALs for the purpose of IGP compliance at facilities subject to the pollutant specific TMDL.	
CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed	4/7/2016, 4/14/2016	7.12	Consistent use of this terminology would also clearly establish that the numeric criteria in the TMDL-related requirements are intended to modify NALs and are not numeric standards (actual or defacto numeric effluent limitations) intended to determine whether discharges have exceeded Receiving Water Limitations (Section VI). The adoption of the TMDL-based NAL during the middle of the IGP reporting year could lead to ambiguity regarding determining compliance with the NALs for that reporting year. CASQA recommends that the use of a new TMDL-based NAL to commence with the beginning of the IGP reporting year. Each TMDL-related requirement incorporated into the IGP needs to clearly define how compliance with the IGP will be determined for both (1) the reporting year in which the requirement is adopted, and (2) subsequent reporting years.	

<p><b>CASQA</b></p>	<p><b>Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed, LA Area Lakes</b></p>	<p><b>4/7/2016, 4/14/2016, 5/13/2016</b></p>	<p><b>7.13</b></p>	<p>TMDL-based permit requirements are intended to satisfy Clean Water Act requirements for provisions necessary to attain water quality objectives. As is recognized in other California NPDES permits, compliance with the TMDL-based permit requirements satisfies receiving water limits for the relevant constituent. CASQA recommends that the TMDL-related language state that compliance with these TMDL-related requirements constitutes compliance with Receiving Water Limitations of IGP Section VI.A, as well as Effluent Limitation Section V.C, with respect to the particular constituent involved.</p>	
<p><b>CASQA</b></p>	<p><b>Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed, LA Area Lakes</b></p>	<p><b>4/7/2016, 4/14/2016, 5/13/2016</b></p>	<p><b>7.14</b></p>	<p>Many stormwater pollutants are not easy to control through traditional stormwater source control or treatment control practices. Stormwater programs implemented by industrial facilities can go a long way in reducing pollutant concentrations in stormwater but may not completely eliminate the pollutant or reduce the concentration to the NAL concentrations. CASQA is concerned with the achievability of some of the TMDL-based NALs, where neither treatment control nor source control best management practices (BMPs) appear to be available, feasible, or capable of achieving the NAL concentrations. There is a larger issue of the appropriateness of these levels as NALs measured against varying and periodic storm water discharges. Ideally, achieving these levels in-stream should be harmonized with the pollutant load reduction measures in watershed planning at the municipal level. CASQA recommends that the Regional Water Board think broadly about how industrial facilities can achieve compliance consistent with assumptions underlying TMDL waste load allocations. One compliance path would be to allow facilities credit for volume reduction BMPs, when comparing sample results to NALs or other performance measures.</p>	

<p><b>CASQA</b></p>	<p><b>Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed, LA Area Lakes</b></p>	<p><b>4/7/2016, 4/14/2016, 5/13/2016</b></p>	<p><b>7.15</b></p>	<p>Significant load reductions can be achieved by sites that have the ability to collect, infiltrate, use stormwater and not discharge it or that can discharge to sewer systems the runoff volumes from most events, or a large proportion of runoff volumes from events. For sites that can reduce the load of pollutants, concentration TMDL-based NALs may not be appropriate. CASQA recommends that compliance options also include the option for industrial facilities to coordinate with municipal permittees' watershed planning efforts, including WMPs, EWMPs, and/or watershed/waterbody restoration plans and regional BMPs that are designed to achieve load reductions at the watershed level.</p>	
<p><b>CASQA</b></p>	<p><b>Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed, LA Area Lakes</b></p>	<p><b>4/7/2016, 4/14/2016, 5/13/2016, 3/31/2016</b></p>	<p><b>7.16</b></p>	<p>A watershed level compliance option may be particularly useful where waste load allocations have not been disaggregated amongst the responsible parties (that is, a single waste load allocation is collectively applied to all permittees in a watershed, e.g., the Los Peñasquitos Lagoon Sediment TMDL assigns 2,580 tons/wet season collectively to all identified responsible parties in the watershed). A compliance option that engages responsible parties in the restoration plan for the waterbody may well achieve better outcomes than efforts to reduce pollutants at specific facilities.</p>	

<p><b>CASQA</b></p>	<p><b>Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed, LA Area Lakes</b></p>	<p><b>4/7/2016, 4/14/2016, 5/13/2016, 3/31/2016</b></p>	<p><b>7.17</b></p>	<p>The details of such a plan are difficult to develop in this format. CASQA encourages the Regional Water Board to include language that allows for this option and leaves the details of such a plan to be developed and submitted for approval. To this end we suggest the following language: The Regional Water Board may approve proposals to substitute an acceptable watershed-based program if it determines that participation in a watershed-based program will provide customized strategies, control measures, and BMPs that would be implemented in coordination with municipalities and/or TMDL responsible parties to achieve the required load reductions at a watershed scale. Dischargers participating in a watershed-based TMDL compliance program shall continue to implement the site specific BMPs and monitoring program in compliance with the requirements of this General Permit. The Regional Water Board may approve proposals for appropriate site-specific pollutant load reduction programs that provide load reductions credits achieved by reducing stormwater and non-stormwater runoff volume through collection and infiltration, use, or diversion to sanitary sewers.</p>	
<p><b>CASQA</b></p>	<p><b>Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed</b></p>	<p><b>4/7/2016, 4/14/2016</b></p>	<p><b>7.18</b></p>	<p>The backstop assurance (Fact Sheet, p.6) that the Water Boards could require a facility to monitor for nitrogen compounds and/or obtain an Individual Permit if evidence later emerges that the facility is causing or contributing to an exceedance of a WLA assumes that the Water Boards would have the time and resources to enforce such a requirement against all potential dischargers who in hindsight were erroneously excluded from the initial list of Responsible Dischargers. A much better approach is to ensure that all potential dischargers of pollutants covered by the WLA monitor for those pollutants up front. The current system allows Responsible Dischargers to “look the other way” if facility operators had good reason to suspect the facility might be a source of eutrophic and related pollutants but lacked a SIC on the included list. These facilities would never report an exceedance of the TALs or take measures to stop the exceedance. Yet such facilities would likely be causing or contributing to an exceedance of the WLA nonetheless. Absent a demonstration that the listed SICs capture the universe of General Permit enrollees with potential to discharge eutrophic and related compounds causing or contributing to exceedances of the WLAs, the Water Boards should require all enrollees to monitor for nitrogen compounds, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements.</p>	

CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed	4/7/2016, 4/14/2016	7.19	<p>Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze incorporation approach alternatives. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Machado Lake Eutrophics and related pollutants WLAs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs/NALs. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually required will achieve compliance with the WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.</p>	
CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed	4/7/2016, 4/14/2016	7.20	<p>WQBELs must be an element of the WLAs. This direct approach to incorporation should be coupled with the requirement that Responsible Dischargers monitor for eutrophic compounds and implement BMPs necessary to achieve the numeric effluent limitations. Additional information should be provided to confirm the adequacy of the proposed list of SICs subject to monitoring requirements and/or the list of SICs subject to the monitoring requirement should be expanded.</p>	

CASQA	Machado Lake Subwatershed Pesticides and PCBs		7.21	The numeric Waste Load Allocations (WLAs) are expressed as pollutant masses in micrograms per kilogram for each toxic pollutant of concern (PCBs, DDT, DDE, DDD, total DDT, Chlordane, and Dieldrin, Fact Sheet, p.3), but the "TMDL Action Level" (TAL) is expressed as a single concentration of 1 mg/L for Suspended Sediment Concentration (SSC). Better justification is needed for this methodology, as well as an explanation of the analytic route underlying the conversion from mass-based WLAs for individual toxics to a consolidated, concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL, it is premature to conclude that the TAL is appropriate.	
CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed Machado Lake Subwatershed Pesticides and PCBs	4/7/2016, 4/14/2016	7.22	Even if the Water Boards can provide data and analysis to justify the use of a single concentration-based TAL for SSC as a proxy for all toxics, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and incorporate stand-alone WQBELs, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.	



CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed Machado Lake Subwatershed Pesticides and PCBs	4/7/2016, 4/14/2016	7.23	<p>Additionally, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of chlordane, DDT, dieldrin, and PCBs, and only those who have so identified themselves are subject to the TAL. The General Permit does not require any enrollees to monitor for any of these substances. (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it upon themselves to sample for these parameters, and thus very likely that facilities that have the potential to discharge toxics will go undiscovered. The Fact Sheet includes backstop assurances (p.5) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.</p>	
CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed Machado Lake	4/7/2016, 4/14/2016	7.24	<p>Only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the annual mass-based WLAs. This system creates an illegal compliance schedule under the California Toxics Rule. The incorporation approach taken has high likelihood of failure to achieve compliance with the TMDLs for toxic pollutants in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever of enrollees who have not self-identified as sources for toxics. The entire proposed approach needs to be substantially reworked.</p>	

	<b>Subwatershed Pesticides and PCBs</b>				
<b>CASQA</b>	<b>Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed Machado Lake Subwatershed Pesticides and PCBs</b>	<b>4/7/2016, 4/14/2016</b>	<b>7.25</b>	The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the TAL. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.	

CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed Machado Lake Subwatershed Pesticides and PCBs	4/7/2016, 4/14/2016	7.26	Even if the SSC approach can be justified, all General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a mass-based WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should fully explain which land uses are least likely to be sources of toxics and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to “look the other way” even if facility operators had good reason to suspect the facility might be a source of toxic pollutants, and provides little in the way of accountability.	
CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed Machado Lake	4/7/2016, 4/14/2016	7.27	In conclusion, the proposed approach to incorporating the WLAs for toxic pollutants in the Lake Machado Subwatershed into the General Permit needs to be substantially reworked, in many aspects completely from scratch. Much better justification for use of a single, concentration-based TAL for SSC is necessary. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed approach that first excludes many, likely all, Responsible Dischargers from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually requiring compliance with mass-based WLAs, assuming BMPs are adequate, but not the instantaneous concentration-based TAL. The proposed approach falls far short of complying with the Clean Water Act.	

	Subwatershed Pesticides and PCBs				
CASQA	Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed Machado Lake Subwatershed Pesticides and PCBs, Marina del Rey Harbor Watershed Marina del Rey	4/7/2016, 4/11/2016, 4/14/2016	7.28	The Water Boards should conduct an Environmental Analysis of the Proposal	

	<b>Harbor TMDL for Toxic Pollutants</b>				
<b>CASQA</b>	<b>Calleguas Creek Watershed, Oxnard Drain 3, Ventura County Harbor Beach Bacteria, Ballona Creek and Marina del Rey Harbor Subwatersheds, Los Angeles County Coastal Streams Watershed, Machado lake Subwatershed, Dominguez Channel/Los Angeles Harbor Watershed Machado Lake Subwatershed Pesticides and PCBs, Marina del Rey Harbor Watershed Marina del Rey Harbor TMDL for Toxic Pollutants</b>	<b>4/7/2016, 4/11/2016, 4/14/2016</b>	<b>7.29</b>	Legal issues with reliance on NALs and TALs rather than WQBELs	

CASQA	Marina del Rey Harbor Watershed Marina del Rey Harbor TMDL for Toxic Pollutants	4/11/2016	7.30	The numeric Waste Load Allocations (WLAs) are expressed as annual pollutants masses in gr/yr/ac for each toxic pollutant of concern (copper, lead, zinc, chlordane, DDT, p,p'-DDE, and PCBs, Fact Sheet, p.3), but the "TMDL Action Level" (TAL) is expressed as a single concentration (1 mg/L) for Suspended Sediment Concentration (SSC). Better justification is needed for this abrupt change in methodology, as well as an explanation of the analytic route underlying the conversion from annual mass-based WLAs for individual toxics to a consolidated, instantaneous concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL, it is premature to conclude that the TAL is appropriate.	
CASQA	Marina del Rey Harbor Watershed Marina del Rey Harbor TMDL for Toxic Pollutants	4/11/2016	7.31	Even if the Water Boards can provide data and analysis to justify the use of a single concentration-based TAL for SSC, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone WQBELs, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.	
CASQA	Marina del Rey Harbor Watershed Marina del Rey Harbor TMDL for Toxic Pollutants	4/11/2016	7.32	the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of copper, lead, zinc, chlordane, DDT, p,p'-DDE, and PCBs, and only those who have so identified themselves are subject to the TAL. The General Permit does not require any enrollees to monitor for chlordane, DDT, p,p'-DDE, or PCBs. (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it upon themselves to sample for these parameters, and thus very likely that almost all facilities that have the potential to discharge toxics will go undiscovered. The Fact Sheet includes backstop assurances (p.6) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.	

CASQA	Marina del Rey Harbor Watershed Marina del Rey Harbor TMDL for Toxic Pollutants	4/11/2016	7.33	Only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the annual mass-based WLAs. This creates an illegal compliance schedule under both the Basin Plan and the California Toxics Rule. The incorporation approach taken has high likelihood of failure to achieve compliance with the TMDLs for toxic pollutants in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever. The entire proposed approach needs to be substantially reworked.	
CASQA	Marina del Rey Harbor Watershed Marina del Rey Harbor TMDL for Toxic Pollutants	4/11/2016	7.34	The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the annual standards. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.	
CASQA	Marina del Rey Harbor Watershed Marina del Rey Harbor TMDL for Toxic Pollutants	4/11/2016	7.35	Even if the SSC approach can be justified based on an analysis that meets the standards of the Clean Water Act, all General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a mass-based WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis the exclusions (which could potentially encompass every enrollee) from the SSC monitoring requirement. The Water Boards should fully explain which land uses are least likely to be sources of toxics and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to "look the other way" even if facility operators had good reason to suspect the facility might be a source of toxic pollutants, and provides little in the way of accountability.	

CASQA	Marina del Rey Harbor Watershed Marina del Rey Harbor TMDL for Toxic Pollutants	4/11/2016	7.36	<p>The proposed approach to incorporating the WLAs for toxics in Marina del Rey Harbor into the General Permit needs to be substantially reworked, in many aspects completely from scratch. Much better justification for use of a single, concentration-based TAL for SSC is necessary. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed approach that first excludes possibly every Responsible Discharger from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually requiring compliance with mass-based annual numerical standards, assuming BMPs are adequate, but not the instantaneous concentration-based TAL. The proposed approach falls far short of complying with the Clean Water Act.</p>	
CASQA	Los Angeles Area Lakes, Santa Monica Bay DDT	5/13/2016, 3/31/2016	7.37	<p>Consistent with CASQA Comment 1, CASQA recommends the Regional Water Board clarify that only those sites that have identified on-site industrial sources of the TMDL-related pollutants be required to collect samples and analyze for those pollutants.</p> <p>Footnote 1 in the noted draft TMDL-specific IGP requirements appears to incorporate nonindustrial stormwater as part of the pollutant source assessment. The footnote confuses the determination of which dischargers must perform the Required Actions, by implying permittees must determine potential for specific pollutants to be in stormwater that is not associated with industrial activities. Such pollutants are not regulated by the IGP, except insofar that they are commingled with industrial stormwater discharges. The IGP does not require that dischargers separately evaluate or independently control non-industrial sources of pollutants in stormwater.</p> <p>CASQA requests that language in each set of requirements be revised to be consistent with the IGP pollutant assessment process, which is the IGP's foundation for establishing BMPs, monitoring, and for conducting the NAL Exceedance Response Action (ERA) process.</p>	



CASQA	Los Angeles Area Lakes, Santa Monica Bay DDT	5/13/2016	7.38	<p>The TMDL-specific language and discussion in the Fact Sheets contain references to “complying with TALs”. CASQA requests that this language be modified to be consistent with the discussion of NAL exceedances in the IGP. The NAL and ERA processes are designed to assess performance not compliance. As noted in the IGP (Provision M, item 61), NALs are part of a multiple objective performance measurement system. The NALs are not a test of compliance (Provision M 63) in and of themselves but trigger a series of actions, through ERA levels, to assess pollutant sources and enhance BMPs. References to compliance with TALs or waste load allocations (WLAs) expressed as TALs may lead to a misunderstanding of the use of the action levels. WLAs and TALs are not permit limitations to be “complied with” directly. Rather language should express the need to compare sample results with the TALs to determine if the TALs have been exceeded, which would trigger the ERA process.</p> <p>suggested Alternative Language Example:  <i>“Responsible Dischargers shall <del>comply with the</del> perform sampling and analysis and compare the results with the TALs, expressed as instantaneous maximum values, in the tables below, to determine if the TAL have been exceeded by the applicable parameter.</i>”</p>	
CASQA	Los Angeles Area Lakes, Santa Monica Bay DDT	5/13/2016	7.39	<p>Consistent with the IGP NALs and to appropriately account for the variability associated with stormwater monitoring data, annual averages rather than instantaneous values of Stormwater sample results should be incorporated into the draft TMDL-specific IGP requirements.</p>	

CASQA	Los Angeles Area Lakes, Santa Monica Bay DDT	5/13/2016	7.40	<p>The TMDL-specific language identifies that the appropriate Responsible Parties must sample discharges for Suspended Sediment Concentration (SSC). SSC is not an EPA-approved method as indicated in the fact sheet.</p> <p>The availability of commercial laboratories that can perform the SSC method remains limited although the number has increased slightly since CASQA looked into this during the Construction General Permit reissuance process. At that time, CASQA was able to identify only one commercial laboratory. In natural water sampling situations, one of the main advantages of SSC over Total Suspended Solids is that SSC provides a better measurement of the larger particulates (sand) in the water column. When samples contain finer material (0.062 mm) TSS and SSC results are more or less similar.<sup>1</sup> Given that pollutants of concern in this TMDL are more likely to adhere to smaller particulates and that industrial stormwater effluent sampling is more similar to wastewater sampling than sampling natural waters, the use of more common EPA-approved laboratory methods such as TSS or turbidity should be used for this surrogate screening. CASQA recommends that the SSC method not be prescribed in the TMDL-specific requirements.</p>	
CASQA	Los Angeles Area Lakes, Santa Monica DDT and PCBs	5/13/2016	7.41	<p>Consistent with CASQA comment 5, the achievability of a TAL of 1 mg of sediment per liter of water is unlikely through source and treatment control BMPs. A review of the International Stormwater BMP Database data shows that effluent from most treatment BMPs would exceed the proposed TAL (assuming SSC and TSS concentrations would be similar<sup>2</sup>). See the attached excerpt from the International Stormwater BMP Database.</p>	

CASQA	Santa Monica Bay Nearshore and Offshore Debris	5/13/2016	7.42	<p>The IGP has already incorporated strict requirements for facilities that handle Plastic Materials, as specified in Water Code Section 13367. IGP Section XVIII (Special Requirements – Plastic Materials) includes requirements to install a containment systems designed to trap all particles retained by a 1mm mesh screen, with a treatment capacity of no less than the peak flow rate from a one-year, one-hour storm or an alternative suite of BMPs that were determined to be equal to, or exceed the performance requirements of a containment system. CASQA recommends the TMDL-specific language for management of plastic pellets be consistent with existing IGP and Water Code requirements. An example of a similar approach was proposed by the San Francisco Regional Water Quality Control Board in the TMDL specific language for the Napa River and Sonoma Creek Sediment TMDLs.</p> <p><i>The proposed Napa River and Sonoma Creek Sediment TMDLs find that the Erosion and Sediment BMPs prescribed in the IGP (X.H.1.e), in combination with facility specific BMPs selected after the pollutant source assessment, are sufficient and consistent with the assumptions of the TMDL.</i></p> <p>CASQA supports incorporating a similar approach that appropriately uses the existing IGP and Water Code Plastic Materials provisions, the IGP pollutant source assessment and BMP selection process to address pollutant sources for Responsible Dischargers.</p>	
CASQA	Peck Road Park Lake and Echo Park Lake Trash	5/13/2016	7.43	<p>This is the first TMDL for which requirements have been developed in relation to the pollutant trash. The requirements do not discuss unique aspects of the watershed or specific dischargers the proposal may be tailored to. Therefore, these comments consider this language as if it may be a model or general approach the LA Regional Board may wish to develop. As a general comment, CASQA notes that the Required Actions section and the monitoring requirements are complex and challenging to understand and apply. We are concerned about how small facilities, for example, could understand and implement them. CASQA suggests that the LA Regional Board consider a simpler overall approach that would still achieve consistency with the TMDL in the industrial discharger context. To achieve this, CASQA recommends the Regional Water Board use mandatory minimum BMPs as the structure of the requirements, starting from those already addressing trash in the IGP. Then include a visual assessment requirement that would require implementation of additional BMPs as needed to meet the necessary objectives. The following comments provide more specific recommendations related to the various provisions to achieve this simplification.</p>	

CASQA	Peck Road Park Lake and Echo Park Lake Trash	5/13/2016	7.44	<p>CASQA recommends the Regional Water Board clarify which facilities will be responsible to comply with the Required Actions. The description of Responsible Dischargers in the initial table appears to refer to all facilities discharging to the impaired waterbodies, i.e. does not distinguish those who may not have potential to discharge trash. Consistent with CASQA Comment 1, CASQA recommends the Regional Water Board clarify that only those sites that have identified on-site industrial sources of the TMDL-related pollutant (trash) be required to perform the Required Actions.</p> <p>The draft language does describe Required Actions as starting with the Assessment of Potential Pollutant Sources per Section X.G.2.a.ix of the IGP. Yet the TAL-compliance requirements seem to apply to any “Responsible Discharger,” which, again, seems to be defined as all facilities discharging within the watershed. CASQA recommends that the Regional Water Board clarify that the follow up requirements, including the TAL-related steps, would not apply if the assessment indicates there is not a potential source.</p>	
CASQA	Peck Road Park Lake and Echo Park Lake Trash	5/13/2016	7.45	<p>The Required Actions appear to have two sets of requirements that are not linked together:</p> <p>A. One major set of requirements (pages 2-4) requires one of two methods to eliminate trash from all storm water and authorized NSWDS – “Full Capture” or “Minimum Frequency of Assessment and Collection (MFAC)”.</p> <p>B. A seemingly separate process (page 4) for responding to exceedance of the TAL (which seems to be only one piece of trash, per the table). This separate process is the requirement to commence the Exceedance Response Actions (ERAs) process in Section XII of the IGP, unless the Discharger documents that all related areas are addressed by full capture systems.</p> <p>Is the Regional Water Board’s intent to trigger the first set of requirements upon exceedance of the TALs, i.e. would the ERA process essentially consist of (or be replaced by) this substantial set of requirements? If so, the language should be restructured to begin with the TAL and set out requirements triggered by exceedance of the TMDL in one logical set of steps.</p> <p>CASQA suggests that the Regional Water Board consider using a mandatory BMP approach, which would integrate more clearly into the IGP, and possibly not require the exercise of triggering requirements when a facility detects “one piece of trash” (which obviously could occur at any moment). The requirements could also more easily be integrated with monitoring, which is currently also complex as noted below.</p>	

CASQA	Peck Road Park Lake and Echo Park Lake Trash	5/13/2016	7.46	<p>It is not clear how an industrial facility would use the “MFAC protocols” for rapid trash assessment, or why they are needed in the case of discharger-controlled facilities of this type. The protocols are generally designed for MS4 permittees to use in assessing accumulation of trash along their systems, rather than for a discharger with control of the trash-generating area. CASQA suggests that simpler visual assessment and maintenance requirements be described for industrial dischargers. The proposal also requires compliance with IGP requirements for monitoring in the form of visual observations and records. CASQA recommends that the Regional Water Board specifically discuss what aspects of this existing IGP requirement are inadequate for these TMDL-related requirements, and then define what specific additional assessment measures are appropriate and necessary for industrial facilities. Similarly, if a minimum frequency of collection of trash at facilities must be addressed, it would appear to be clearer to compare the desired objective to existing IGP minimum BMPs, and, if inadequate, then explain in simple terms how a discharger should increase collection efforts without requiring special approved protocols designed for MS4s.</p>	
CASQA	<p>Los Angeles River metals, Los Angeles River Nitrogen Compounds, Los Cerritos Channel Metals, Long Beach City Beaches Bacteria, Santa Clara River Chloride Reach 3, Santa Clara River Bacteria, San Gabriel River, Metals</p>	3/31/2016	7.47	<p>The Conclusion section of each Fact Sheet states that the State and/or Regional Water Board retains authority to require additional actions “if it is determined ... that a discharger may be causing or contributing to an exceedance of a WLA.” The Order language on this subject states that “The State and/or Regional Water Board may require industrial stormwater dischargers to implement additional actions... based on, but not limited to, monitoring data and comparison to applicable TALs, visual observations, discharger reports, or site-specific inspections and/or investigations.”</p> <p>The phrase “causing or contributing to an exceedance of WLA” is inappropriate and confusing, in that it seems to confuse WLAs with water quality objectives, and suggests that dischargers may be subjected to new, additional and undefined IGP obligations upon a vague determination by the Regional Water Board or State Water Board.</p> <p>Instead, CASQA suggests that the proposed language simply recognize existing IGP Sections XIX.C and XIX.D regarding Regional Water Board authorities.</p>	

CASQA	Los Angeles River Metals	3/31/2016	7.48	The TMDL assigns a copper WER of 3.97 for IGP dischargers, but the draft TMDL-specific language assumes a WER of 1.0. CASQA recommends the draft TMDL-specific language be consistent with the TMDL.	
CASQA	Los Angeles River	3/31/2016	7.49	TMDL-based numeric action levels (“TALs”) are expressed as instantaneous maximum values, and the draft TMDL-specific language specifies that if the sampling results indicate a TAL exceedance, the Discharger shall commence the level 2 ERA process. The draft TMDL-specific language is unclear as to the timing associated with entering ERA Level 2. CASQA recommends that the Regional Board clarify that the timelines for conducting the ERA process with respect to TALs will be consistent with the timelines in the IGP for conducting the ERA process with respect to NALs.	
CASQA	Los Angeles River, Metal, Los Cerritos Channel, Metal, San Gabriel River Metals	3/31/2016	7.50	Consistent with the IGP NALs and to appropriately account for the variability associated with Stormwater monitoring data, annual averages rather than instantaneous values of stormwater sample results should be incorporated into the draft TMDL-specific IGP requirements.	
CASQA	Los Angeles River, Nitrogen Compounds	3/31/2016	7.51	As referenced in the draft TMDL-specific IGP incorporation language, Table 1 of the IGP identifies a number of SIC codes that require analysis of additional nitrogen compounds such as nitrate and nitrate nitrogen and ammonia. CASQA requests the Regional Water Board recognize the IGP Table 1 footnote associated with SIC Code 45XX (which limits applicability of monitoring requirements for the nitrogen constituents in that SIC Code group), and remove those 45XX facilities as Responsible Dischargers if they do not meet the footnote criteria.	

<b>CASQA</b>		<b>3/31/2016</b>	<b>7.52</b>	CASQA recommends that the TMDL-related language state that compliance with these TMDL-related requirements constitutes compliance with Receiving Water Limitations of IGP Section VI.A, as well as Effluent Limitation Section V.C, with respect to the particular constituent involved.	
<b>CASQA</b>		<b>3/31/2016</b>	<b>7.53</b>	CASQA recommends that compliance options also include the option for industrial facilities to coordinate with municipal permittees' watershed planning efforts, including WMPs, EWMPs, and/or watershed/waterbody restoration plans and regional BMPs that are designed to achieve load reductions at the watershed level.	
<b>Vulcan Materials Company</b>	<b>San Gabriel River</b>	<b>3/31/2016</b>	<b>8.01</b>	We request that the LARWQCB provide a map identifying the affected Reaches.	Comment noted

<b>Vulcan Materials Company</b>	<b>San Gabriel River</b>	<b>3/31/2016</b>	<b>8.02</b>	<p>The Responsible Dischargers sections states, "Industrial Storm Water General Permittees that discharge nonstorm water and/or storm water associated with industrial activities to the impaired waterbodies either directly or via a municipal separate storm sewer system (MS4) or an upstream reach or tributary." Please clarify if this means industrial discharges into an upstream tributary or Reach are impacted by this. For example, if a facility discharges to a non-impaired upstream Reach, are they a Responsible Discharger?</p>	<p>Comment noted: a Responsible Discharger is a discharger that meets all of the following: 1. Requires coverage under the Industrial General Permit; 2. Is located in the watershed subject to the TMDL and the discharge from the facility discharges into the TMDL water body. 3. The source assessment indicates that the industrial activity is a source of the TMDL pollutant for which a TAL is included in the Industrial General Permit</p>
<b>Vulcan Materials Company</b>	<b>San Gabriel River</b>	<b>3/31/2016</b>	<b>8.03</b>	<p>Although individual parties have not been assigned individual waste load allocations (WLAs), it appears that all dischargers are expected to demonstrate compliance with a WLA. We feel that this needs clarification. How does sampling without flow readings demonstrate compliance with the WLA, when no WLA has been assigned to dischargers?</p>	<p>The TMDL action levels (TALs) are concentration based and therefore, flow is not required to be measured by dischargers.</p>



<b>Vulcan Materials Company</b>	<b>Santa Clara River</b>	<b>3/31/2016</b>	<b>8.04</b>	The Draft Order Required Actions states “if indicator bacteria are not already addressed in the facility’s current Storm Water Pollution Prevention Plan (SWPPP), including its Assessment of Potential Pollutant Sources per Section X.G.2.a.ix, then Responsible Dischargers, as defined above, shall assess all areas of industrial activity at the facility relative to their potential as a source of total coliform, fecal coliform, enterococcus, or E. coli in authorized Non-Storm Water Discharges (NSWDs) and storm water discharges.” We request that the LARWQCB clarify that only those sites that have identified on-site industrial sources of the TMDL-related pollutants (bacteria) be required to collect samples and analyze for those pollutants. Although bacteria may be present on the site from wildlife and birds, this is not part of our industrial process and/or raw or intermediate materials. The IGP recognizes that not all potential industrial pollutants are present in the industrial operations of all facilities and requires dischargers to conduct a pollutant source assessment of the industrial operations and industrial materials and wastes (X.G). Based upon this assessment, BMPs are selected and implemented (X.H) and a monitoring program (X.I) is designed for the industrial pollutants identified.	comment noted
<b>Vulcan Materials Company</b>	<b>Santa Clara River</b>	<b>3/31/2016</b>	<b>8.05</b>	We also request that the LARWQCB provide a map identifying the affected Reaches. The Responsible Dischargers sections states, “Industrial Storm Water General Permittees that discharge nonstorm water and/or storm water associated with industrial activities to the impaired waterbodies either directly or via a municipal separate storm sewer system (MS4) or an upstream reach or tributary.” Please clarify if this means industrial discharges into an upstream tributary or Reach are impacted by this. For example, if a facility discharges to Reach 4, are they a Responsible Discharger?	comment noted
<b>Vulcan Materials Company</b>	<b>Santa Clara River</b>	<b>3/31/2016</b>	<b>8.06</b>	Although individual parties have not been assigned individual waste load allocations (WLAs), it appears that all dischargers are expected to demonstrate compliance with a WLA. We feel that this needs clarification. How does sampling without flow readings demonstrate compliance with the WLA, when no WLA has been assigned to dischargers?	

<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.01</b>	<p>The Sanitation Districts support the effort made by the Regional Board but believes the proposed implementation of these TMDLs does not provide enough clarity to the Dischargers regarding their responsibilities for compliance with the applicable TMDLs as directed specifically by the State Water Resources Control Board (State Board) in the IGP itself.</p>	
<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.02</b>	<p>The implementation of the Los Angeles River and Tributaries Metals TMDL, which contains process language that is repeated in other TMDLs from this Regional Board, assumes the TMDL constituents are automatically in Level 1 (per the IGP) four months after the State Board incorporates the TMDL-specific language into the IGP. This approach is inconsistent with the pollutant source assessment process that exists in the IGP. The IGP applies to a wide variety of industrial facilities that have different industrial pollutant sources specific to their operations. The IGP recognizes that not all potential industrial pollutants are present in the industrial operations of all facilities and requires dischargers to conduct a pollutant source assessment of the industrial operations and industrial materials and wastes. Based upon this assessment, BMPs are selected and implemented and a monitoring program is designed for the industrial pollutants identified. In contrast to the adopted IGP, the proposed language in the Los Angeles River and Tributaries Metals TMDL states that constituents are automatically Level 1 status.</p>	

<p><b>Los Angeles County Sanitation District</b></p>	<p><b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b></p>	<p><b>3/31/2016</b></p>	<p><b>9.03</b></p>	<p>Thus, a constituent at a facility may be placed into Level 1 without ever taking a stormwater sample and identifying if the constituent is present in runoff from their facility. And then a Level 1 ERA Report is due two months later. Given that a Level 1 ERA Evaluation is supposed to proceed the report, and the evaluation includes determining what BMPs can help you attain compliance with your target concentration, how exactly can that be performed given that the facility may have no stormwater samples with which to judge performance?</p>	
<p><b>Los Angeles County Sanitation District</b></p>	<p><b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b></p>	<p><b>3/31/2016</b></p>	<p><b>9.04</b></p>	<p>The Sanitation Districts recommend that the adopted process in the IGP be used: the facility does a source assessment and decides what constituents to sample in a storm; after a year of data collection, an evaluation is made to determine if the constituent has exceeded its NAL; and if it has, the constituent enters a Level 1 process for the constituent as outlined in Section XII of the permit. Only the Los Angeles Region of all the Regional Boards takes the approach that TMDL constituents should be placed directly into Level 1 unless the discharger can prove otherwise. If the State Board adopts the proposed language from the Regional Board, all affected facilities in the Los Angeles Region will have implementation schedules that are different and more onerous than the rest of the state of California.</p>	

<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDI; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.05</b>	<p>The Sanitation Districts recommend that each set of TMDL-related requirements incorporated into the IGP have a statement of how compliance will be assessed. Compliance with the waste load allocations should be based upon control measure or BMP-based approaches coupled with numeric action levels (NALs). Exceedances of TMDL-based NALs should be addressed through the Exceedance Response Action (ERA) process defined in the IGP (XII). Where the Regional Water Board establishes a TMDL-based NAL, consistent and distinct terminology should be used to distinguish it from the IGP NALs in Table 2, and to clearly articulate that the numeric criteria are modified NALs derived from TMDLs and are intended to be used in lieu of existing NALs for the purpose of IGP compliance at facilities subject to the pollutant specific TMDL. Consistent use of this terminology would also clearly establish that the numeric criteria in the TMDL-related requirements are intended to modify NALs and are not numeric standards (actual or defacto numeric effluent limitations) intended to determine whether discharges have exceeded Receiving Water Limitations (Section VI).</p>	
<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDI; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.06</b>	<p>The adoption of the TMDL-based NAL during the middle of the IGP reporting year could lead to ambiguity regarding determining compliance with the NALs for that reporting year. The Sanitation Districts recommend that the use of a new TMDL-based NAL to commence with the beginning of the IGP reporting year. Each TMDL-related requirement incorporated into the IGP needs to clearly define how compliance with the IGP will be determined for both (1) the reporting year in which the TMDL is adopted, and (2) subsequent reporting years.</p>	

<p><b>Los Angeles County Sanitation District</b></p>	<p><b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b></p>	<p><b>3/31/2016</b></p>	<p><b>9.07</b></p>	<p>Differentiation in Dry Weather and Wet Weather Wasteload Allocations (WLAs). The implementation of this TMDL into the IGP states "( d)ry-weather WLAs apply to discharges when the maximum daily flow in the Los Angeles River at any location is less than 500 cubic feet per second." The proposed implementation of this TMDL relies on all gauging stations in the Los Angeles River as a means of giving concentration limits for waste load allocations but given the sheer length of the Los Angeles River and the variability in urban runoff and river construction, as well as varying weather patterns over the Los Angeles River, large differences in recorded flow at gauging stations often occur. One facility may be discharging due to stormwater while another facility in the watershed may be discharging as a result of a NSW. Is each Discharger responsible for checking each gauging station on the Los Angeles River to determine the appropriate allocations? The Sanitation Districts suggest that all stormwater samples be treated as wet-weather and only NSWs be governed by the dry-weather allocations.</p>	
<p><b>Los Angeles County Sanitation District</b></p>	<p><b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b></p>	<p><b>3/31/2016</b></p>	<p><b>9.08</b></p>	<p>Conflict with IGP Regarding Exceedance Threshold Determination The proposed implementation of this TMDL into the IGP states "[i]f there is an exceedance of a TAL [TMDL-based NAL], the Discharger will be required to follow the ERAs process described in Section XII. However, the definition of an instantaneous maximum exceedance in the IGP does not mean a single exceedance result. According to Section XII.2., "an instantaneous maximum NAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL value." Therefore, the Sanitation Districts suggest the proposed implementation TMDL language be revised to agree with the IGP before it is adopted.</p>	

<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.09</b>	<p>Conflict with IGP on Applicable Parameters - Table 2 of the IGP specifies certain parameters to sample in a facility 's stormwater based upon the Responsible Discharger's primary Standard Industrial Classification (SIC) code. Based on the SIC code, sites are required to sample for different constituents: both ammonia as nitrogen (ammonia-N) and nitrate and nitrate as nitrogen (nitrate+nitrite-N) are required sampling parameters for some SIC codes. The proposed implementation of the Los Angeles River TMDL for Nitrogen Compounds and Related Effects into the IGP also lists specific SIC codes that are subject to the "existing NALs for pH, ammonia-N, and nitrate+nitrite-N in Table 2" of the IGP "and TMDL Action Levels for ammonia-N, expressed as instantaneous maximum values." But the subject SIC codes are not the same between the IGP and the TMDL implementation language. Per the Industrial General Permit, there are two categories for SIC code 4953 and one of those has no nitrogen-related required sampling parameters, but the proposed TMDL implementation language makes no distinction between the two kinds of facilities and requires facilities with this SIC code to monitor and be subject to ammonia-N and nitrate+nitrite-N NALs. The Sanitation Districts request the proposed TMDL implementation language be revised to agree with the IGP; specifically, the nitrogen-related NALs should only be applied to the "Hazardous Waste Facilities" portion of SIC code 4953.</p>	
<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.10</b>	<p>Conflict with IGP Regarding Exceedance Threshold Determination The proposed implementation of this TMDL into the IGP states "If there is an exceedance of a TAL, the Discharger will be required to follow the ERAs process described in Section XII. However, the definition of an instantaneous maximum exceedance in the IGP does not mean a single exceedance result. According to Section XII.2., "an instantaneous maximum NAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL value." Therefore, the Sanitation Districts suggest the proposed implementation TMDL language be revised to agree with the IGP before it is adopted.</p>	

<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDI; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.11</b>	<p>Scope Different from Original TMDL- The USEPA Long Beach City Beaches Bacteria and Los Angeles River Estuary TMDL (USEPA Beaches TMDL) addresses two primary drainages: referred to as the direct drainages, these include the Los Angeles River Estuary direct drainage and the Long Beach City beaches direct drainage. In addition to the direct drainages, adjacent drainages include the San Gabriel River and Los Angeles River drainages. However, the two primary drainage areas considered in the USEPA Beaches TMDL, and given TMDL allocations, are the Long Beach City beaches direct drainage and the Los Angeles River Estuary direct drainage (US EPA Beaches TMDL for Indicator Bacteria Section 3.4 ). The TMDL recognizes that a separate TMDL has been established for the Los Angeles River Bacteria impairment with its own waste load allocations that the San Gabriel River is also impaired and will be addressed by a separate TMDL.</p>	
<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDI; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.12</b>	<p>In contrast, the proposed implementation language for the TMDL into the IGP states "[r]esponsible dischargers include both those that are dischargers within the direct drainages to the Long Beach City Beaches and the Los Angeles River Estuary, as well as those industrial storm water dischargers within adjacent and upstream drainages, including the Los Angeles River Watershed, San Gabriel River Watershed, and Alamitos Bay Watershed, since discharges from those adjacent and upstream drainages are ultimately conveyed to the Long Beach City Beaches and the Los Angeles River Estuary." This implementation effectively gives TMDL limits to waterbodies that are addressed elsewhere in other TMDLs. (Both the Los Angeles River and San Gabriel River watersheds have indicator bacteria TMDLs that are either already in effect or are pending.) Therefore, these waterbody-specific TMDLs should be implemented into the IGP individually and not as part of a scope overreach of the USEPA Beaches TMDL. The Sanitation Districts request that the Los Angeles and San Gabriel River Watersheds be removed from the list of responsible dischargers throughout the implementation language that will be adopted into the IGP.</p>	

<b>Los Angeles County Sanitation District</b>	<b>Los Angeles River Watershed: Los Angeles River and Tributaries Metals TMDL; Los Angeles River TMDL for Nitrogen Compounds and Related Effects; Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>9.13</b>	<p>In summary, the proposed implementation of these three TMDLs seems problematic. It is unclear what efforts will bring Dischargers into compliance under the IGP. As proposed, the Sanitation Districts fear that the question of compliance will be left to a judge to decide, rather than that authority remaining where it belongs, with the State Board. As such, we encourage the State Board to revise these proposed TMDL implementation packages to 1) define clearly what the steps to compliance are for the Dischargers under each TMDL, and 2) to ensure agreement with the adopted Industrial General Permit.</p>	
<b>Los Angeles County Sanitation District</b>	<b>Machado Lake Subwatershed Machado Lake Pesticides and PCBs TMDL</b>	<b>4/18/2016</b>	<b>9.14</b>	<p>The Machado Lake Toxics TMDL assigns WLAs for contaminants associated with suspended sediment to stormwater dischargers in both wet and dry weather and states that the WLAs are applied with a 3-year averaging period. IGP Machado Lake TMDL Requirements, however, include suspended sediment WLAs without the 3-year averaging period component. As written, the IGP Machado Lake TMDL Requirements for WLAs are inconsistent with the Machado Lake Toxics TMDL WLAs and could be incorrectly interpreted as instantaneous maximum values or for an averaging period other than three years.</p>	
<b>Los Angeles County Sanitation District</b>	<b>Machado Lake Subwatershed Machado Lake Pesticides and PCBs TMDL</b>	<b>4/18/2016</b>	<b>9.15</b>	<p>The Sanitation Districts request that the IGP Machado Lake TMDL Requirements be corrected to incorporate the 3-year averaging period included in the Machado Lake Toxics TMDL. The WLAs can be corrected by simply adding a footnote to the WLAs table on page 3 of the IGP Machado Lake TMDL Requirements, as:</p> <p>Suspended Sediment-Associated Contaminants(ug/kg dry weight):</p> <ul style="list-style-type: none"> <li>Total PCBs 59.8</li> <li>DDT (all congeners) 4.16</li> <li>ODE (all congeners) 3.16</li> <li>DOD (all congeners) 4.88</li> <li>Total DDT 5.28</li> <li>Chlordane 3.24</li> <li>Dieldrin 1.9</li> </ul> <p>WLAs are applied with a 3-year averaging period.</p>	



<p><b>Los Angeles County Sanitation District</b></p>	<p><b>Machado Lake Subwatershed Machado Lake Pesticides and PCBs TMDL</b></p>	<p><b>4/18/2016</b></p>	<p><b>9.16</b></p>	<p>the Sanitation Districts request that the compliance determination language included in the Machado Lake Toxics TMDL be inserted into the IGP Machado Lake TMDL Requirements on page 5 as follows: ... retain storm water onsite, and/or treat storm water prior to discharge from the industrial facility can be used. Stormwater dischargers that fully divert a stormwater discharge to the sanitary sewer may document the diversion as a wet-weather monitoring event and report both the flow and pollutant concentration as zero. Unless all stormwater discharges are fully diverted to the sanitary sewer, at least one wet-weather event must be sampled according to the monitoring requirements above. Stormwater discharges that are not fully diverted are subject to the WLA compliance monitoring described. The reporting pollutant concentration of zero may be combined with other measures sampled concentrations (from stormwater discharges that are not fully diverted) when demonstrating compliance with the WLA over the 3-year averaging period. The addition of this language is imperative for determining compliance with WLAs for the Machado Lake Toxics TMDL. These monitoring and compliance determination practices were specified in the Sanitation Districts' Machado Lake TMDL Monitoring and Reporting Program (MRP) and Quality Assurance Project Plan (QAPP) for JWPCP, which was approved by Regional Board on September 16, 2014. The addition of this language will ensure that the extensive resources invested at the site for compliance with the TMDL is not without cause.</p>	
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<b>Los Angeles County Sanitation District</b>	<b>Machado Lake Subwatershed Machado Lake Pesticides and PCBs TMDL</b>	<b>4/18/2016</b>	<b>9.17</b>	<p>The IGP Machado Lake TMDL Requirements include a new provision for a suspended sediment concentration (SSC) TAL that was not included in the Machado Lake Toxics TMDL. Furthermore, the IGP includes ALs for total suspended solids (TSS) and does not contain requirements for SSC. TSS and SSC results are more or less similar when samples contain finer material. Given that pollutants of concern in this TMDL are more likely to adhere to smaller particulates and that industrial stormwater effluent sampling is more similar to wastewater sampling than sampling natural waters, the use of more common EPA-approved laboratory methods such as TSS or turbidity should be used. The Sanitation Districts recommend that the SSC method not be prescribed in the TMDL-specific requirements. The Sanitation Districts request further explanation to justify the use of SSC requirements as well as information used to determine the SSC TAL of 1 mg/L. In addition, the Sanitation Districts would like further clarification on TSS and SCC monitoring requirements. Given the existing language in the IGP Machado Lake TMDL Requirements, it is unclear if IGP TSS monitoring is a continuing requirement or if SCC monitoring replace the TSS monitoring requirements.</p>	
<b>Los Angeles County Sanitation District</b>	<b>Machado Lake Subwatershed Machado Lake Pesticides and PCBs TMDL</b>	<b>4/18/2016</b>	<b>9.18</b>	<p>To date, the Sanitation Districts have followed the TMDL requirements set forth in the Machado Lake Toxics TMDL for the JWPCP. As part of the Machado Lake Toxics TMDL MRP and QAPP approved by the Regional Board, JWPCP TMDL Phase 1 Monitoring began on June 17, 2014 and will conclude on June 30, 2016. Next, the Sanitation Districts plan to compile and submit the Phase I Results &amp; Phase 2 Monitoring Plan (Phase I Report), which is due by December 31, 2016. These efforts, however, are not detailed in the IGP Machado Lake TMDL Requirements. The Sanitation Districts request clarification on the continuation of the efforts set forth in the Machado Lake Toxics TMDL and how the efforts relate to the activities specified under the IGP Machado Lake TMDL Requirements. For example, please clarify if the Machado Lake Toxics TMDL MRP and QAPP and Phase I Results &amp; Phase 2 Monitoring Plan are still applicable or if the activities specified under the IGP Machado Lake TMDL Requirements supersede the requirements set forth in the Machado Lake Toxics TMDL.</p>	

City of Los Angeles	LA River Nitrogen Compounds TMDL	3/31/2016	10.01	<p>the City seeks equitable accountability from IGP sites that may discharge pollutants. This equitability will ensure that the responsibilities and costs placed on dischargers are borne fully by all parties that play a role in pollutant generation, and are fairly divided between public and private sources. The inclusion of these TMDLs into the IGP will help to ensure that all dischargers in the Los Angeles region are active in their stewardship of the local environment and that those waters deemed in need of greatest protection will receive the extra attention provided by these requirements.</p>	
City of Los Angeles	LA River Nitrogen Compounds TMDL	3/31/2016	10.02	<p>Los Angeles River Nitrogen Compounds TMDL  The Los Angeles River TMDL for Nitrogen Compounds and Related Effects TMDL (Nitrogen TMDL) assigns WLAs for industrial sources for ammonia, nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen in both wet and dry weather conditions. However, TMDL Action Levels (TALs) for ammonia-N are set based on the wet weather WLA only, which is based on the 1-hour TMDL numeric target. No TALs were included for the lower 30-day ammonia-N TMDL numeric target set for dry weather. Additionally, no TALs are identified specifically for nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen in the proposed IGP language. Rather Responsible Discharges are required to comply with the existing NALs presented in Table 2 of the IGP. However, Table 2 of the IGP does not include NALs for nitrate-nitrogen or nitrite-nitrogen. Therefore, the City requests the following specific changes to ensure consistency with the TMDL WLAs, as well as the manner in which the WLAs were incorporated into the City's MS4 Permit:</p> <ul style="list-style-type: none"> <li>• A TAL associated with the dry weather WLA based on the 30-day TMDL numeric target should be included.</li> <li>• The TMDL numeric targets as TALs for nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen should be directly incorporated rather than incorporated by reference. Or at a minimum, TALs for nitrate-nitrogen and nitrite-nitrogen should be added as they are not included in Table 2 of the IGP.</li> </ul>	

<p><b>City of Los Angeles</b></p>	<p><b>LA River Metals TMDL</b></p>		<p><b>10.3</b></p>	<p>Los Angeles River Metals TMDL  The Fact Sheet outlining the proposed changes to the IGP related to the Los Angeles River Metals TMDL (Metals TMDL) states that in order to attain compliance with WLAs, "Four months after incorporation of these TMDL-specific requirements, Responsible Dischargers, as defined above, are assigned Level 1 Status for the TMDL pollutants". The City owns and operates several facilities that are subject to the IGP and will be subject to the new IGP TMDL requirements. These facilities are also subject to the City's MS4 permit; and thus, the City has already invested in the installation and operation of advanced BMPs at these facilities which prevent contact with, retain, and/or treat almost all stormwater generated onsite. To place these facilities automatically into Level 1 status does not fully consider the successful programs and significant resources the City has implemented and invested. The City requests that the TMDL-specific required actions for the Metals TMDL mimic the NAL ERA procedures currently utilized in the IGP, which moves an industrial facility's status to ERA Level 1 only if there has been an exceedance of an action level. We believe that these requirements unfairly burden locations which are already operating in protection of water quality and not causing or contributing exceedances of water quality standards, including those of the Metals TMDL.</p>	
<p><b>City of Los Angeles</b></p>	<p><b>LA River Bacteria TMDL</b></p>		<p><b>10.4</b></p>	<p>Los Angeles River Bacteria TMDL  Industrial permittees are assigned WLAs in the Los Angeles River Bacteria TMDL (Bacteria TMDL) as follows (BPA pg 7): TMDL explicitly states in the WLA not General NPDES permits, individual NPDES permits, the Statewide Industrial Storm Water General Permit, the Statewide Construction Activity Storm Water General Permit, and WDR permittees in the Los Angeles River Watershed are assigned WLAs of zero (0) days of allowable exceedances of the single sample target for both dry and wet weather and no exceedances of the geometric mean target. Compliance with an effluent limit based on the water quality objective can be used to demonstrate compliance with the WLA. However, the Bacteria TMDL is not incorporated into the IGP. For consistency with the TMDL and the City's MS4 Permit, the IGP should be revised to incorporate the WLAs from the Bacteria TMDL as TALs.</p>	

<p><b>City of Los Angeles</b></p>	<p><b>LA River Trash TMDL</b></p>		<p><b>10.5</b></p>	<p>Los Angeles River Trash TMDL  The Los Angeles River Trash TMDL (Trash TMDL) does not specifically assign WLAs to industrial sources; however, industrial facilities have the potential to generate trash which is transported via wind and runoff into the City's MS4 where, per the MS4 Permit, it becomes the City's responsibility. Additionally, page 37 of the Trash TMDL Staff Report states, "plastic industries are the primary point source for plastic pellets". The City believes that IGP dischargers should be equally diligent about trash management as the other specifically allocated parties in the Trash TMDL. Therefore to the extent that IGP dischargers contribute trash to the City's MS4 and that additional trash load becomes part of a larger load of trash that the City is responsible under the Trash TMDL to manage, the IGP dischargers should be required to exert an equivalent effort to control that trash before it leaves their sites. The State acknowledges the contribution of trash to MS4s in its most recent Statewide efforts<sup>1</sup> to address trash in stormwater (Trash Amendments). The Trash Amendments are structured around each jurisdiction, calculating and subsequently managing a trash load from specific land uses. The five priority land uses are presumed to generate the most trash and thus contribute the most to the problem, and industrial is one of these five; and thus, is deemed a significant source of trash. At this time the IGP does not include the Trash Amendments or other significant specific trash controls, therefore to ensure that IGP dischargers are fully responsible for their share of the trash loads, the City requests that the State reopen the IGP and fully incorporate the Trash Amendments as part of the permit.</p>	
<p><b>City of Los Angeles</b></p>	<p><b>Machado lake Trash and Toxics</b></p>		<p><b>10.6</b></p>	<p>Monitoring  The data collected as part of IGP monitoring should be utilized to evaluate not only attainment of NALs/TALs, but should also be considered in the context of monitoring requirements. An agency, such as the City, should be able to propose modifications to monitoring frequencies based on the results of monitoring. The City requests that the IGP reflect an ability to propose modified monitoring requirements based on data analysis to the Regional Board, and for the Regional Board Executive Officer to allow for revision based on the analysis.</p>	

<p><b>City of Los Angeles</b></p>	<p><b>Machado Lake Toxics TMDL</b></p>	<p><b>4/18/2016</b></p>	<p><b>10.7</b></p>	<p>The Machado lake TMDL for pesticides and PCBs (Toxics TMDL) assigns WLAs for contaminants associated with suspended sediment to Industrial Stormwater Permittees for total polychlorinated biphenyls (PCBs) all congeners of dichlorodiphenyltrichloroethane (DDT), all congeners of dichlorodiphenyldichloroethyleen (DDE), all congeners of dichlorodiphenyldichloroethane (DDD), total DDT, chlordane, and dieldrin. However, TMDL action levels (TALs) are not established for these constituents. Rather, a TAL for Suspended Sediment Concentration (SSC) is established instead. While the city supports the control of sediment discharged from industrial facilities to the MS4, TALs that are more closely tied to the Constituents being addressed by the TMDL also seem appropriate to prevent a situation where an industrial discharger is meeting the SSC-Based TAL, But is not meeting the WLA for all constituents. Given that Toxic TMDL basin Plan Amendment explicitly states that “TMDL WLAs shall be incorporated into the MS4, CalTrans, and General Construction and Industrial Stormwater Permits”, the City Requests that TALs consistent with the Table in the Fact Sheet “ titled WLAs assigned to Storm Water Discharges and Authorized NSWDS form Industrial Storm Water General Permittees” be included</p>	
<p><b>City of Los Angeles</b></p>	<p><b>Machado Lake Trash</b></p>	<p><b>4/18/2016</b></p>	<p><b>10.8</b></p>	<p>The Machado Lake Trash TMDL (Trash TMDL) does not specifically assign WLAs to industrial sources; However, Industrial facilities have the potential to generate trash which is transported via wind and runoff into the city’s MS4 Permit, it becomes the City’s responsibility. The City Believes that the IGP dischargers should be equally diligent about trash management as the other specifically allocated parties in the trash TMDL. Therefore, to the extent that IGP dischargers contribute trash to the City’s MS4 and that additional Trash Load Becomes part of a larger Load of trash for which the City is responsible under the trash TMDL to Manage, the IGP dischargers should be required to exert an equivalent effort to control that trash before it leaves their sites.</p>	
<p><b>City of Los Angeles</b></p>	<p><b>Los Angeles Area Lakes</b></p>	<p><b>4/13/2016</b></p>	<p><b>10.9</b></p>	<p>The TMDL for Chlordane, dieldrin, PCBs in Echo Park Lake Contain waste load and load allocations for these pollutants in the sediments draining into the lake itself and upstream tributaries. The IGP fact sheet requires compliance with WLAs for all dischargers, and it includes TMDL Action Levels (TALs) for Suspended Sediment Concentration (SSC) specifically for dischargers who have identified their facilities as potential sources of chlordane, dieldrin, PCBs, and DDT. While the City supports the control of sediment discharged for industrial facilities to the MS4, TALs that are more closely tied to constituents being addressed by the TMDL also seem appropriate to prevent a situation where an industrial discharger is meeting the SSC-based TAL, but is not meeting the WLA</p>	

				for all constituents. Thus, the City request that TALs consistent with Specific WLAs as found in TMDL itself be applied to all facilities	
<b>City of Los Angeles</b>	<b>Trash TMDL for Echo Park Lake</b>	<b>4/13/2016</b>	<b>10.10</b>	The Trash TMDL incorporation into the IGP fact sheet includes a TAL of zero trash for IGP dischargers. Compliance with this TAL is achieved through the installation of either a full capture system for all drainage infrastructure of each discharger or through the implementation of a trash minimum frequency assessment and collection program. The City appreciates the thoroughness of these requirements, as they will help to ensure that industrial dischargers are working as hard as MS4 Permittee at eliminating the challenges posed by trash.	
<b>City of Los Angeles</b>	<b>Nutrient TMDL for Echo Park Lake</b>	<b>4/13/2016</b>	<b>10.11</b>	<p>The USEPA lakes TMDLs included components associated with nutrient related impairments. To address nutrients TMDL established WLAs for point source discharges. As stated on page 6-17 of the USEPA Lakes TMDLs (emphasis added).</p> <p>All responsible jurisdictions must meet the WLAs at the point of discharge as a mass load except for Stormwater permittees under the general industrial Stormwater permit that are receiving concentration-based WLAs. In the Table 6-6 below, Stormwater permittees under the general permit must meet the concentration values to achieve compliance with the WLAs.</p> <p>However, the Nutrients TMDL is not incorporated into the IGP. For consistency with the TMDL and the City's MS4 Permit, the IGP should be revised to incorporate the WLAs from Nutrients TMDL as TALs</p>	

<b>City of Los Angeles</b>	<b>Los Angeles Area Lakes</b>	<b>4/13/2016</b>	<b>10.12</b>	The data collected as part of IGP monitoring should be utilized to evaluate not only attainment of NALs/TALs but should also be considered in the context of monitoring requirements. An agency, such as the City, Should be able to propose modifications to monitoring frequencies based on results of monitoring. The City requests that the IGP reflect an ability to propose modification Monitoring requirements based on data analysis to the Regional Board, and for the Regional Board Executive Officer to allow for revision based on the analysis	
<b>SA Recycling</b>	<b>Unspecified</b>		<b>11.01</b>	should clearly articulate that the TMDL Action Levels (TALs) are intended to be used in lieu of existing Numeric Action Levels for the purpose of Industrial General Permit compliance at facilities subject to the pollutant specific TMDL. The language used should also clearly establish that the numeric criteria in the TMDL specific requirements are not numeric standards intended to determine whether discharges have exceeded Receiving Water Limitations of Industrial General Permit Part VI.	
<b>SA Recycling</b>	<b>Unspecified</b>		<b>11.02</b>	Additionally, SA Recycling recommends that the use of new TALs commence with the beginning of the Industrial General Permit reporting year to avoid confusion regarding determining compliance with the TALs for that reporting year.	
<b>SA Recycling</b>	<b>Unspecified</b>		<b>11.03</b>	To better clarify that compliance with the TMDL-based permit requirements satisfies receiving water limits for the relevant constituent, SA Recycling recommends that the TMDL language clearly state that compliance with its requirements constitutes compliance with Receiving Water Limitations of Industrial General Permit Part VI.A	
<b>SA Recycling</b>	<b>Unspecified</b>		<b>11.04</b>	stormwater programs currently implemented at industrial facilities can significantly reduce pollutant concentrations in stormwater; however, traditional stormwater source control or treatment control practices may not completely eliminate the pollutant or reduce the concentration to the TAL concentrations. Therefore, SA Recycling recommends that additional compliance options be included, such as onsite volume reductions of stormwater to reduce pollutant loads, and/or allowing industrial facilities to coordinate with municipal permittees' watershed planning efforts (i.e., Watershed Management Plans (WMPs), Enhanced Watershed Management Plans (EWMPs), Green Infrastructure Plans and regional BMPs). With the Los Angeles County Municipal Separate Storm Sewer System Permit's innovative and holistic approach to improving stormwater quality through WMPs and EWMPs, it is appropriate to allow and perhaps incentivize permittees under	



				the Industrial General Permit to participate in these alternative compliance projects.	
<b>Western States Petroleum Association</b>	<b>LA River, Long Beach City Beaches and LA River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina Del Rey, Ballona Creek, Estuary and Sepulveda Channel, LA and Long Beach Harbors, Machado Lake, Dominguez Channel, LA Area Lakes</b>	<b>3/31/2016</b>	<b>12.01</b>	Dischargers should be assigned Baseline Status for new constituents. The Los Angeles Regional Water Quality Control Board (Los Angeles Regional Board) proposes to incorporate each TMDL waste load allocation (WLA) as a numeric "TMDL Action Level (TAL)," which would be treated in the same manner as a Numeric Action Level (NAL) in the IGP. Placing Responsible Dischargers in Level 1 status immediately imposes requirements to complete an Exceedance Response Action (ERA) Evaluation, which would be inappropriate, and which imposes a potentially unnecessary burden, if an exceedance has not occurred. For this reason, WSPA requests that all dischargers be assigned Baseline Status for any new constituent for which monitoring data do not exist.	

<p><b>Western States Petroleum Association</b></p>	<p><b>LA River, Long Beach City Beaches and LA River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina Del Rey, Ballona Creek, Estuary and Sepulveda Channel, LA and Long Beach Harbors, Machado Lake, Dominguez Channel, LA Area Lakes</b></p>	<p><b>3/31/2016</b></p>	<p><b>12.02</b></p>	<p>Metals TMDLs for the Los Angeles River should be implemented in the IGP in consideration of the WER for copper and the recalculated criteria for lead.</p> <p>On April 9, 2015, the Los Angeles Regional Board adopted site-specific objectives (SSOs) for copper and lead (Order No. R15-004). The SSO for copper was based upon an extensive water effect ratio (WER) study, for which extensive sample collection and toxicity testing was conducted. The WER study found that copper was less toxic in ambient water in the Los Angeles River and its tributaries than in the laboratory water used to establish the default water quality criteria of the California Toxics Rule (CTR). Although it appears that the SSOs for lead and copper have not yet been approved by the State Water Resources Control Board, the Office of Administrative Law, or USEPA, the proposed IGP amendments do not reference these SSOs. In fact, the proposed IGP amendments state that, "...WER(s) have a default value of 1.0 unless site-specific WER(s) are approved. No site-specific values have been approved for industrial storm water discharges" (proposed amendments for Los Angeles River and Tributaries Metals TMDL at p. 7). This language leaves the impression that WER(s) must be approved for individual discharges or types of discharges. However, the Los Angeles Regional Board's adopting resolution for these SSOs indicated that the SSO study "was to determine WERs for copper that would apply to all sources in Reaches 1, 2, 3, and 4 of the LA River, as well as select tributaries: Compton Creek, Rio Hondo, Arroyo Seco, Verdugo Wash, Burbank Western Channel and Tujunga Wash" (Resolution No. R15-004 at p. 2; emphasis added). Because the SSOs developed by the WER and recalculation studies apply to receiving waters for both wet and dry weather conditions, the IGP TMDL requirements should be written to acknowledge these studies and to facilitate the incorporation of the applicable SSOs for copper and lead into the TALs proposed for the IGP, at such time as the SSOs become fully approved.</p>	
<p><b>Western States Petroleum Association</b></p>	<p><b>LA River, Long Beach City Beaches and LA River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek, Oxnard Drain #3,</b></p>	<p><b>3/31/2016</b></p>	<p><b>12.03</b></p>	<p>Requirements from metals TMDLs should implement TALs using the dissolved fraction of the metal, and should provide several ways of demonstrating compliance. Because the dissolved phase of a metal is the bioavailable fraction, and because water quality criteria for metals (e.g., CTR criteria) are expressed as dissolved metals, the proposals should be modified to implement the TALs for metals in the form of dissolved metals.</p>	

	Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina Del Rey, Ballona Creek, Estuary and Sepulveda Channel, LA and Long Beach Harbors, Machado Lake, Dominguez Channel, LA Area Lakes				
Western States Petroleum Association	LA River, Long Beach City Beaches and LA River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina Del Rey, Ballona Creek, Estuary and Sepulveda Channel, LA and Long Beach Harbors, Machado Lake, Dominguez Channel, LA Area Lakes	3/31/2016	12.04	The SWRCB should consider a regional approach to addressing issues related to non-industrial pollutant source demonstrations and natural background pollutant source demonstrations. Thus, if exceedances of these constituents occur, it cannot be assumed that the source is the industrial facility—but the burden of conducting studies to establish a non-industrial or background pollutant source demonstration may be significant. For this reason, we encourage the Los Angeles Regional Board and the State Water Board to consider allowing IGP Responsible Dischargers to team with each other, or with other permittees within the Region (e.g., MS4 permittees), to conduct these studies and make these demonstrations if they are needed.	

<b>Western States Petroleum Association</b>	<b>LA River, Long Beach City Beaches and LA River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina Del Rey, Ballona Creek, Estuary and Sepulveda Channel, LA and Long Beach Harbors, Machado Lake, Dominguez Channel, LA Area Lakes</b>	<b>3/31/2016</b>	<b>12.05</b>	<p>The IGP should be amended to provide several ways of demonstrating compliance with TMDL requirements. If the receiving water body is in attainment of TMDL requirements and water quality objectives, IGP permittees should also be considered to be in compliance with TMDL requirements. For this reason, WSPA requests that similar language be incorporated into the TMDL requirements added to the IGP, such that IGP Responsible Dischargers will be determined to be in compliance with TMDL requirements, for all constituents, if the receiving water is in compliance with TMDL requirements.</p>	
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<p><b>Western States Petroleum Association</b></p>	<p><b>LA River, Long Beach City Beaches and LA River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina Del Rey, Ballona Creek, Estuary and Sepulveda Channel, LA and Long Beach Harbors, Machado Lake, Dominguez Channel, LA Area Lakes</b></p>	<p><b>3/31/2016</b></p>	<p><b>12.06</b></p>	<p>TALs for indicator bacteria should be applied only to discharges that drain directly to the receiving waters covered by the TMDL; water quality criteria for marine waters should not be applied to discharges to freshwater bodies. The proposed amendments indicate that the IGP amendments for bacteria would apply to “Responsible dischargers...that are within the direct drainages to the Long Beach City Beaches, as does the Los Angeles River Estuary direct drainage, as well as those dischargers within adjacent and upstream drainages, since discharges from those adjacent and upstream drainages are ultimately conveyed to the Long Beach City Beaches and the Los Angeles River Estuary.”</p> <p>The proposed amendments further indicate that “the San Gabriel River, Los Angeles River, and Alamitos Bay watersheds (collectively termed “adjacent drainages”) discharge not directly to, but in close proximity to” the water bodies to which the TMDLs apply.</p> <p>Thus, it appears that the Los Angeles Regional Board is proposing that monitoring requirements and TALs for total coliform, fecal coliform, and enterococcus would apply to all IGP Responsible Dischargers within the watersheds of the Los Angeles River, San Gabriel River, and Alamitos Bay. However, most dischargers within these watersheds discharge to freshwater receiving water bodies (e.g., the Los Angeles and San Gabriel River), in many cases dozens of miles upstream from the TMDL water bodies, where freshwater water quality objectives for bacteria are expressed in the form of E. coli. To our knowledge, such an approach has not been previously applied. It is inappropriate to require the analysis of total coliform, fecal coliform, and enterococcus for freshwater discharges, and inappropriate to apply TALs for marine water quality requirements upstream of discharges to marine water bodies. WSPA requests that the proposal be modified to clarify that TALs for marine water quality objectives only apply to direct discharges to the TMDL-specified water bodies.</p>	
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<b>City of Los Angeles Sanitation District</b>	<b>Los Angeles River</b>	<b>3/31/2016</b>	<b>13.01</b>	<p>No TALs were included for the lower 30-day ammonia-N TMDL numeric target set for dry weather. Additionally, no TALs are identified specifically for nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen in the proposed IGP language. Rather Responsible Discharges are required to comply with the existing NALs presented in Table 2 of the IGP. However, Table 2 of the IGP does not include NALs for nitrate-nitrogen or nitrite-nitrogen. Therefore, the City requests the following specific changes to ensure consistency with the TMDL WLAs, as well as the manner in which the WLAs were incorporated into the City's MS4 Permit:</p> <ul style="list-style-type: none"> <li>• A TAL associated with the dry weather WLA based on the 30-day TMDL numeric target should be included.</li> <li>• The TMDL numeric targets as TALs for nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen should be directly incorporated rather than incorporated by reference. Or at a minimum, TALs for nitrate-nitrogen and nitrite-nitrogen should be added as they are not included in Table 2 of the IGP.</li> </ul>	
<b>City of Los Angeles Sanitation District</b>	<b>Los Angeles River</b>	<b>3/31/2016</b>	<b>13.02</b>	<p>Responsible Dischargers, as defined above, are assigned Level 1 Status for the TMDL pollutants". The City owns and operates several facilities that are subject to the IGP and will be subject to the new IGP TMDL requirements. These facilities are also subject to the City's MS4 permit; and thus, the City has already invested in the installation and operation of advanced BMPs at these facilities which prevent contact with, retain, and/or treat almost all stormwater generated onsite. To place these facilities automatically into Level 1 status does not fully consider the successful programs and significant resources the City has implemented and invested. The City requests that the TMDL-specific required actions for the Metals TMDL mimic the NAL ERA procedures currently utilized in the IGP, which moves an industrial facility's status to ERA Level 1 only if there has been an exceedance of an action level. We believe that these requirements unfairly burden locations which are already operating in protection of water quality and not causing or contributing exceedances of water quality standards, including those of the Metals TMDL.</p>	
<b>City of Los Angeles Sanitation District</b>	<b>Los Angeles River</b>	<b>3/31/2016</b>	<b>13.03</b>	<p>The Bacteria TMDL is not incorporated into the IGP. For consistency with the TMDL and the City's MS4 Permit, the IGP should be revised to incorporate the WLAs from the Bacteria TMDL as TALs.</p>	

<b>City of Los Angeles Sanitation District</b>	<b>Los Angeles River</b>	<b>3/31/2016</b>	<b>13.04</b>	<p>The Los Angeles River Trash TMDL (Trash TMDL) does not specifically assign WLAs to industrial sources; however, industrial facilities have the potential to generate trash which is transported via wind and runoff into the City's MS4 where, per the MS4 Permit, it becomes the City's responsibility. To the extent that IGP dischargers contribute trash to the City's MS4 and that additional trash load becomes part of a larger load of trash that the City is responsible under the Trash TMDL to manage, the IGP dischargers should be required to exert an equivalent effort to control that trash before it leaves their sites. At this time the IGP does not include the Trash Amendments or other significant specific trash controls, therefore to ensure that IGP dischargers are fully responsible for their share of the trash loads, the City requests that the State reopen the IGP and fully incorporate the Trash Amendments as part of the permit.</p>	
<b>City of Los Angeles Sanitation District</b>	<b>Los Angeles River, Dominguez Channel/ LA Harbor Watershed</b>	<b>3/31/2016, 4/25/2016</b>	<b>13.05</b>	<p>The data collected as part of IGP monitoring should be utilized to evaluate not only attainment of NALs/TALs, but should also be considered in the context of monitoring requirements. An agency, such as the City, should be able to propose modifications to monitoring frequencies based on the results of monitoring. The City requests that the IGP reflect an ability to propose modified monitoring requirements based on data analysis to the Regional Board, and for the Regional Board Executive Officer to allow for revision based on the analysis. The City would like to reiterate that by equitably sharing the responsibilities of pollutant control the State will help ensure that all potentially responsible sources are doing their part to protect water quality.</p>	
<b>SoCal Gas</b>	<b>Santa Clara River Watershed, Los Angeles River Watershed, Long Beach City Beaches, LA River Estuary TMDL for Indicator Bacteria</b>	<b>3/31/2016</b>	<b>14.01</b>	<p>The definition of wet weather days in the Required Actions section of the TMDL following the table of parameter TALs (days of 0.1 inch of rain or more plus three days following the rain event) does not correspond to the storm water IGP definition of a qualified storm event. That is "a precipitation event that produces a discharge from an industrial area that is preceded by 48 hours without precipitation." SoCal Gas recommends that the definition be revised to be the same as the IGP definition or give an explanation for the difference.</p>	

SoCal Gas	Los Angeles River and Tributaries Metals TMDL	3/31/2016	14.02	The draft incorporates a truncated discussion of Baseline TMDL Action Level status in the foot notes of the document rather than a discussion in the text which makes reading and understanding the TMDL requirements difficult. SoCal Gas recommends that the baseline TAL status be discussed in the text. It's understood that all the discharges subject to these TMDLs start out at Baseline TAL status at the time the SWRCB incorporates the requirements into the IGP; unless, the discharger is already at level 1 or level 2 status of TMDL pollutants. The discussion should then provide the detailed conditions/demonstrations and the timeline necessary to maintain baseline status. The text can then follow with discussing level 1 status and its requirements and timelines based on the baseline conditions/demonstrations not being met or provided.	
SoCal Gas	Los Angeles River and Tributaries Metals TMDL	3/31/2016	14.03	The triggers and timing of the requirement to perform an initial level 1 ERA evaluation and report are burdensome to potentially TAL compliant dischargers. SoCal Gas recommends that the requirement for conducting a level 1 ERA evaluation and report incorporated into this TMDL be the same as in the LA River TMDL for Nitrogen Compounds and the Long Beach Cities and LA River Estuary for Indicator Bacteria. This approach would be in line with the IGP's NAL exceedance requirement rationale. Alternatively, SoCalGas recommends the provision for continuing baseline TAL status in conjunction with any result of the assessment of potential pollutant sources reevaluation and allow sampling and analysis of the first two QSEs after the incorporation of the TMDL requirements into the IGP. If either of the first two QSEs has results equal to or above the TAL, then level 1 TAL status would result and trigger the level 1 TAL evaluation and report within six months after the incorporation of these TMDL specific requirements in the Order.	
SoCal Gas	Los Angeles River and Tributaries Metals TMDL	3/31/2016	14.04	So Cal Gas recommends substituting the required actions section methodology and appropriate wording of the LA River Nitrogen Compounds and Related Effects TMDL and Indicator bacteria TMDL into the metals TMDL. This would satisfy SoCal Gas objections to the methodology. Below are the proposed revisions:	



SoCal Gas	Los Angeles River and Tributaries Metals TMDL	3/31/2016	14.05	<p>Required Actions Section of the TMDL Compliance with Waste Load Allocations Comply with the conditions and requirements of this Industrial Storm Water General Permit (Order No. 2014-0057-DWQ).</p> <p>The Discharger is at Baseline Status with regard to the TMDL pollutants at the time of incorporation of these TMDL-specific requirements unless the Discharger is already in Level 1 or Level 2 Status for the TMDL pollutants pursuant to Section XII.C or Section XII.D for the TMDL pollutant(s). Four months after incorporation of these TMDL-specific requirements, Responsible Dischargers, as defined above, are assigned Level 1 Status for the TMDL pollutants unless one of the following conditions is met for each TMDL pollutant</p>	
SoCal Gas	Los Angeles River and Tributaries Metals TMDL	3/31/2016	14.06	<p>The Discharger is already in Level 1 or Level 2 Status pursuant to Section XII.C or Section XII.D for the TMDL pollutant(s); or</p> <ul style="list-style-type: none"> <li>• The Discharger re-evaluates, with the assistance of a QISP, its Assessment of Potential Pollutant Sources (Section X.G.2.a.ix) in its current Storm Water Pollution Prevention Plan (SWPPP), relative to TMDL pollutants and finds that its non-storm water discharges and its storm water discharges associated with industrial activities do not have the potential to contain the TMDL pollutant(s) 2; or</li> <li>• The Discharger provides the following: <ul style="list-style-type: none"> <li>For storm water discharges, a demonstration that sampling results from the last 4 Qualifying Storm Events (QSEs), or either of the first two QSEs after incorporation of these TMDL-specific requirements in this Order, did not exceed the TMDL Action Levels (TALs)<sup>3</sup>, set forth in the tables below, and</li> <li>o For NSWDs, a demonstration, based on the last 6 monthly visual observations that there are no unauthorized NSWDs and that best management practices (BMPs) for any authorized NSWDs are included in the SWPPP and are being fully implemented as required by Section IV.B.3.4</li> </ul> </li> </ul>	

SoCal Gas	Los Angeles River and Tributaries Metals TMDL	3/31/2016	14.07	<p>Recommended Revisions to the Fact Sheet for Los Angeles River and Tributaries Metals TMDL</p> <p>Required Actions</p> <p>Compliance with Waste Load Allocations</p> <p>Section VILA requires that Dischargers comply with TMDL-specific requirements.</p> <p>The Discharger is at Baseline Status with regard to the TMDL pollutants at the time of incorporation of these TMD L-specific requirements unless the Discharger is already in Level 1 or Level 2 Status for the TMDL pollutants pursuant to Section XII.C or Section XIOI.D or the TMDL pollutant(s). Because, overall, industrial storm water dischargers have been found to be a significant source of metals loading to the Los Angeles River and its tributaries, Responsible Dischargers (as defined above) will be assigned Level 1 Status for the TMDL pollutants as of four months after incorporation of these TMDL-specific requirements in this Order unless one of the following conditions is met for each TMDL pollutant:</p>	
SoCal Gas	Los Angeles River and Tributaries Metals TMDL,	3/31/2016	14.08	<p>The Discharger is already in Level 1 or Level 2 Status pursuant to Section XII.C or Section XII.D for the TMDL pollutant(s); or</p> <ul style="list-style-type: none"> <li>• The Discharger re-evaluates, with the assistance of a QISP, its Assessment of Potential Pollutant Sources (Section X.G.2.a.ix) in its culTent Storm Water Pollution Prevention Plan (SWPPP), relative to TMDL pollutants and finds that its non-stmm water discharges and its storm water discharges associated with industrial activities do not have the potential to contain the TMDL pollutant(s) 9; or</li> <li>• The Discharger provides the following: <ul style="list-style-type: none"> <li>o For storm water discharges, a demonstration that sampling result from the last 4 Qualifying Storm Events (QSEs), or either of the first two QSEs after incorporation of these TMDL-specific requirements in this Order, did not exceed the TMDL Action Levels (TALs)IO, set forth in the tables below, and</li> <li>o For NSWDs, a demonstration, based on the last 6 monthly visual observations that there are no unauthorized NSWDs and that best management practices (BMPs) for any authorized NSWDs are included in the SWPPP and are being fully implemented as required by Section IV.B.3.11</li> </ul> </li> </ul>	

<p><b>SoCal Gas</b></p>	<p><b>Ballona Creek Estuary Total Maximum Dial Load for Toxic Pollutants, Ballona Creek Metals</b></p>	<p><b>4/14/2016</b></p>	<p><b>14.9</b></p>	<p>The TMDL should be clear that Each IGP discharger, whose original Pollutant Source Assessment and whose reevaluation of their Pollutant Source Assessment required by this TMDL does not identify the presence of the TMDL Pollutant, is not subject to the pollutant specific TMDL based requirements.</p>	
<p><b>SoCal Gas</b></p>	<p><b>Ballona Creek Estuary Total Maximum Dial Load for Toxic Pollutants, Ballona Creek Metals</b></p>	<p><b>4/14/2016</b></p>	<p><b>14.10</b></p>	<p>The TMDL should be clear that each discharger with coverage under the IGP is at Baseline once the State Water Resources Control Board (SWRCB) incorporates the TMDL-specific requirements until the reevaluation of the Discharger's Potential Pollutant Source Assessment is complete according to TMDL timeline.</p>	

SoCal Gas	Ballona Creek Estuary Total Maximum Dial Load for Toxic Pollutants, Ballona Creek Metals	4/14/2016	14.11	<p>The derivation of the concentration based TALs and related WLAs are not clear. The Final Staff report primarily discusses the basis and calculation methodology verbally with Tables of intermediate and final results. The Verbal Logic and tabular results should be followed and prefaced with calculation examples for both dry and weather and wet weather TMDL in order for educated Laypersons to follow and confirm results.</p>	
SoCal Gas	Ballona Creek Estuary Total Maximum Dial Load for Toxic Pollutants	4/14/2016	14.12	<p>The IGP states that “the discharger shall ensure that all laboratory analyses are conducted according to test procedures under 40 Code of Federal Regulations part 136, including the Observation of holding times, unless other test procedures have been specified in this general permit or by the Regional Board has specified in this General Permit or by the Regional Water Board”. The Regional Board specified the use of the Suspended Solids Concentration (SSC) test Method ASTM D3877-97 in lieu of the (TSS) test method 2540D. In addition the Regional Board has specified a SSC instantaneous TAL for the SSC method of 1 mg/l versus the IGP instantaneous NAL of 400 mg/l for the TSS method. The Regional Board has essentially mandated a “zero” sediment discharge.</p> <p>SoCal Gas recognizes that metals and toxic compounds can be absorbed by or carried by sediment. However, that latest staff report assumed that the “current” Estuary sediment metals and toxic pollutant loading is characteristics of the more current partitioning in the NSWs and Storm Water Dischargers subject to this TMDL. The setting of a “zero” sediment discharge limit without allowing these dischargers to characterize the metals and toxic pollutant levels in their sediment discharges is unwarranted and potentially overly burdensome</p>	

SoCal Gas	Ballona Creek Estuary Total Maximum Dial Load for Toxic Pollutants	4/14/2016	14.13	SoCal Gas recommends that the TMDL follow the IGP methodology and timeline for TALs as it does for NALs. Facilities that originally conducted Potential Pollutant Source Assessments for the new IGP and did not find appreciable potential for metals in storm water or NSW discharges, most likely have not sampled for metals. A QISP assisted reevaluation may tend to be overly conservative and cause a facility to be automatically classified as Level 1 unnecessarily. Instead, it is recommended that facilities with a reevaluation indicating potential metals exposure initially stay a Baseline (not automatically reach level1) but would be required to sample for the metals. If one or more metals exceed the TAL, then the facility would be elevated to Level 1 for that parameter and be required to perform a Level 1 ERA report. This methodology would also mitigate any reevaluation disputes between QISP and facility owners.	
SoCal Gas	Ballona Creek Metals	4/14/2016	14.14	SoCal Gas recommends that the TMDL follow the IGP methodology and timeline for TALs as it does for NALs. Facilities that originally conducted Potential Pollutant Source Assessments for the new IGP and did not find appreciable potential for metals in storm or NSW discharges, most likely have not sampled for metals. A QISP assisted reevaluation may tend to be overly conservative and cause a facility to be automatically Classified as Level 1) but would be required to sample for the metals. If one or more metals exceed the TAL, then the facility would be elevated to Level 1 for that parameter(s) and be required to perform a level 1 ERA Report. This Methodology would also mitigate any reevaluation disputes between QISP and Facility Owners.	

SoCal Gas	Ballona Creek Total Maximum Daily Load (TMDL) for Metals	5/13/2016	14.15	<p>Southern California Gas Company's (SCG) interpretation of non-applicability is based on the description of the location of the TMDL in Section 6.1 of the July 7, 2005 Final Staff Report titled "Total Maximum Daily Load for Metals In Ballona Creek. In Section 6.1 it states that "Loadings from Centinela Creek are not considered in this TMDL because it is not listed and it drains directly to the Estuary rather than the Creek". SCG interprets this statement as excluding any facilities that border on or are to the southwest of Centinella Creek and along the Ballona Wetlands. Attached is the cover page to the July 7, 2005 Staff Report, the applicable section of Section 6.1, and a staff report map in which depicts the SCG interpretation and the location of the SCG Playa Del Rey facility. Also attached are Figures from the facility's current SWPPP for use in your review.</p>	
SoCal Gas	Ballona Creek Estuary Toxic Pollutants TMDL	5/13/2016	14.16	<p>Southern California Gas Company's interpretation of non-applicability is based on Facility discharge locations which discharge to the Ballona Wetlands rather than the Ballona Estuary. Attached is a copy of the SWPPP Facility Description for use in your review.</p>	

<b>State of California Auto Dismantlers Association</b>	<b>Los Angeles River, Long Beach City Beaches &amp; Los Angeles River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek &amp; Watershed, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina del Rey, Ballona Creek, Estuary &amp; Sepulveda Channel, Los Angeles &amp; Long Beach Harbors, Machado Lake, Dominguez Channel, Los Angeles Area Lakes</b>	<b>3/31/2016</b>	<b>15.01</b>	<p>With a number of the TMDL monitoring requirements to be incorporated into the IGP being new, permittees will not have existing data to rely upon for assessing potential for exceedances or if additional BMPs might be warranted to prevent the exceedances. Because some of the constituents are new, IGP permittees may not have historically measured concentrations of these constituents in discharges from their facilities. As such, they are not likely going to have data to base determinations about control measures on nor will they be clear about what measures would be necessary to manage these constituents. In this regard, SCADA recommends that all dischargers be placed at baseline for any new constituent where monitoring data is not available. Responsible dischargers, like those that are SCADA members, should have the opportunity to begin at baseline status.</p>	
<b>State of California Auto Dismantlers Association</b>	<b>Los Angeles River, Long Beach City Beaches &amp; Los Angeles River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek &amp; Watershed, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado</b>	<b>3/31/2016</b>	<b>15.02</b>	<p>Consistent with its previous comments to the State Water Resources Control Board (SWRCB), SCADA strongly recommends the IGP be amended with the incorporation of the TMDL provisions to allow various options for dischargers to demonstrate compliance with overall IGP and specific TMDL requirements. Some of the regional board provisions allow for multiple options to achieve compliance if receiving water bodies are in attainment of TMDL requirements and water quality objectives, IGP permittees should also be considered to be in compliance with TMDL requirements based on flexibility to meet those requirements.</p>	

	Lagoon, Santa Monica Bay, Marina del Rey, Ballona Creek, Estuary & Sepulveda Channel, Los Angeles & Long Beach Harbors, Machado Lake, Dominguez Channel, Los Angeles Area Lakes				
State of California Auto Dismantlers Association	Los Angeles River, Long Beach City Beaches & Los Angeles River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek & Watershed, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina del Rey, Ballona Creek, Estuary & Sepulveda Channel, Los Angeles & Long Beach Harbors, Machado Lake, Dominguez Channel, Los Angeles Area Lakes	3/31/2016	15.3	SCADA has long been concerned that there is not a broader review of the various background sources that contribute to background pollutant sources that are often inappropriately attributed to individual dischargers. In this regard, SCADA urges the state and regional boards to consider supporting a regional approach to addressing issues related to non-industrial pollutant sources and background pollutant source demonstrations whereby regional permittees could collaborate to conduct an assessment of the various background sources in a particular region that may be inappropriately attributed to IGP permittees. This would be of great assistance to permittees who find themselves in Level 2 with the need to bear the burden and cost of demonstrating that an exceedance(s) of a Numeric Action Level (NAL) is related to the presence of non-industrial pollutant sources or the source is tied to natural background not disturbed by industrial activities.	



<b>State of California Auto Dismantlers Association</b>	Los Angeles River, Long Beach City Beaches & Los Angeles River Estuary, San Gabriel River, Los Cerritos Channel, Santa Clara River, Calleguas Creek & Watershed, Oxnard Drain #3, Ventura River/Ventura Coastal, Colorado Lagoon, Santa Monica Bay, Marina del Rey, Ballona Creek, Estuary & Sepulveda Channel, Los Angeles & Long Beach Harbors, Machado Lake, Dominguez Channel, Los Angeles Area Lakes	<b>3/31/2016</b>	<b>15.4</b>	SCADA would also urge consideration of the possibility that establishing numeric limits does not account for pollutant loading differences among permittees. One discharger might be responsible for significant pollutant loading into the waterway annually, while another may load a de minimis amount. Under the proposed TMDL scenarios, however, they are treated equally because the limits are concentration-based rather than a mass-based limit. This assessment does nothing to account for risk and the differences among permittees who are attempting to be in compliance versus those that choose to ignore regulatory requirements in their totality.	
<b>Orange County Public Works</b>	<b>San Gabriel River</b>	<b>4/4/2016</b>	<b>16.1</b>	The TMDL for Indicator Bacteria in the San Gabriel River has been adopted by the Regional board on July 10, 2015 and by State Board on November 17, 2015. Final approvals by OAL and EPA are expected soon, likely before the State Board adopts the TMDL requirements for the IGP. It may be advisable and more efficient to incorporate as a placeholder, the TMDL requirements for the indicator bacteria TMDL and make the requirements effective once the TMDL is fully approved.	
<b>Orange County Public Works</b>	<b>San Gabriel River</b>	<b>4/4/2016</b>	<b>16.2</b>	CWA 303 d listed waters should be considered by the IGP in addition to waters with approved TMDLs. Implementation strategies by IGP permittees should consider multi-benefit BMPs that address all listed pollutants, not just the TMDL pollutants.	

<b>Orange County Public Works</b>	<b>San Gabriel River</b>	<b>4/4/2016</b>	<b>16.3</b>	Copper and zinc are often associated with nonpoint source atmospheric fallout. To be consistent with the assumptions underlying the TMDL waste load allocations (WLA), alternative compliance pathways for these pollutants should be provided for IGP permittees. In the current TMDL, the mass based WLA (aggregated for all IGP permittees) for wet weather are deemed less practical compared to concentration based WLAs. However, to many IGP permittees, these mass based wet weather WLAs may provide a more realistic and achievable pathway to complying with the IGP TMDL requirements. CASQAs recommendation to encourage IGP permittees to collect, infiltrate, and reuse stormwater and receive load reduction credit as a means to meeting the TMDL requirements has merit and should be considered.	
<b>Orange County Public Works</b>	<b>San Gabriel River</b>	<b>4/4/2016</b>	<b>16.4</b>	IGP permittees should be able to form compliance groups based on watershed area, including subwatershed areas such as industrial parks, where industrial facilities of various types are concentrated and would be easier to manage as a group. This will improve the efficiency of complying with these TMDLs.	
<b>Orange County Public Works</b>	<b>San Gabriel River</b>	<b>4/4/2016</b>	<b>16.5</b>	San Gabriel Watershed MS4s have a long history of working together on water quality issues and have formed a watershed group to manage the metals TMDL and other water quality issues holistically. The option for IGP permittees within the watershed to join the group either individually or collectively to achieve the maximum efficiency and effectiveness is therefore helpful.	
<b>Heal the Bay</b>	<b>San Gabriel River, Ballona Creek Bacteria TMDL</b>	<b>4/4/2016, 4/12/2016</b>	<b>17.1</b>	First and foremost, as we discussed in our comments regarding the Los Angeles River Watershed and are likely to do in future comments, we want to bring attention to the use of Total Maximum Daily Load Action Limits (TALs). From our understanding, they serve as a pseudo “three strikes and you’re out of compliance” scenario. Similar to Numeric Action Limits, they can be used to delay preventative measures from being taken by the noted 596 industrial facilities currently enrolled in the Industrial General Permitting system within the San Gabriel River Watershed and under the jurisdiction of the Los Angeles Board. To our understanding these Action Limits are not enforceable to any beneficial degree. Imposing unenforceable, and therefore optional, goals to permit holders will do little to alleviate the pollutant metals within the San Gabriel River watershed from entering our waterways. Further, the process outlined in the Draft Requirements serves to extend the timeline for permittees to achieve compliance. For example dry weather compliance is supposed to be received on permit achieved.	

Heal the Bay	Ballona Creek Bacteria TMDL	4/12/2016, 4/14/2016	17.2	The incorporation of the Bacterial Indicator Densities TMDL for Ballona Creek, Ballona Estuary, and Sepulveda Channel into the IGP is generally consistent with the TMDL. However, the monitoring requirement in the IGP for dischargers that identify potential sources of bacteria in their non-stormwater discharge is inadequate at two times during each reporting year. We recommend sampling of any non-stormwater discharge whenever it occurs or a minimum of monthly sampling in order to protect beneficial uses.	
Heal the Bay	Ballona Creek Bacteria TMDL	4/12/2016, 4/14/2016	17.3	The Draft Requirements state on page 5 (page 7 of the entire document) that “the Industrial Storm Water General Permit only regulates discharges of non-storm water and storm water that are directly related to manufacturing, processing or raw materials storage areas from industrial activities in ten major categories of industries (Attachment A to Order No. R4-2014-0057-DWQ). These discharges are currently not expected to be a significant source of indicator bacteria.” We examined Attachment A and found that the ten major categories of industries include feedlots, fertilizer manufacturing, and sewage or wastewater treatment works. These industries all are very possible sources of indicator bacteria and we expect that these types of facilities would be considered Responsible Parties and already have indicator bacteria addressed in their Storm Water Pollution Prevention Plan (SWPPP). However, if not, we would recommend that these types of facilities be required to address indicator bacteria in their SWPPPs and to monitor for indicator bacteria.	
Heal the Bay	Ballona Creek Estuary TMDL for Toxic Pollutants	4/12/2016, 4/14/2016	17.4	The TMDLs of concern for the Ballona Creek Estuary are of a different nature than a majority of the other TMDLs looked at in the LARWQCB’s permits. Because they involve predominantly hydrophobic molecules, it makes more sense, as the Board acknowledges, to be measured in Suspended Sediment Concentration (SSC). This is particularly relevant because these industrial permits deal in storm water runoff, and these pollutants tend to bind to sediments and other non-polar molecules. While this works to get a better measure of these pollutants, it also presents its own unique set of possibilities in relation to sampling.	

<b>Heal the Bay</b>	<b>Ballona Creek Estuary TMDL for Toxic Pollutants</b>	<b>4/12/2016, 4/14/2016</b>	<b>17.5</b>	Unlike some of the other pollutants, which are more likely to run-off with the water and call for sampling immediately following storm or non-storm water events, these pollutants will be in the water and will also remain and leave their fingerprints within the sediments after the storm or non-storm runoff event. In this way simple sediment sampling bi-monthly will ascertain whether individual sources are in compliance with the state Industrial Storm Water General Permits, regardless of whether storm or non-storm water events have happened. Because it lacks the inconvenience of some of the other TMDLs in question, Heal the Bay feels that the sampling for SSC happening twice a year is far too seldom. Requesting a permit holder to sample every two months will speed up the ability of a permit holder to get into compliance within the slow-progressing nature of the TAL program currently proposed. This would be especially beneficial considering the toxicity of the pollutants in question.	
<b>Heal the Bay</b>	<b>Ballona Creek Metals TMDL</b>	<b>4/12/2016, 4/14/2016</b>	<b>17.6</b>	A large concern with the dry weather TALs is that the Ballona Creek Metals TMDL clearly states that “a waste load allocation of zero is assigned to all general construction and industrial storm water permittees during dry weather.” <sup>2</sup> Given that the TMDL does not allow loading of metals from dry weather discharges from industrial permittees, it is inappropriate to assign non-zero TALs for these discharges. In addition we want to make clear, like stated above, we feel that twice yearly monitoring of non-storm water discharges is simply not sufficient. Ideally this would take place whenever it occurs, or at the very least, once a month to protect our waterways’ beneficial uses from metals known to do harm.	
<b>Heal the Bay</b>	<b>Marina del Rey Harbor Mother's Beach and Back Basins bacteria TMDL</b>	<b>4/12/2016</b>	<b>17.7</b>	We recommend sampling of any non-stormwater discharge whenever it occurs or a minimum of monthly sampling in order to protect beneficial uses.	

Heal the Bay	Marina del Rey Harbor Mother's Beach and Back Basins bacteria TMDL	4/12/2016, 4/14/2016	17.8	Of particular concern is the statement in the Draft Requirements on page 5 (page 34 of the entire document) that "the bacterial loads associated with these [ten major categories of industries] are largely unknown, since most have not monitored for bacteria. However, these discharges are currently not generally expected to be a significant source of indicator bacteria." These statements are contradictory; if the bacterial inputs are unknown, how do you know they are not a likely source? This statement requires further evidence and explanation. If the bacteria loads from industrial discharges are in fact largely unknown, we recommend that all industrial permittees monitor initially for bacteria and then, if they can justify reasoning for no longer monitoring bacteria, then bacterial monitoring could be potentially dropped. However, any industrial facilities that contain biological materials or are likely to have bacterial discharges need to monitor regularly for discharges of indicator bacteria, such as feedlots, fertilizer manufacturing, and sewage or wastewater treatment works.	
Heal the Bay	Marina del Rey Harbor TMDL for Toxic Pollutants	4/12/2016, 4/14/2016	17.9	more sampling should be done on the sediments within range of the storm and non-storm water runoffs at least every two months.	
Heal the Bay	Marina del Rey Harbor TMDL for Toxic Pollutants	4/12/2016, 4/14/2016	17.10	We also question why the wasteload allocation for polychlorinated biphenyls (1.3 mg/yr/ac) within Marina del Rey Harbor is more than four times the amount allotted for PCBs within Ballona Creek Estuary (0.28 mg/yr/ac). This is the sole toxic pollutant with this reverse trend, as most of the estuary's SSCs have concentrations greater than those in Marina del Rey Harbor. This could be as simple an explanation as PCBs being added to marine paint—and Marina del Rey Harbor has an abundance of boats. Regardless of why it's larger there's an argument that the SSC levels (and resulting TALs) of PCBs should be as low if not lower than they are within the Ballona Creek Estuary.	
Heal the Bay	Santa Monica Bay nearshore and offshore debris	5/18/2016	17.11	After reviewing the State Water Board's analysis of the release of nearshore and offshore debris, in this case plastic pellets, we commend the Board for choosing a TAL of zero pellets being allowed for discharge. As the Board is quite aware, plastic pollution is becoming more and more ubiquitous within our environment. This is coupled with our increasing awareness as a society of the dangers plastics pose, regardless of their shape and size.	

<b>Heal the Bay</b>	<b>Santa Monica Bay nearshore and offshore debris</b>	<b>5/18/2016</b>	<b>17.12</b>	<p>There is one aspect regarding the monitoring of plastic pollution that causes concern. Within the monitoring section of the “Monitoring and Reporting Requirements” on page 6, dischargers are asked to evaluate whether plastic pellets are entering the environment by making visual observations. This can be problematic because the plastic pellets in question can be quite small: less than 5mm.<sup>1</sup> This is especially true when considering the possibility of plastic pellets being transparent, making them all the more invisible and likely to escape notice of the naked eye.</p> <p>Considering this dilemma, we feel the State Water Board should double down on efforts to successfully implement the non-structural best management practice (BMP) known as Operation Clean Sweep. Discussed thoroughly in the <i>Santa Monica Bay Nearshore and Offshore Debris TMDL</i> (2010), this BMP focuses on zero pellet loss by implementing training and education for industry employees that works alongside proper sweeping and vacuuming equipment and well positioned catch trays to minimize plastic pellet loss.</p>	
<b>Heal the Bay</b>	<b>Santa Monica Bay nearshore and offshore debris</b>	<b>5/18/2016</b>	<b>17.13</b>	<p>There is also a possible language ambiguity on page 4 paragraph 3 under the “Required Actions” heading of the Nearshore and Offshore Debris TMDL. Currently, the two methods of defining dischargers in question is first by Standard Industrial Classification (SIC) code and the second is any “industrial facilities with the term ‘plastic’ in the facility or operator name, regardless of the SIC code, that have the potential to discharge plastic pellets and discharge non-storm water and/or storm water associated with industrial activities to Santa Monica Bay . . .” We recommend taking out language of needing a facility or operator to have the word “plastic” in their title, and just defining them as “any facility or operator that has the potential to discharge plastic pellets.” The language as is sounds like a facility might get away with discharging plastic pellets as long as the facility is not identified with a SIC code and they don’t have the word “plastic” somewhere in their name.</p>	
<b>Joyce Dillard</b>	<b>Dominguez Channel, LA Harbor Watershed TMDL</b>	<b>4/25/2016</b>	<b>18.1</b>	<p>Upstream watershed management and monitoring activities are unclear. Will it be outfall monitoring?</p>	

Joyce Dillard	Dominguez Channel, LA Harbor Watershed TMDL	4/25/2016	18.2	How does the MS4 interface with compliance issues especially in Enhanced Watershed Management Areas? If all stormwater is captured, it appears that industrial permits have no liability or compliance.	
Joyce Dillard	Dominguez Channel, LA Harbor Watershed TMDL	4/25/2016	18.3	It is not clear how the Dry-Weather and Wet-Weather TMDLs are implemented in this industrial permit. Is it the Tetra Tech model or the LA County model?	
Pacific Merchant Shipping Association	Dominguez Channel, LA Harbor Watershed TMDL	4/25/2016	19.1	PMSA members are very concerned the TMDL Action Levels or (TALs) proposed in the Draft Harbor Toxics TMDL-specific permit requirements are not scientifically based and not technologically or economically feasible. There are currently no treatment or source control best practices commercially available that are capable of achieving the draft permit requirements. We respectfully requests that the draft TALs be revised to ensure that the final requirements are scientifically based and technologically and economically feasible.	
Frog Environmental	Dominguez Channel, LA Harbor Watershed TMDL	4/25/2016	20.1	<p>How are Wasteload Allocations apportioned between the various sources of storm water discharge?</p> <p>There are multiple sources of storm water that discharge into the Dominguez channel, including:</p> <ul style="list-style-type: none"> <li>• Industrial users subject to the IGP</li> <li>• Industrial users with NPDES discharge permits</li> <li>• Industrial and commercial dischargers not subject to the IGP or NPDES permitting (example: stores, distribution warehouses)</li> <li>• Municipal sources (streets, highways)</li> <li>• Construction sources</li> </ul> <p>There is no mention in the proposed TMDL of these other target pollutant sources in the watershed, nor does the proposal address how meeting the TMDL will be apportioned reasonably or fairly to all of the potential sources. Have these other sources been factored in to the target concentration-based numeric limits that IGP dischargers must meet, with the IGP TMDLs adjusted accordingly, or is the full burden of meeting the EPA's TMDL limits for the waterway to be born by IGP dischargers?</p>	

<p><b>Frog Environmental</b></p>	<p><b>Dominguez Channel, LA Harbor Watershed TMDL</b></p>	<p><b>4/25/2016</b></p>	<p><b>20.2</b></p>	<p>The numeric targets are substantially lower, by several orders of magnitude, than EPA's drinking water standards. Specifically, the proposed TAL for copper is 3.73 µg/L, compared to the EPA 1.3 mg/L maximum contaminant level (MCL) for copper in drinking water. To put it another way, the proposed TAL for copper is over 400x lower than EPA's drinking water standards.</p> <p>We recognize that the drinking water standards have a completely different basis for their values and monitoring requirements, but on the other hand setting a storm water limit to a level so much lower than drinking water standards seems excessively burdensome, and in many cases may be unattainable without treating storm water to standards far more stringent than drinking water standards. Coupled with our concerns above (that IGP dischargers are disproportionately responsible for meeting the TMDLs compared to other users of the waterway), it seems problematic to burden industrial facilities with meeting standards that may frankly be unachievable by any method other than treatment, and unreasonable in context. When considering treatment of such large volumes of storm water run-off, and attempting to meet limits that are so far below drinking water standards, how can the cost/benefit be justified? Is it reasonable to require industrial storm water discharges to achieve concentrations of contaminants that are 400x lower than water from the tap, or a fire hydrant, supplied by the municipality or water district?</p>	
<p><b>City of Los Angeles Bureau of Sanitation</b></p>	<p><b>Dominguez Channel/ LA Harbor Watershed</b></p>	<p><b>4/25/2016</b></p>	<p><b>21.1</b></p>	<p>The Dominguez Channel and Greater Los Angeles and Long Beach Harbor water tmdl for toxic Pollutants (Toxics TMDL) contains numerous waste load and load allocations for different pollutants and portions of listed waters which are covered under the TMDL. The TMDL applies WLAs for sediment-bound pollutant loads to industrial sources for cadmium, chromium, mercury, polycyclic aromatic hydrocarbons (PAHs), Dichlorodiphenyltrichloroethane (DDT), or polychlorinated biphenyls (PCBs). However, the IGP fact sheet does not require compliance directly with these WLAs, instead it incorporates TMDL Action Levels (TALs) for suspended sediment concentration (SSC) for these constituents. While the city supports the control of sediment discharged from industrial facilities to the MS4, TALs that are more closely tied to the constituents being addressed by the TMDL also seem appropriate to prevent a situation where an industrial discharger is meeting the SSC-based TAL, but is not meeting the WLA for all constituents. Given that the toxics TMDL basin plan amendment explicitly states that “for each discharger assigned a WLA, the appropriate Regional Board Order shall be reopened or amended when the order is reissued, in accordance with applicable laws, to incorporate</p>	



				the applicable WLAs as a permit requirement”, the City requests that TALs consistent with the specific WLAs as found in the TMDL’s Basin Plan Amendment be included	
<b>City of Los Angeles Bureau of Sanitation</b>	<b>Dominguez Channel/ LA Harbor Watershed</b>	<b>4/25/2016</b>	<b>21.2</b>	The Fact Sheet states that four months after the incorporation of these TMDL requirements into the IGP in order to attain compliance with WLAs, dischargers will be assigned Level 1 Status, which the IGP denotes as the condition placed upon the discharger if the sampling results indicate an exceedance of a numeric action level (NAL). The City Owns and operates several facilities that are subject to the City’s MS4 permit; and thus, the city has already invested in the installation and operation of advanced BMPs at these facilities which prevent contact with, retain, and/or treat almost all Stormwater generated onsite. To place these facilities automatically into Level 1 status does not fully consider the successful programs and significant resources the City has Implemented and invested. The city request that the TMDL-specific required actions for the toxic TMDL mimic the NAL ERA procedures currently utilized in the IGP, which moves an industrial facility’s status to ERA level 1 only if there has been exceedance of an action level. We believe these requirements unfairly burden locations which are already operating in protection of water quality and not causing or contributing exceedances of water quality standards, including those of the toxic TMDL.	
<b>City of Los Angeles Bureau of Sanitation</b>	<b>Santa Monica Bay DDT and PCBs TMDL</b>	<b>5/18/2016</b>	<b>21.3</b>	The Santa Monica Dichlorodiphenyltrichloroethane (DDT) and Poly Chlorinated Biphenyls (PCBs) TMDL contains numerous waste load and load allocations. The TMDL applies mass-based WLAs for sediment-bound pollutant loads to industrial sources for DDT and PCBs. However the IGP fact sheet does not require compliance directly with these WLAs; instead, it incorporates constituents. While the City supports the control of sediment discharged from industrial facilities to the MS4, TALs that are more closely tied to constituents being addressed by the TMDL also seem appropriate to prevent a situation where an industrial discharger is meeting the SSC based TAL, but is not meeting the WLA for all constituents. Therefore, the City requests that TALs consistent with the specific WLAs as found in the TMDL be included.	
<b>City of Los Angeles Bureau of Sanitation</b>	<b>Santa Monica Bay DDT and PCBs TMDL</b>	<b>5/18/2016</b>	<b>21.4</b>	The IGP fact sheet for this TMDL states that dischargers will have to assess their facilities to determine if they have potential to discharge DDT or PCB and update their facilities’ Stormwater Pollution Prevention Plans and Monitoring Implementation Plans as needed based on that reassessment. The dischargers will then have to monitor during Qualifying Storm Events (QSEs) for SSC, as described above, and comply with its corresponding TAL.	

				<p>The City's Hyperion Water Reclamation Plan (HWRP) may be subject to this SSC monitoring requirement as part of its required monitoring under the IGP. The City takes its responsibilities under the IGP for all of its industrial facilities very seriously and has endeavored to already implement numerous advanced BMPs at all of its industrial facilities with the potential to discharge pollutants. Therefore the city requests that HWRP be allowed to conduct a pilot study to assess the level of SSC in HWRP's storm water and non-storm water discharges (NSWD). The proposed pilot study will include sampling four QSEs during the first reporting year and analyzing samples using the required test method ASTM D3977-97. Following the completion of this study, the City request that if no SSC is found in HWRP's Stormwater or NSWDS that it not be required to monitor for SSC in the Future. In addition, independent of the Pilot Study Results, the City requests that due to the City's existing efforts to improve water quality leaving HWRP, that it only be required to sample for the constituents required under this TMDL during two QSE's per reporting year, one in the first half and one in the second half of each reporting year, and at a maximum, no more than four.</p>	
<p><b>City of Los Angeles Bureau of Sanitation</b></p>	<p><b>Santa Monica Bay Bacteria TMDL</b></p>	<p><b>5/18/2016</b></p>	<p><b>21.5</b></p>	<p>Industrial permittees are subject to the Santa Monica Bay Bacteria TMDL (Bacteria TMDL) as follows (BPA pg.4): Dischargers from general NPDES permits, general industrial storm water permits and general construction storm water permit are not expected to be a significant source of bacteria. Additionally, these discharges for all time periods are the bacteriological objectives contained in Chapter 3. Any future enrollees under a general NPDES permit, general industrial Stormwater permit or General Construction Storm Water permit within that Santa Monica Bay Watershed Management area will also be subject to a WLA based on these bacteriological objectives. However, the bacteria TMDL is not incorporated into the IGP. For consistency with TMDL and MS4 permit, the IGP should be revised to incorporate the WLAs from the Bacteria TMDL.</p>	
<p><b>City of Los Angeles Bureau of Sanitation</b></p>	<p><b>Santa Monica Bay Nearshore and Offshore Debris TMDL</b></p>	<p><b>5/18/2016</b></p>	<p><b>21.6</b></p>	<p>The Santa Monica Bay Nearshore and Offshore Debris TMDL does not specifically assign an allocation for trash to Industrial Sources: However, industrial facilities have the potential to generate trash which is transported via wind and runoff into the City's MS4 where, per the MS4 permit, it becomes the City's responsibility. The City believes that IGP dischargers should be equally diligent about trash management as the other specifically allocated parties in the TMDL. Therefore to the extent that the IGP dischargers contribute trash to the City's MS4 and the additional trash load becomes part of a larger load of trash that the City is responsible under the TMDL to manage, the IGP discharger should be required to exert an equivalent effort to control the trash before it leaves their sites.</p>	

				The State acknowledges that contribution of trash to the MS4s in its most recent statewide efforts to address trash in Stormwater (Trash Amendments). The Trash Amendments are structured around each jurisdiction calculating and subsequently managing a trash load from specific land uses. The five priority land uses are presumed to generate the most trash and thus contribute the most to the problem, and industrial is one of these five and thus deemed a significant source of trash.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel/ LA Harbor Watershed</b>	<b>4/25/2016</b>	<b>22.1</b>	LAWA requests reconsideration of TMDL Action Level (TAL provided for suspended sediment concentration (SSC) to measure compliance with Sediment associated waste load allocations, The Draft Dominguez Channel/ LA harbor Watershed Toxic Pollutants TMDL proposes that responsible dischargers that have identified their facility as a potential source of cadmium, chromium, Mercury, PAHs, DDT and / or PCBs in storm water discharges and/ or in authorized Non-Storm Water Discharges shall comply with TAL for SSC of 1 mg/L. This TAL is not practicable as the SSC MDL for ASTM D3977-97 by most commercial specialty laboratories is only 1 mg/l or slightly higher. It is Recommended that the TAL for SSC be increased to a reasonable value consistent with standard background levels of SSC in southern California urban runoff.	
<b>Los Angeles World Airports</b>	<b>Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL</b>	<b>4/25/2016</b>	<b>22.2</b>	General Comment, Because the Entire State is struggling with bacterial TMDLs, we recommend that the bacteria TMDL requirements to be removed from the IGP until the state determines the appropriate actions to assess and control bacteria. Currently, the science of understanding bacterial sources and threats to water quality is still in development. The state is also in the process of establishing Statewide Bacteria Objectives for water-contact recreation (REC-1) and the associated control program. State board targets April Release and August adoption. If this is true, the bacteria TMDL should be removed from the IGP until Statewide plan is fully developed to prevent dischargers from acting on targets that may change on a statewide basis.	
<b>Los Angeles World Airports</b>	<b>Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL</b>	<b>4/25/2016</b>	<b>22.3</b>	Under required actions, where the actions require assessment of potential pollutant sources for bacteria. The TMDL required actions should specify which industries are required to assess for bacteria. Specifically, it should be related to the SIC Code required tests. Additionally, the TMDL should provide a list of the types of sources would warrant adding bacteria as a concern in the SWPPP. Bacteria Sources can come from many anthropogenic and natural sources. Therefore, the actions should be specific to potential anthropogenic activities for the IGP	

Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.4	Footnote 1 on the bacteria TMDL and Footnote 4 of the factsheet suggests the “water not associated with industrial activities that is commingled with Stormwater associated with industrial activities” would also need to be assessed. The footnote seems to be in conflict with IGP that requires assessment of industrial activities. The footnote should be clarified as to the intent of what is to be assessed.	
Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.5	The second bullet under Monitoring and Assessment requirements requires authorized NSWDs to be sampled twice per year. The requirement should be to only characterize the authorized NSWDs if the authorized NSWDs are consistent and unchanged from previous years. For example if A/C condensate is the same and an allowed NSWD, there would be no reason to sample it every year.	
Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.6	The fact sheet specifies (under the Required Actions, second paragraph, last sentence) that “Industrial Discharge are currently not expected to be significant source of Indicator Bacteria”. If this is the case, then only specific SIC codes should be required to assess and test for indicator bacteria. The TMDL should also specify the Methods to assess each Facility and what specific Sources would be expected to contribute to Bacteria Issues	
Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.7	The fact sheet specifies (under the compliance with Wasteload Allocations, Item 1., First Sentence) that “compliance with existing conditions and requirements in the IGP is generally expected to ensure compliance with summer and winter dry weather WLAs applicable to industrial Stormwater discharges. This is a confusing statement since it is referring to dry-weather and not Stormwater. Also, if it is expected to ensure compliance, then why is there a requirement to test authorized NSWDs, why would dry weather NSWDs be expected to contribute to dry weather bacteria exceedances? We recommend this sentence be clarified or removed.	
Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.8	Where the TMDL requires BMPs to be implemented. The TMDL should provide a list of appropriate BMPs to be used for meeting Bacteria TALS	
Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.9	The Second to last paragraph indicates wet weather days as defined by 0.1” of rain or more plus three days following the rain event. This should be clarified as wet weather runoff. Facilities generally only have wet weather runoff due to precipitation events or dry weather with no flow.	

Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.10	Footnote 5 of the fact sheet specifies "Either in the facility's existing SWPPP, or through the update to the facility SWPPP and the Assessment of potential pollutant sources, as described below." Please clarify what is described <b>below</b> . There is nothing <b>below</b> the footnote	
Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.11	On item 2. Updating the Facility SWPPP: Assessment of Potential Pollutant Sources, where the paragraph specifies assessing sources of the indicator bacteria. The TMDL should provide specific examples of what types of sources would contain indicator bacteria. Most dischargers or even QISPs for that matter would know what to look for when assessing bacteria. I include QISPs because the QISP/ToR training program did not include any items related to bacteria. Traditionally, industrial specialists do not have formal training in bacterial TMDLs making the requirement to have a QISP do the assessment a suspect requirement. Hence, the recommendation to have a specific checklist of items to review. This checklist should be prepared by the State's TMDL Bacterial Specialists to guide dischargers and QISPs as to what specifically would warrant adding BMPs and monitoring for Bacterial Indicators to the SWPPP.	
Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.12	The TMDL should specify the preferred methods that are to be used for Monitoring for consistency. The analytical methods section on Page 9 specifies that the monitoring and implementation plan in the SWPPP include U.S. EPA Approved Methods. The SWRCBs own ELAP program has fields of testing for Drinking Water, Wastewater, and Recreational Waters. It is not clear what would be the appropriate method to use for stormwater or authorized NSWDS. The FOTs for Wastewater lists approximately 33 different methods including Standard Methods and EPA Methods, however, the Recreational Water Methods are not EPA Methods. Additionally, the methods specified on the EPA's website appear to differ from those listed in ELAPs FOTs. <a href="https://www.epa.gov/water-research/microbiological-methods-and-online-publications">https://www.epa.gov/water-research/microbiological-methods-and-online-publications</a> Therefore, we recommend that a list of approved bacteria Methods be specified for clarity and consistency.	
Los Angeles World Airports	Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel) Bacteria TMDL	4/25/2016	22.13	General Comment. The SSC TMDL Action Level (TAL) of 1 mg/L is Los Angeles and Long Beach very restrictive. Stopping all sediment transport to the ocean Harbor Waters TMDL for Toxic would not be beneficial in the long term. Sediment transport is a Pollutants-General Comment natural and needed process. Therefore, limits should be placed on pollutants and not potentially impacted sediments. Dischargers should have the option for testing for the individual analytes in-lieu of testing solely for SSC.	

<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.14</b>	General Comment. Throughout the document where it specifies copper, lead, and zinc, it appears to imply that all three metals would be needed in combination to trigger the discharger to implement actions. We suggest that, where appropriate, the wording be changed to copper, lead, and/or zinc. Likewise, when the document refers to cadmium, chromium, mercury, PAHs, DDT, and PCBs it should use the term and/or to indicate it is not an all-inclusive list. Some may have one or more of these constituents.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.15</b>	General Comment. Throughout the document where it specifies Beach copper, lead, and zinc, it appears to imply that all three metals would be needed in combination to trigger the discharger to implement actions. We suggest that, where appropriate, the wording be changed to copper, lead, and/or zinc. Likewise, when the document refers to cadmium, chromium, mercury, PAHs, DDT, and PCBs it should use the term and/or to indicate it is not an all-inclusive list. Some may have one or more of these constituents.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.16</b>	The term Discharger and Responsible Discharger should be Los Angeles and Long Beach defined. It is not clear what the difference is.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.17</b>	The TALs for Cu, Pb, and Zn in the LA Harbor are based on California Toxic Rule (CTR) Saltwater Criterion Maximum Concentration. Because upstream discharges occur in freshwater and mix with other regional freshwater discharges. The upstream freshwater WLAs should be used for freshwater TALs.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.18</b>	Footnote 1 of the TMDL and Footnote 8 of the fact sheet suggests that "water not associated with industrial activities that is comingled with stormwater associated with industrial activities" would also need to be assessed. The footnote seems to be in conflict with the IGP that requires assessment of industrial activities. The footnote should be clarified as to the intent of what is to be assessed.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.19</b>	Under the Required Actions, Second Bullet, "The discharger re-Los Angeles and Long Beach evaluates with the assistance of a QISP ... "Please clarify if this is a requirement or a suggestion. Additionally, please consider Pollutants- Page 1. clarifying the criteria for determining whether a discharge has the potential to contain copper, lead, or zinc? For example, any facility with a galvanized metal roof or zinc fencing has the potential to discharge zinc above the TAL. This is an architectural source and not an industrial source. Additionally, any facility with transportation or parking lots is likely to	

				have copper associated with brake dust and zinc associated with tire wear. Again, these are transportation sources and not necessarily industrial sources. The TMDL should be explicit about sources may contain the constituents of concern and should specify which industrial sources should be included (i.e., by SIC code).	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.20</b>	The paragraph after the bullets should be indented to reflect the Los Angeles and Long Beach bullets above. It is not clear what demonstrations are required to Harbor Waters TMDL for Toxic be submitted as it is presented as a standalone paragraph.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.21</b>	The discussion of the ERA Level I and Level II Process appears to Los Angeles and Long Beach be out of sync with the IGP. The discussion of the ERA process should simply follow the recommendations listed on page 10 of the TMDL where it states ... "the Discharger shall commence the ERA process set forth in Section XII".	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.22</b>	The application of the metals TALs is not consistent with other TMDLs for the region. Applying the same TALs for the estuaries as the upstream reaches is overly protective and not consistent with the TMDL for Calleguas Creek which has less stringent TALs for the upstream reaches. The appropriate CTR values should be applied for the reaches for which they discharge. For example, the fact sheet presents freshwater WLAs but does not consider this for applying to dischargers located upstream.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.23</b>	Footnote 7 of the fact sheet specifies "Either in the facility's existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below." No description is provided.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.24</b>	The discussion of SSC as an alternative to testing for cadmium, chromium, mercury, PAHs, DOT, and/or PCBs should be revised to allow dischargers the alternative to test for the individual Pollutants- Page 3. parameters. Additionally, the corresponding SSC TAL value of 1 mg/L is too low and unrealistic. The TAL is just above the method detection limit for most laboratories that offer this analysis. Nearly all dischargers will have some sediment leaving their facility. The National Stormwater Quality Database (NSQD) with 3,390 TSS results had 99% of values detected above the reporting limit with nearly all results above 1 mg/L. This almost guarantees that all facilities testing for SSC will be in ERA Level I. If they	

				are above the SSC value, they should be allowed to test for the individual analytes to demonstrate they are not contributing these pollutants above the mass load limits specified in the TMDL.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.25</b>	The TAL essentially prohibits the discharge of any measureable Los Angeles and Long Beach sediment in storm water from industrial sites, which is Harbor Waters TMDL for Toxic inconsistent and an order of magnitude lower than typical Pollutants- Page 3. suspended solids NPDES discharge permit limits in the Los Angeles Region (for both General and Individual NPDES Permits) in the same watershed (typically range from 50-75 mg/1). Based on a review of stormwater treatment technology performance data from the International Stormwater BMP Database, there does not appear to be a treatment technology that can consistently meet the proposed SSC TAL value. Analysis of TSS results from industrial sites within SMARTS in the Los Angeles Region showed that greater than 95% of all results were higher than 1 mg/L.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.26</b>	For the reference above to the ASTM Method ... SSC is not listed in ELAPs fields of testing for wastewater. If SSC is the method of choice, then laboratories performing this method should be certified by undergoing performance testing and demonstration for appropriate quality control verifications. Please specify whether SSC will be added to the FOTs for laboratories to be certified for and if not, whether the Water Board has considered a waiver that laboratories are authorized to provide this analysis with general ELAP certification and that FOT specific certification does not exist at this time.	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.27</b>	In the second paragraph, the TMDL states " ... to implement additional actions to reduce copper, lead, zinc, cadmium, for Toxic chromium, mercury, PAHS, DDT, and PCBs .... " Please clarify the actions the Water Board is referring to. Or, clarify this to refer to the ERA Process to implement BMPs to identify and reduce	
<b>Los Angeles World Airports</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL</b>	<b>4/25/2016</b>	<b>22.28</b>	Under the Monitoring and Reporting Requirements, the draft requires sampling twice per year for authorized NSWDS. Please consider revising this to allow dischargers to analyze NSWDS for the appropriate parameters to characterize the discharges. Once they have been characterized, they do not need to be tested again if the source is known and it does not change. Only new unauthorized NSWDS that have not been characterized would require additional testing.	



Los Angeles World Airports	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL	4/25/2016	22.29	The table listing Final Concentration-based Sediment WLA Assigned to Industrial General Permittees for Metals and Organic Compounds has values for mg/kg in dry sediment for Cadmium, Chromium, and Mercury. There are no organic compounds listed in the table. Please clarify whether these values can be used to demonstrate that if a site has soils below these levels, then they are not required to test for SSC or compare values to the SSC and could default back to the TSS NALs listed in the current IGP? Also, please clarify the intent of this table.	
Los Angeles World Airports	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL	4/25/2016	22.30	Footnote 14 of the fact sheet specifies "Either in the facility's existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below." Please clarify, as there is no additional information below to refer to.	
The Port of Los Angeles	Dominguez Channel/ LA Harbor Watershed TMDL	4/25/2016	23.1	The proposed IGP TALs are based on chronic water quality standards and are inappropriate for end-of-pipe storm water discharges to marine receiving waters of the Ports of Los Angeles (Port) and Long Beach. It is important to recognize that the ultimate outcome of compliance efforts is to protect the beneficial uses of the discharge-associated receiving waters. Stormwater discharges are acute transient events that are not representative of long-term chronic exposure conditions. This fact is recognized by EPA and others. In EPA's Metal Translator Guidance (EPA 823-B-96-007) Section 3.2, the <i>"acute criteria maximum concentration (CMC), applies at all points outside of an immediate mixing zone, or at the end-of-pipe if there is no mixing zone. The criteria chronic [i.e., continuous] concentration (CCC), applies at all points outside the CCC mixing zone."</i> Note that stormwater requires mixing with seawater before marine organisms can tolerate the reduced salinity. The proposed TALs for total copper, lead, and zinc for stormwater discharges are equivalent to the current EPA marine chronic water quality criteria, published in the California Ocean Plan. These values are inappropriate for an end-of-pipe effluent, in particular for an episodic pulsed stormwater discharge. A greater focus on water quality of the receiving waters is suggested for compliance assessment along with the flexibility to derive appropriate mixing zones where applicable. Furthermore, more appropriate acute instantaneous maximum water quality values are published in the California Ocean Plan for consideration.	

<p><b>The Port of Los Angeles</b></p>	<p><b>Dominguez Channel/ LA Harbor Watershed TMDL</b></p>	<p><b>4/25/2016</b></p>	<p><b>23.2</b></p>	<p>The source, rationale, and justification of the proposed TAL for suspended solids concentration (SSC) are unclear. As discussed in the comments submitted by CASQA, SSC can include a wide-range of particle sizes, including large particles that are not likely to be associated with elevated concentrations of surrogate organic constituents. Suspended solids are prevalent in natural runoff and part of a healthy ecosystem delivering sand to the beaches and nutrients and essential trace metals to the ocean environment. A recent study conducted by the Southern California Coastal Water Research Project (SCCWRP), funded by the State of California, assessed near-coastal water quality at reference sites throughout California following storm events in 2008 and 2014. The study found that total suspended solids (TSS) concentrations varied widely in offshore receiving waters of southern California, ranging from 0.25 to 1,692 mg/L, with a mean of 133 mg/L. These values are likely much less than that coming in from the watershed before mixing. It is unrealistic that surface runoff from any watershed or storm water discharge from an industrial facility would have less than 1.0 mg/L SSC. This level is well below naturally occurring levels in undeveloped marine receiving waters (as shown by the SCCWRP study), and is likely below what is achievable by storm water treatment systems that represent the current Best Available Technology Economically Achievable/ Best Control Technology (BAT/BCT).</p> <p>Furthermore, for consistency with the monitoring requirement of other NPDES permits issued by the Regional Board (e.g., MS4 and individually issued industrial permits), the EPA-approved method for TSS should be an allowable alternative to the ASTM method prescribed for SSC.</p>	
<p><b>The Port of Los Angeles</b></p>	<p><b>Dominguez Channel/ LA Harbor Watershed TMDL</b></p>	<p><b>4/25/2016</b></p>	<p><b>23.3</b></p>	<p>Due to the unique geography, hydrology, operations, and space restrictions within the Port of Los Angeles (Port), many of the traditional low impact development (LID) BMPs focused on retention and infiltration are not feasible. As proposed, Port tenants will likely be driven directly to install structural and treatment control technologies that have not been proven effective at removing the pollutants of concern to the proposed TALs. BAT/BCT are part of the Ecological Risk Assessment (ERA) Level II process, therefore directly going to this unproven and expensive technology is inconsistent with the current ERA process. In addition, removal of pollutants, such as metals and sediment, to the TALs prescribed by the Regional Board will need to be done in a timeline that is much more aggressive than other permits (e.g., the MS4).</p>	

				Because of the technology limitations that restrict the ability for dischargers to meet the TALs identified in the proposed action, we recommend that the Regional Board permit requirements include specific language that complies with the current IGP, along with achieving TMDL compliance through an adaptive management approach consisting of implementing Regional Board approved BMPs that constitute BAT/BCT for a specific industrial site. This approach could be implemented within the framework of the existing IGP ERA process.	
<b>The Port of Los Angeles</b>	<b>Dominguez Channel/ LA Harbor Watershed TMDL</b>	<b>4/25/2016</b>	<b>23.4</b>	The pollutant loads generated by industrial facilities covered under the IGP and the potential impacts to receiving waters vary significantly based on the size, complexity, and exposure of pollutants of concern. A strict concentration-based TAL does not provide equity among these sites that can vary in size from less than one acre to hundreds of acres. We recommend the Regional Board evaluate and consider providing alternative compliance approaches that could include mass based load allocations, particularly for small industrial sites.	
<b>The Port of Los Angeles</b>	<b>Dominguez Channel/ LA Harbor Watershed TMDL</b>	<b>4/25/2016</b>	<b>23.5</b>	With the understanding that there are significant regional monitoring efforts underway to better understand the receiving water impairment and scientific basis for the TMDL, we recommend the Regional Board build flexibility into the proposed TMDL language for the IGP that is consistent with what will be required of others with WLAs in the watershed.	
<b>The Port of Los Angeles</b>	<b>Dominguez Channel/ LA Harbor Watershed TMDL</b>	<b>4/25/2016</b>	<b>23.6</b>	To remain consistent with the current IGP and to help address the inherent variability associated with rain events (intensity and duration), the Harbor Department recommends the Regional Board incorporate the concept of using the annual average concentrations or a multi-event instantaneous TAL approach similar to the IGP, rather than use single event instantaneous values for comparison to TALs.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.1</b>	The SSC TMDL Action Level (TAL) of 1 mg/L is very restrictive. Stopping all sediment transport to the ocean would not be beneficial in the long term. Sediment transport is a natural and needed process. Therefore, limits should be placed on pollutants and not potentially unimpacted sediments. Putting aside the volume limit on sediment, the SSC method is more accurate than TSS when assessing mass loadings to downstream receiving waters.	

Port of Long Beach	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants	4/25/2016	24.2	Throughout the document where it specifies copper, lead, and zinc, it appears to imply that all three metals would be needed in combination to trigger the discharger to implement actions. We suggest that, where appropriate, the wording be changed to copper, lead, and/or zinc. Likewise, when the document refers to cadmium, chromium, mercury, PAHs, DDT, and PCBs it should use the term and/or to indicate it is not an all-inclusive list. Some may have one or more of these constituents.	
Port of Long Beach	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants	4/25/2016	24.3	The term Discharger and Responsible Discharger should be defined. It is not clear what the difference is.	
Port of Long Beach	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants	4/25/2016	24.4	The TALs for Cu, Pb, and Zn in the LA Harbor are based on California Toxic Rule (CTR) Saltwater Criterion Maximum Concentration (The dissolved metal concentration) multiplying conversion factors from CTR (CF for saltwater acute criteria) to the total recoverable metal concentrations. In general, the CTR default conversion factors overestimate the dissolved portion of metals in stormwater and have a tendency to be conservative. As a result, the proposed TMDL-Based NALs for metals are over estimated and are not appropriate to be applied into the Industrial General Permit. EPA's Metal Translator Guidance indicates, "EPA encourages that site specific data be generated to develop site specific translators." Based on the foregoing, the Water Board should allow dischargers the option to develop site-specific metal translators and not require all dischargers to use the default CTR values.	
Port of Long Beach	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants	4/25/2016	24.5	Footnote 1 of the TMDL and Footnote 8 of the fact sheet suggests that, "water not associated with industrial activities that is comingled with stormwater associated with industrial activities" would also need to be assessed. The footnote seems to be in conflict with the IGP that requires assessment of industrial activities. The footnote should be clarified as to the intent of what is to be assessed.	
Port of Long Beach	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic	4/25/2016	24.6	Under the Required Actions, Second Bullet, "The discharger reevaluates with the assistance of a QISP..." Please clarify if this is a requirement or a suggestion. Additionally, please consider clarifying the criteria for determining whether a discharge has the potential to contain copper, lead, or zinc. For example, any facility with a galvanized metal roof or zinc fencing has the potential to discharge zinc above the TAL. This is an	

	<b>pollutants</b>			architectural source and not an industrial source. Additionally, any facility with transportation or parking lots is likely to have copper associated with brake dust and zinc associated with tire wear. Again, these are transportation sources and not necessarily industrial sources. The TMDL should be explicit about sources that may contain the constituents of concern and should specify which industrial sources should be included (i.e., by SIC code).	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.7</b>	The paragraph after the bullets should be indented to reflect the bullets above. It is not clear what demonstrations are required to be submitted as it is presented as a standalone paragraph.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.8</b>	The discussion of the ERA Level I and Level II Process appears to be out of sync with the IGP. The discussion of the ERA process should simply follow the recommendations listed on page 10 of the TMDL where it states, "...the Discharger shall commence the ERA process set forth in Section XII."	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.9</b>	The application of the metals TALs is not consistent with other TMDLs for the region. Applying the same TALs for the estuaries as the upstream reaches is overly protective and not consistent with the TMDL for Calleguas Creek which has less stringent TALs for the upstream reaches. The appropriate CTR values should be applied for the reaches for which they discharge. For example, the fact sheet presents freshwater WLAs but does not consider this for applying to dischargers located upstream.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.10</b>	There is a single sentence that is not clear why it is stated. "Comply with the conditions and requirements of this Industrial Storm Water General Permit..." Also, in the third paragraph below the Test Method Tables, there is a statement that says, "...then Responsible Dischargers, as defined above..." There is no definition above for this term. Also, in the same paragraph, where it states "... (Section X.I), shall be updated based on the results." It is not clear what results are being referred to. Please clarify.	

Port of Long Beach	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants	4/25/2016	24.11	Footnote 7 of the fact sheet specifies "Either in the facility's existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below." No description is provided.							
Port of Long Beach	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants	4/25/2016	24.12	The discussion of SSC as an alternative to testing for cadmium, chromium, mercury, PAHs, DDT, and/or PCBs should be revised to allow dischargers the alternative to test for the individual parameters. Additionally, the corresponding SSC TAL value of 1 mg/L is too low and unrealistic. The TAL is just above the method detection limit for most laboratories that offer this analysis. Nearly all dischargers will have some sediment leaving their facility. The National Stormwater Quality Database (NSQD) with 3,390 TSS results had 99% of values detected above the reporting limit with nearly all results above 1 mg/L. This almost guarantees that all facilities testing for SSC will be in ERA Level I. If they are above the SSC value, they should be allowed to test for the individual analytes to demonstrate they are not contributing these pollutants above the mass load limits specified in the TMDL.							
Port of Long Beach	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants	4/25/2016	24.13	<p>The Port supports the use of a BMP-based approach to meet TMDL-specific requirements proposed to be incorporated into the IGP. Our concern revolves around both the appropriateness and achievability of the proposed TALs for metals. To illustrate difficulties in meeting the proposed metals TAL values for Dominguez Channel/LA Harbor, we reviewed treatment system effectiveness data from industrial dischargers having installed advanced treatment systems (see footnote 4). Based on review of approximately 100 stormwater treatment system discharge results for sites with advanced Stormwater treatment systems installed, the following summarizes the percentage of results that are above the proposed TAL values for copper (0.00373 mg/L), lead (0.00852 mg/L), and zinc (0.0856 mg/L):</p> <table border="1" data-bbox="1037 1157 1768 1390"> <thead> <tr> <th data-bbox="1037 1157 1266 1357">Parameter</th> <th data-bbox="1266 1157 1580 1357">Average Post Treatment</th> <th data-bbox="1580 1157 1768 1357">% of results above proposed TAL</th> </tr> </thead> <tbody> <tr> <td data-bbox="1037 1357 1266 1390">Copper</td> <td data-bbox="1266 1357 1580 1390">.102 mg/L</td> <td data-bbox="1580 1357 1768 1390">82.5%</td> </tr> </tbody> </table>	Parameter	Average Post Treatment	% of results above proposed TAL	Copper	.102 mg/L	82.5%	
Parameter	Average Post Treatment	% of results above proposed TAL									
Copper	.102 mg/L	82.5%									

				<table border="1"> <tr> <td>Lead</td> <td>.0229 mg/L</td> <td>47%</td> </tr> <tr> <td>Zinc</td> <td>.111 mg/L</td> <td>43%</td> </tr> </table> <p>*cadmium results were not available for analysis</p> <p>In addition, there have been studies performed showing significant contribution of these same metals (particularly copper and zinc) from aerial deposition in the region. The TAL does not appear to account waste loads associated with these sources that are not under the control of industrial dischargers.</p>	Lead	.0229 mg/L	47%	Zinc	.111 mg/L	43%	
Lead	.0229 mg/L	47%									
Zinc	.111 mg/L	43%									
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.14</b>	<p>The Port environment is unique and many of the low impact development options available in other areas are not appropriate for the Port because of the potential for legacy soil contamination and high groundwater conditions. Port tenants will likely be required to install structural and treatment controls that are expensive, potentially unreliable, and do not appear to have the ability to meet proposed TAL values. The TAL essentially prohibits the discharge of any measureable sediment in stormwater from industrial sites, which is inconsistent and an order of magnitude lower than typical suspended solids NPDES discharge permit limits in the Los Angeles Region (for both General and Individual NPDES Permits) in the same watershed (typically range from 50-75 mg/l).</p> <p>Based on a review of stormwater treatment technology performance data from the International Stormwater BMP Database that has been through rigorous quality assurance/ quality control protocols, there does not appear to be a treatment technology that can consistently meet the proposed SSC TAL value. While the International BMP Database only summarizes TSS results, we have assumed TSS and SSC concentration would be similar. Through method comparisons, we know that TSS typically underestimates the results compared to SSC. Therefore, the likelihood of BMPs being able to meet the 1 mg/L TAL would be even lower.</p> <p>In addition, we evaluated a compilation of stormwater analytical results for TSS from industrial dischargers having installed advanced stormwater treatment systems (approximately 100 data points). Based on our analysis of TSS effluent concentrations from these advanced systems, more than 80% of results are at or above 1 mg/L, with an average effluent stormwater concentration of 21 mg/L. It should also be noted that based on analysis of TSS results submitted to SMARTS by industrial sites covered under the IGP in</p>							

				the Los Angeles Region, more than 95% of all results (more than 3,000 results as of April 15, 2016) are at or above 1 mg/L.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.15</b>	As a result of the technology limitations that limit the ability for dischargers to meet the proposed TAL values described in comments 13 and 14 above, the Water Board should consider including specific language that compliance with the IGP and TMDLs can be achieved through an adaptive management approach consisting of implementing Water Board approved BMPs. This approach could be implemented within the framework of the existing IGP ERA process.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.16</b>	(Page 4) The third bullet specifies that “U.S. EPA Approved Methods be used with appropriate method detection and reporting limits relative to copper, lead, zinc, and SCC.” We believe this is a typo and SCC should be revised to SSC. Also, please specify that ASTM Method D3977-97 is an Approved EPA Method for SSC?	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.17</b>	(Page 4) For the reference above to the ASTM Method – SSC is not listed in ELAPs fields of testing for wastewater. If SSC is the method of choice, then laboratories performing this method should be certified by undergoing performance testing and demonstration for appropriate quality control verifications. Please specify whether SSC will be added to the FOTs for laboratories to be certified for and if not, whether the Water Board has considered a waiver that laboratories are authorized to provide this analysis with general ELAP certification and that FOT specific certification does not exist at this time.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.18</b>	(Page 4) In the second paragraph, the TMDL states “...to implement additional actions to reduce copper, lead, zinc, cadmium, chromium, mercury, PAHS, DDT, and PCBs...” Please clarify the actions the Water Board is referring to. Or, clarify this to refer to the ERA Process to implement BMPs to identify and reduce pollutants of concern.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters</b>	<b>4/25/2016</b>	<b>24.19</b>	(Page 4)Under the Monitoring and Reporting Requirements, the draft requires sampling twice per year for authorized NSWDs. Please consider revising this to allow dischargers to analyze NSWDs for the appropriate parameters to characterize the discharges. Once they have been characterized, they do not need to be tested again if the source is known and it	



	<b>TMDL for toxic pollutants</b>			does not change. Only new unauthorized NSWDS that have not been characterized would require additional testing.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.20</b>	The table listing Final Concentration-based Sediment WLA Assigned to Industrial General Permittees for Metals and Organic Compounds has values for mg/kg in dry sediment for Cadmium, Chromium, and Mercury. There are no organic compounds listed in the table. Please clarify whether these values can be used to demonstrate that if a site has soils below these levels, then they are not required to test for SSC or compare values to the SSC and could default back to the TSS NALs listed in the current IGP? Also, please clarify the intent of this table.	
<b>Port of Long Beach</b>	<b>Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for toxic pollutants</b>	<b>4/25/2016</b>	<b>24.21</b>	Footnote 14 of the fact sheet specifies "Either in the facility's existing SWPPP, or through the update to the facility SWPPP and the Assessment of Potential Pollutant Sources, as described below." Please clarify, as there is no additional information below to refer to.	
<b>County of Los Angeles Department of Public Works</b>	<b>All TMDLs in county of Los Angeles</b>	<b>4/9/2016</b>	<b>25.1</b>	<p>All TMDLs, except those developed by the U.S. Environmental Protection Agency (EPA), have interim and/or final compliance deadlines. These deadlines have been incorporated into the Los Angeles MS4 permit, requiring permittees to meet both interim and final compliance deadlines. Further, the Los Angeles MS4 permit requires the establishment of deadlines for EPA-developed TMDLs as well as for 303(d) listings with no TMDLs. As currently drafted, the TMDL requirements in the Industrial General Permit neither include specific TMDL compliance dates for Regional Board-developed TMDLs nor require establishing compliance deadlines for EPA-developed TMDLs or 303(d) listed waterbodies.</p> <p>Further, unlike the MS4 Permit, the Industrial General Permit does not require industrial permittees to provide assurance that their proposed implementation actions will meet TMDL Action Levels (TALs) by the specified TMDL deadlines. In fact, the accompanying Fact Sheets for all of the TMDLs concluded that the existing conditions and requirements in the Industrial General Permit for unauthorized and authorized stormwater and non-stormwater discharges are likely sufficient in preventing a compliant discharger from discharging TMDL pollutants above the applicable waste load allocations from industrial areas. The Fact Sheets concluded that:</p> <p>"[N]o additional requirements beyond complying with the Industrial Storm Water General</p>	

				<p>Permit, including updating and implementing the Storm Water Pollution Prevention Plan (SWPPP) and undertaking exceedance response actions for TALs, are necessary to comply with the waste load allocations assigned to industrial storm water discharges at this time."</p> <p>This determination essentially diffuses the effect of incorporating the TMDLs into the Industrial General Permit. It does not provide assurance that the SWPPPs will be designed to completely address TMDL waste load allocations within the timelines specified in the TMDLs. Instead, Industrial Permittees can be considered in full compliance with their permit as long as they continue updating their SWPPP in response to exceedances, even if their update does not provide assurance that future discharges will meet the TALs by the TMDL-specified date.</p> <p>This is inconsistent with the requirements specified in the MS4 permits, where permittees are required to provide quantifiable assurance that their proposed implementation actions would meet TMDL targets in accordance with the timeline specified for the TMDLs. By virtue of MS4s being receivers of stormwater runoff from industrial sites, this inconsistency in implementation of TMDL requirements may hinder a MS4 permittee's ability to meet its TMDL-imposed effluent limitations and receiving water limitations.</p> <p>The County and the LACFCD, therefore, request that</p> <p>a) TMDL compliance dates be incorporated into the Industrial General Permit for all TMDLs in the same manner as they are for the MS4s, and</p> <p>b) The following language or similar language to that effect be added to the Industrial General Permit:</p> <p><i>The SWPPP shall include a Reasonable Assurance Analysis to demonstrate that the applicable TALs can be achieved by implementing the actions or BMPs specified in the SWPPP by the Permittee.</i></p>	
<p><b>County of Los Angeles Department of Public Works</b></p>	<p><b>All TMDLs in county of Los Angeles</b></p>	<p><b>4/9/2016</b></p>	<p><b>25.2</b></p>	<p>Per Attachment E of the Industrial General Permit, only 21 TMDLs for Los Angeles County have been identified for incorporation into the Industrial General Permit, where the Los Angeles MS4 permit incorporated all of the then-existing TMDLs for Los Angeles County. It should be noted that 33 of the 35 TMDLs in Los Angeles County are incorporated into the Los Angeles MS4 permit as the remaining two</p>	

				<p>unincorporated TMDLs, the Malibu Creek Benthics TMDL and the San Gabriel Bacteria TMDL, were developed after the Los Angeles MS4 permit was issued in 2012.</p> <p>It is unclear why 13 of the TMDLs included in the Los Angeles County MS4 Permit are not included in Attachment E for incorporation into the Industrial General Permit. Industrial activities should be considered sources of all of the pollutants addressed by TMDLs until it is demonstrated through monitoring that they do not contribute these specific pollutants. For example, none of the Trash TMDLs are incorporated into the Industrial General Permit despite the fact that the recently adopted statewide Trash Amendment identifies industrial areas as among the highest trash generation areas. Therefore, the County and LACFCD request that the following TMDLs be incorporated into the Industrial General Permit:</p> <ol style="list-style-type: none"> <li>1. Los Angeles River Bacteria TMDL</li> <li>2. Los Angeles River Trash TMDL</li> <li>3. Ballona Creek Trash TMDL</li> <li>4. Ballona Creek Wetlands Sediment TMDL</li> <li>5. Santa Monica Bay Bacteria TMDL</li> <li>6. San Gabriel River Bacteria TMDL</li> <li>7. Malibu Creek Bacteria TMDL</li> <li>8. Malibu Creek Nutrients TMDL</li> <li>9. Malibu Creek Benthics TMDL</li> <li>10. Malibu Creek Trash TMDL</li> <li>11. Machado Lake Trash TMDL</li> <li>12. Legg Lake Trash TMDL</li> <li>13. Upper Santa Clara Lakes Trash TMDL</li> </ol>	
<b>County of Los Angeles Department of Public Works</b>	<b>All TMDLs in county of Los Angeles</b>	<b>4/9/2016</b>	<b>25.3</b>	<p>Many MS4 permittees across the State, in particular those in Southern California, have either completed or are working on the development of Watershed Management Program plans to address water quality, including TMDLs, at a watershed or sub-watershed scale. In the Los Angeles Region, the Watershed Management Program (WMP) and Enhanced Watershed Management Program (EWMP) plans are innovative approaches that not only address water quality, but also help augment local water supply and provide flood protection, habitat restoration and recreational amenities.</p>	

			<p>The WMP/EWMP plans are designed to encourage partnership among MS4 permittees to help tackle water quality at a regional scale and provide additional benefits for local communities. Many of the proposed projects are large scale with the goal to capture and infiltrate stormwater from a sub-watershed area. In situations where an Industrial General Permittee is located within a sub-watershed area served by EWMP regional projects, it may be more cost-effective for the Industrial Permittee to participate and contribute to those regional projects than to address stormwater quality at a site level. In particular, this option may be attractive to industries where the local conditions limit the implementation of BMPs at a site level to address TMDL pollutants.</p> <p>The County and LACFCD suggest that TMDL compliance options and provisions incentivize partnerships with MS4 programs be included into the Industrial General Permit.</p>	
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March 31, 2016

Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013  
Attn: Pavlova Vitale  
*Transmitted via Electronic Mail to losangeles@waterboards.ca.gov*

**Subject: Comment on Draft TMDL-Specific Requirements for the Industrial General Permit**

Dear Ms. Vitale:

SA Recycling, LLC (SA Recycling) appreciates the opportunity to offer comments on the proposed incorporation of Total Maximum Daily Load (TMDL)-specific requirements into the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ), hereafter Industrial General Permit.

SA Recycling has over 50 facilities located throughout California and the Southwest United States, and is a permittee under the Industrial General Permit. Accordingly, SA Recycling will be directly affected by the incorporation of the proposed TMDL-specific requirements into the Industrial General Permit.

Although the proposed TMDL-specific requirements were noticed separately, SA Recycling's comments herein apply to all of the TMDLs that are applicable to our facilities. Through these comments, SA Recycling requests that any additional requirements incorporated be clearly and explicitly defined in the TMDL-specific language and supported in the TMDL-specific fact sheet, including any required actions and/or compliance determinations.

TMDL Action Levels

SA Recycling recommends that the Los Angeles Regional Water Quality Control Board (Regional Board) should clearly articulate that the TMDL Action Levels (TALs) are intended to be used in lieu of existing Numeric Action Levels for the purpose of Industrial General Permit compliance at facilities subject to the pollutant specific TMDL. The language used should also clearly establish that the numeric criteria in the TMDL-specific requirements are not numeric standards intended to determine whether discharges have exceeded Receiving Water Limitations of Industrial General Permit Part VI.

Additionally, SA Recycling recommends that the use of new TALs commence with the beginning of the Industrial General Permit reporting year to avoid confusion regarding determining compliance with the TALs for that reporting year.



### Compliance Determinations

To better clarify that compliance with the TMDL-based permit requirements satisfies receiving water limits for the relevant constituent, SA Recycling recommends that the TMDL language clearly state that compliance with its requirements constitutes compliance with Receiving Water Limitations of Industrial General Permit Part VI.A and Effluent Limitation Part V.C for the particular constituent.

Additionally, stormwater programs currently implemented at industrial facilities can significantly reduce pollutant concentrations in stormwater; however, traditional stormwater source control or treatment control practices may not completely eliminate the pollutant or reduce the concentration to the TAL concentrations. Therefore, SA Recycling recommends that additional compliance options be included, such as onsite volume reductions of stormwater to reduce pollutant loads, and/or allowing industrial facilities to coordinate with municipal permittees' watershed planning efforts (i.e., Watershed Management Plans (WMPs), Enhanced Watershed Management Plans (EWMPs), Green Infrastructure Plans and regional BMPs). With the Los Angeles County Municipal Separate Storm Sewer System Permit's innovative and holistic approach to improving stormwater quality through WMPs and EWMPs, it is appropriate to allow and perhaps incentivize permittees under the Industrial General Permit to participate in these alternative compliance projects.

SA Recycling would like to thank the Regional Board for the opportunity to comment on the proposed TMDL-specific requirements for the Industrial General Permit that are under consideration. Please feel free to contact me with any questions at (714) 632-2031.

Sincerely,

A handwritten signature in blue ink that reads "Lindsay Maine". The signature is written in a cursive, flowing style.

Lindsay Maine  
Environmental Manager  
SA Recycling, LLC



## STATE OF CALIFORNIA AUTO DISMANTLERS ASSOCIATION

3550 Watt Avenue, Suite 140—Sacramento, CA 95821—(916) 979-7088—Fax (916) 979-7089

March 31, 2016

San Francisco Bay Regional Water Quality Control Board  
Attention: Christine Boschen  
1515 Clay Street, Suite 1400  
Oakland, CA 94612.  
Via email: [Christine.boschen@waterboards.ca.gov](mailto:Christine.boschen@waterboards.ca.gov)

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013  
Via email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Santa Ana Regional Water Quality Control Board  
Attention: Barbara Barry  
3737 Main Street, Suite 500  
Riverside, CA 92501  
Via email: [barbara.barry@waterboards.ca.gov](mailto:barbara.barry@waterboards.ca.gov)

San Diego Regional Water Quality Control Board  
Attention: Erica Ryan  
2375 Northside Drive, Suite 100  
San Diego, CA 92108  
Via email: [sandiego@waterboards.ca.gov](mailto:sandiego@waterboards.ca.gov)

**Subject:           Comments on Draft TMDL IGP Requirements**

Dear Ms. Boschen, Ms. Vitale, Ms. Barry, and Ms. Ryan:

On behalf of the State of California Auto Dismantlers Association (SCADA), I am pleased to provide comments in response to the recent notices regarding the incorporation of Total Maximum Daily Load (TMDL)-specific permit requirements for the State Water Resources Control Board's Industrial General Storm Water Permit (IGP).

SCADA represents approximately 150 small and medium sized businesses throughout California. SCADA was formed in 1959 to serve its members in the area of government relations, education, and business. SCADA members are licensed by the state Department of Motor Vehicles and take responsibility for recycling and disposing of End-of-Life Vehicles using environmentally responsible practices.

With many of the requirements proposed to be applied to implement TMDL provisions in other watersheds, we respectfully request that the comments outlined in this letter be considered for all TMDL implementation proposals noticed and the overarching reopener of the IGP later this year, including:

### **Region 2 – San Francisco Regional Water Quality Control Board**

- Sonoma Creek

- Napa River

#### **Region 4 – Los Angeles Regional Water Quality Control Board**

- Los Angeles River
- Long Beach City Beaches & Los Angeles River Estuary
- San Gabriel River
- Los Cerritos Channel
- Santa Clara River
- Calleguas Creek & Watershed
- Oxnard Drain #3
- Ventura River/Ventura Coastal
- Colorado Lagoon
- Santa Monica Bay
- Marina Del Rey
- Ballona Creek, Estuary & Sepulveda Channel
- Los Angeles & Long Beach Harbors, Machado Lake, Dominguez Channel
- Los Angeles Area Lakes

#### **Region 8 – Santa Ana Regional Water Quality Control Board**

- San Diego Creek
- Newport Bay
- San Gabriel River and Impaired Tributaries

#### **Region 9 – San Diego Regional Water Quality Control Board**

- Chollas Creek
- Los Penasquitos Lagoon
- Rainbow Creek
- Shelter Island Yacht Basin
- Baby Beach in Dana Point Harbor and Shelter Island Shoreline
- Twenty Beaches and Creeks in SD Region

SCADA appreciates your consideration of the following overarching comments and recommendations.

#### **Baseline Status for New Constituents**

With a number of the TMDL monitoring requirements to be incorporated into the IGP being new, permittees will not have existing data to rely upon for assessing potential for exceedances or if additional BMPs might be warranted to prevent the exceedances. Because some of the constituents are new, IGP permittees may not have historically measured concentrations of these constituents in discharges from their facilities. As such, they are not likely going to have data to base determinations about control measures on nor will they be clear about what measures would be necessary to manage these constituents.

In this regard, SCADA recommends that all dischargers be placed at baseline for any new constituent where monitoring data is not available. Responsible dischargers, like those that are SCADA members, should have the opportunity to begin at baseline status.

#### **Compliance Options**



Consistent with its previous comments to the State Water Resources Control Board (SWRCB), SCADA strongly recommends the IGP be amended with the incorporation of the TMDL provisions to allow various options for dischargers to demonstrate compliance with overall IGP and specific TMDL requirements. Some of the regional board provisions allow for multiple options to achieve compliance if receiving water bodies are in attainment of TMDL requirements and water quality objectives, IGP permittees should also be considered to be in compliance with TMDL requirements based on flexibility to meet those requirements.

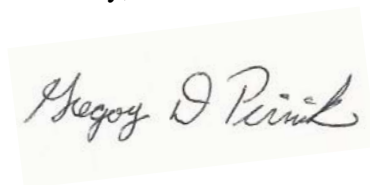
### **Background Pollutant Source Demonstrations**

SCADA has long been concerned that there is not a broader review of the various background sources that contribute to background pollutant sources that are often inappropriately attributed to individual dischargers. In this regard, SCADA urges the state and regional boards to consider supporting a regional approach to addressing issues related to non-industrial pollutant sources and background pollutant source demonstrations whereby regional permittees could collaborate to conduct an assessment of the various background sources in a particular region that may be inappropriately attributed to IGP permittees. This would be of great assistance to permittees who find themselves in Level 2 with the need to bear the burden and cost of demonstrating that an exceedance(s) of a Numeric Action Level (NAL) is related to the presence of non-industrial pollutant sources or the source is tied to natural background not disturbed by industrial activities.

SCADA would also urge consideration of the possibility that establishing numeric limits does not account for pollutant loading differences among permittees. One discharger might be responsible for significant pollutant loading into the waterway annually, while another may load a de minimis amount. Under the proposed TMDL scenarios, however, they are treated equally because the limits are concentration-based rather than a mass-based limit. This assessment does nothing to account for risk and the differences among permittees who are attempting to be in compliance versus those that choose to ignore regulatory requirements in their totality.

On behalf of SCADA, I appreciate the opportunity to provide these comments. If you have questions regarding the points raised in this letter, please contact Gavin McHugh with McHugh, Koepke & Associates at (916) 930-1993. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Gregory D Pirnik". The signature is written in black ink on a light-colored, slightly textured paper background.

Greg Pirnik



April 14, 2016

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4th Street Suite 200  
Los Angeles, CA 90013

Sent By Email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Subject: "Comments on Draft TMDL-Specific IGP Requirements – Ballona Creek and MDRH Sub-watersheds." and specifically the Ballona Creek Total Maximum Daily Load (TMDL) for Metals.

Dear Ms. Vitale:

Southern California Gas Company (SoCalGas) appreciates the work that the Los Angeles Regional Water Quality Control Board (RWQCB) has done to complete this stage of the Specific Requirements for the Ballona Creek Total Maximum Daily Load (TMDL) for Metals" and the opportunity to provide constructive comments on the requirements.

**Comments:**

- 1) The TMDL should be clear that each IGP discharger, whose reevaluation of their Pollutant Source Assessment does not identify the presence of the TMDL pollutant(s), is not subject to the pollutant specific TMDL based requirements.
- 2) The TMDL should be made clear that IGP facilities discharging to the Ballona Creek Estuary (including facilities on or southwest of Centinela Creek) are not subject to this TMDL. This clarification is consistent with Section 6.1 of the Final Staff Report.
- 3) The TMDL should be clear that each discharger with IGP coverage is at Baseline once the State Water Resources Control Board (SWRCB) incorporates the TMDL-specific requirements and until the reevaluation of the Discharger's Potential Pollutant Source Assessment is complete according to the TMDL timeline.
- 4) The derivation of the concentration-based TALs and related Waste Load Allocations (WLAs) is not clear. The Final Staff Report primarily discusses the methodology verbally with Tables of intermediate and final results. The verbal logic and results should be

followed and prefaced with calculation examples. The TMDL Fact Sheet should present a derivation flow chart and give at least one calculation example for both the dry-weather and wet-weather TMDL in order to follow and confirm the results.

- 5) SoCal Gas recommends that the TMDL follow the IGP methodology and timeline for TALs as it does for NALs. Facilities that originally conducted Potential Pollutant Source Assessments for the new IGP and did not find appreciable potential for metals in storm water or NSW discharges, most likely have not sampled for metals. A QISP assisted reevaluation may tend to be overly conservative and cause a facility to be automatically classified as Level 1 unnecessarily. Instead, it is recommended that facilities with a reevaluation indicating potential metals exposure initially stay at Baseline (not automatically reach Level 1) but would be required to sample for the metals. If one or more metals exceed the TAL, then the facility would be elevated to Level 1 for that parameter(s) and be required to perform a Level 1 ERA Report. This methodology would also mitigate any reevaluation disputes between QISPs and Facility Owners.

### **Suggested Language:**

SoCalGas provides the following TMDL revisions in line with the comments above and recommends the corresponding revisions be made to the Fact Sheet.

#### **ATTACHMENT E, LIST OF TOTAL MAXIMUM DAILY LOADS (TMDLs) APPLICABLE TO INDUSTRIAL STORM WATER DISCHARGERS**

#### **Required Actions Section**

##### **Delete and replace with text below**

~~Four months after incorporation of these TMDL-specific requirements, Responsible Dischargers, as defined above, are assigned Level 1 Status for the TMDL pollutants unless one of the following conditions is met for each TMDL pollutant:~~

~~The Discharger is already in Level 1 or Level 2 Status pursuant to Section XII.C or Section XII.D for the TMDL pollutant(s); or~~

~~The Discharger re-evaluates, with the assistance of a QISP, its Assessment of Potential Pollutant Sources (Section X.G.2.a.ix) in its current Storm Water Pollution Prevention Plan (SWPPP), relative to TMDL pollutants and finds that its non-storm water discharges and its storm water discharges associated with industrial activities do not have the potential to contain the TMDL pollutant(s);<sup>2</sup>; or~~

~~The Discharger provides the following:~~

~~For storm water discharges, a demonstration that sampling results from the last 4 Qualifying Storm Events~~

~~(QSEs) did not exceed the TMDL Action Levels (TALs)<sup>3</sup>, set forth in the tables below, and  
o For NSWDs, a demonstration, based on the last 6 monthly visual observations that there are no unauthorized NSWDs and that best management practices (BMPs) for any authorized NSWDs are included in the SWPPP and are being fully implemented as required by Section IV.B.3.4  
□□ The Discharger indicates it has installed Advanced BMP(s) that retain all NSWDs and the storm water volume associated with the 85th percentile, 24-hour event (Section X.H.2).<sup>5,6</sup>~~

**Replace with Text on italics**

**Required Actions Section**

Compliance with Waste Load Allocations  
Comply with the conditions and requirements of this Industrial Storm Water General Permit (Order No. 2014-0057-DWQ).

*The Discharger is required to perform a reevaluation with the assistance of a QISP of its Assessment of Potential Pollutant Sources in its current Storm Water Pollution Prevention Plan (SWPPP) within four (4) months after incorporation of these TMDL-specific requirements in this Order. If the Discharger finds that its non-storm water discharges and storm water discharges associated with industrial activities do not have the potential to contain the TMDL pollutants, then the Discharger is not subject to the requirements of this TMDL.*

*Dischargers, whose reevaluation of its Assessment of Potential Pollutant Sources indicates that its non-storm water discharges and storm water discharges have the potential to contain the TMDL pollutants, are subject to the requirements of this TMDL. Dischargers subject to this TMDL start out at Baseline Status for the TMDL pollutants unless, for storm water discharges, sampling results for one or more of the TMDL pollutants from the last four (4) Qualifying Storm Events (QSEs) exceeded TMDL Action Level(s), or for NSWDs that any of the last six (6) monthly visual observations indicated the presence of unauthorized NSWDs or the failure of Best Management Practices (BMPs) for authorized NSWDs and the discharger has not installed Advanced BMP(s) that retain all NSWDs and the storm water volume associated with the 85th percentile, 24-hour event (Section X.H.2). These Dischargers will be assigned Level 1 Status for the TMDL pollutant(s) within four (4) months after incorporation of these TMDL-specific requirements in this Order.*

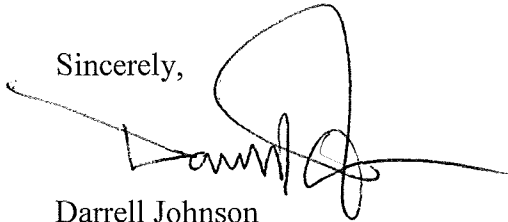
*For Dischargers with TAL Baseline Status who, based on their initial Assessment of Potential Pollutant Sources for the July 1, 2014 IGP effective date, concluded that there was no potential for their non-storm water and storm water discharges to contain the*

*pollutant sources and they have not conducted TMDL pollutant sampling to date, are required to sample the first two QSEs after incorporation of these TMDL-specific requirements in this order. If during either of the two QSEs, a TAL is exceeded, the Discharger shall then have Level 1 Status. When the Discharger is in Level 1 and the TAL for the same parameter(s) is again exceeded, the Discharger will then be in Level 2 the next compliance year.*

*Discharges in Level 1 or Level 2 can return to Baseline for a parameter after four (4) consecutive QSE's without an exceedance for that parameter.*

The Discharger shall *submit the sampling and visual observation results required above to the Los Angeles Water Board within 4 months of the State Water Board's incorporation of these TMDL-specific requirements in this Order or within 30 days of sampling a QSE.*

Sincerely,

A handwritten signature in black ink, appearing to read 'Darrell Johnson', with a large loop at the top and a horizontal line extending to the right.

Darrell Johnson  
Environmental Programs Manager  
Southern California Gas Company

cc: Ricardo Moreno, SCG Water Quality Team Leader



A  Sempra Energy utility

April 14, 2016

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4th Street Suite 200  
Los Angeles, CA 90013

Sent By Email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Subject: "Comments on Draft TMDL-Specific IGP Requirements – Ballona Creek and MDRH Sub-watersheds." and specifically the Ballona Creek Estuary Total Maximum Daily Load (TMDL) for Toxic Pollutants.

Dear Ms. Vitale:

Southern California Gas Company (SoCalGas) appreciates the work that the Los Angeles Regional Water Quality Control Board (RWQCB) has done to complete this stage of the Specific Requirements for the Ballona Creek and MDRH Sub-Watersheds Total Maximum Daily Load (TMDL) for Toxic Pollutants" and the opportunity to provide constructive comments on the requirements.

**Comments:**

- 1) The TMDL should be clear that each IGP discharger, whose original Pollutant Source Assessment and whose reevaluation of their Pollutant Source Assessment required by this TMDL does not identify the presence of the TMDL pollutant(s), is not subject to the pollutant specific TMDL based requirements.
- 2) The TMDL should be clear that each discharger with coverage under the IGP is at Baseline once the State Water Resources Control Board (SWRCB) incorporates the TMDL-specific requirements until the reevaluation of the Discharger's Potential Pollutant Source Assessment is complete according to the TMDL timeline.
- 3) The derivation of the concentration based TALs and related WLAs are not clear. The Final Staff Report primarily discusses the basis and calculation methodology verbally with Tables of intermediate and final results. The verbal logic and tabular results should be followed and prefaced with calculation examples for both the dry weather and wet weather TMDLs in order for educated laypersons to follow and confirm the results.

- 4) The IGP states that “The Discharger shall ensure that all laboratory analyses are conducted according to test procedures under 40 Code of Federal Regulations part 136, including the observation of holding times, unless other test procedures have been specified in this General Permit or by the Regional Water Board”. The Regional Board has specified the use of the Suspended Solids Concentration (SSC) Test Method ASTM D3877-97 in lieu of the Total Suspended Solids (TSS) Test Method 2540D. In addition the Regional Board has specified a SSC instantaneous TAL for the SSC method of 1 mg/l versus the IGP instantaneous NAL of 400 mg/l for the TSS method. The Regional Board has essentially mandated a “zero” sediment discharge.

SoCalGas recognizes that metals and toxic compounds can be absorbed by or carried by sediment. However, the latest staff report assumed that the “current” Estuary sediment metals and toxic pollutant loading is characteristic of the more current partitioning in the NSWs and Storm Water discharges of Dischargers subject to this TMDL. The setting of a “zero” sediment discharge limit without allowing these Dischargers to characterize the metals and toxic pollutant levels in their sediment discharges is unwarranted and potentially overly burdensome.

- 5) SoCal Gas recommends that the TMDL follow the IGP methodology and timeline for TALs as it does for NALs. Facilities that originally conducted Potential Pollutant Source Assessments for the new IGP and did not find appreciable potential for metals in storm water or NSW discharges, most likely have not sampled for metals. A QISP assisted reevaluation may tend to be overly conservative and cause a facility to be automatically classified as Level 1 unnecessarily. Instead, it is recommended that facilities with a reevaluation indicating potential metals exposure initially stay at Baseline (not automatically reach Level 1) but would be required to sample for the metals. If one or more metals exceed the TAL, then the facility would be elevated to Level 1 for that parameter(s) and be required to perform a Level 1 ERA Report. This methodology would also mitigate any reevaluation disputes between QISPs and Facility Owners.

### **Suggested Language:**

SoCalGas provides the following TMDL revisions in line with the comments above and recommends the corresponding revisions be made to the Fact Sheet.

#### **ATTACHMENT E, LIST OF TOTAL MAXIMUM DAILY LOADS (TMDLs) APPLICABLE TO INDUSTRIAL STORM WATER DISCHARGERS**

#### **Required Actions Section**

##### **Delete and replace with text below**

~~Four months after incorporation of these TMDL-specific requirements, Responsible Dischargers, as defined above, are assigned Level 1 Status for the TMDL pollutants unless one of the following conditions is~~

met for each TMDL pollutant:

The Discharger is already in Level 1 or Level 2 Status pursuant to Section XII.C or Section XII.D for the TMDL pollutant(s); or

The Discharger re-evaluates, with the assistance of a QISP, its Assessment of Potential Pollutant Sources (Section X.G.2.a.ix) in its current Storm Water Pollution Prevention Plan (SWPPP), relative to TMDL pollutants and finds that its non-storm water discharges and its storm water discharges associated with industrial activities do not have the potential to contain the TMDL pollutant(s);<sup>2</sup>; or

The Discharger provides the following:

o For storm water discharges, a demonstration that sampling results from the last 4 Qualifying Storm Events (QSEs) did not exceed the TMDL Action Levels (TALs)<sup>3</sup>, set forth in the tables below, and

o For NSWDs, a demonstration, based on the last 6 monthly visual observations that there are no unauthorized NSWDs and that best management practices (BMPs) for any authorized NSWDs are included in the SWPPP and are being fully implemented as required by Section IV.B.3.4

The Discharger indicates it has installed Advanced BMP(s) that retain all NSWDs and the storm water volume associated with the 85th percentile, 24-hour event (Section X.H.2).<sup>5,6</sup>

**Replace with *Text on italics***

**Required Actions Section**

Compliance with Waste Load Allocations

Comply with the conditions and requirements of this Industrial Storm Water General Permit (Order No. 2014-0057-DWQ).

*The Discharger is required to perform a reevaluation with the assistance of a QISP of its Assessment of Potential Pollutant Sources in its current Storm Water Pollution Prevention Plan (SWPPP) within four (4) months after incorporation of these TMDL-specific requirements in this Order. If the Discharger finds that its non-storm water discharges and storm water discharges associated with industrial activities do not have the potential to contain the TMDL pollutants, then the Discharger is not subject to the requirements of this TMDL.*

*Dischargers, whose reevaluation of its Assessment of Potential Pollutant Sources indicates that its non-storm water discharges and storm water discharges have the potential to contain the TMDL pollutants, are subject to the requirements of this TMDL. Dischargers subject to this TMDL start out at Baseline Status for the TMDL pollutants unless, for storm water discharges, sampling results for one or more of the TMDL*



*pollutants from the last four (4) Qualifying Storm Events (QSEs) exceeded TMDL Action Level(s), or for NSWDS that any of the last six (6) monthly visual observations indicated the presence of unauthorized NSWDS or the failure of Best Management Practices (BMPs) for authorized NSWDS and the discharger has not installed Advanced BMP(s) that retain all NSWDS and the storm water volume associated with the 85th percentile, 24-hour event (Section X.H.2). These Dischargers will be assigned Level 1 Status for the TMDL pollutant(s) within four (4) months after incorporation of these TMDL-specific requirements in this Order.*

*For Dischargers with TAL Baseline Status who, based on their initial Assessment of Potential Pollutant Sources for the July 1, 2014 IGP effective date, concluded that there was no potential for their non-storm water and storm water discharges to contain the pollutant sources and they have not conducted TMDL pollutant sampling to date, are required to sample the first two QSEs after incorporation of these TMDL-specific requirements in this order. If during either of the two QSEs, a TAL is exceeded, the Discharger shall then have Level 1 Status. When the Discharger is in Level 1 and the TAL for the same parameter(s) is again exceeded, the Discharger will then be in Level 2 the next compliance year.*

*Discharges in Level 1 or Level 2 can return to Baseline for a parameter after four (4) consecutive QSE's without an exceedance for that parameter.*

The Discharger shall *submit the sampling and visual observation results required above to the Los Angeles Water Board within 4 months of the State Water Board's incorporation of these TMDL-specific requirements in this Order or within 30 days of sampling a QSE.*

## **ATTACHMENT E, LIST OF TOTAL MAXIMUM DAILY LOADS (TMDLs) APPLICABLE TO INDUSTRIAL STORM WATER DISCHARGERS**

### **Required Actions Section**

### **Monitoring and Reporting Requirements Section**

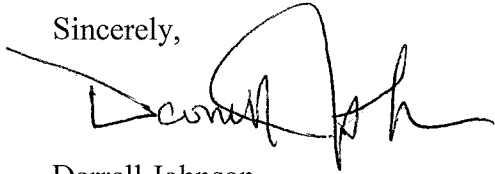
#### **Add before first paragraph: Text in italics**

*For Dischargers that choose to demonstrate a sediment pollutant loading below target levels in their sediment discharges, the discharger must provide the Regional Board a Demonstration Monitoring Plan within the first four months after incorporation of these TMDL requirements into the Order. The demonstration must be complete within the compliance year. During the demonstration time period the requirements of this TMDL apply to Dischargers subject to this TMDL. Upon the demonstration demonstrating that a higher sediment concentration is justified and the Regional Board accepting the results of*

*the demonstration, the TAL shall be adjusted accordingly, but shall not exceed the IGP NALs.*

Where the facility's Assessment of Potential Pollutant Sources (described above) identifies the facility as a potential source of cadmium, copper, lead, silver, zinc, chlordane, DDT, and PBCs in storm water discharges associated with industrial activities and/or in authorized NSWDS Responsible Discharges shall update the facility Monitoring Implementation Plan (Section X.I) per Section (XI.B.6.e-f) to include:

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell Johnson". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Darrell Johnson  
Environmental Programs Manager  
Southern California Gas Company

cc: Ricardo Moreno, SCG Water Quality Team Leader

# CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI  
MAYOR

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—  
WATERSHED PROTECTION PROGRAM  
1149 SOUTH BROADWAY, 10<sup>TH</sup> FLOOR  
LOS ANGELES, CA 90015  
TEL: (213) 485-0587  
FAX: (213) 485-3939  
WWW.LACITYSAN.ORG

May 18, 2016

### ELECTRONIC MAIL

Submitted via e-mail: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Attention: Pavlova Vitale

Dear Ms. Vitale:

### **COMMENTS ON DRAFT TMDL-SPECIFIC PERMIT REQUIREMENTS FOR THE STATE WATER RESOURCES CONTROL BOARD'S INDUSTRIAL GENERAL STORM WATER PERMIT (SANTA MONICA BAY WATERSHED)**

The City of Los Angeles (City) Bureau of Sanitation (LASAN) appreciates the Los Angeles Regional Water Quality Control Board's efforts to incorporate specific Total Maximum Daily Load (TMDL) requirements into the statewide General Permit for Storm Water Discharges Associated with Industrial Activities (Industrial General Permit [IGP]) [Order No. 2014-0057-DWQ, National Pollutant Discharge Elimination System [NPDES] Permit No. CAS000001]. Runoff from areas addressed by the IGP has the potential to enter the municipal separate storm sewer system (MS4) and affect the City's ability to meet the requirements of the 2012 MS4 Permit [Order No. R4-2012-0175; NPDES Permit No. CAS004001]. As such, the appropriate application of the TMDL requirements is needed to ensure that all responsible parties actively participate in solving the region's water quality issues. Furthermore, it is important that the incorporation of the TMDL wasteload allocations (WLAs) are consistent, as appropriate, with the manner in which those requirements are incorporated into the MS4 Permit.

The City commits vast resources to protect water quality as it strives to ensure that pollutant sources within its control do not contribute to exceedances of water quality standards. In

*zero waste • one water*

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addition, the City has been an active participant in TMDLs in watersheds located within its jurisdiction. When facilities or types of activities are not adequately regulated, they can cause or contribute to exceedances of TMDL targets, RWLs and/or WQBELs, which could result in impacts to water quality and permit violations for which the City could be held responsible. Runoff from IGP sites becomes the City's responsibility when it enters its MS4, and rightfully the City seeks equitable accountability from IGP sites. This equitability will ensure that the responsibilities and costs placed on dischargers are born fully by all parties that play a role in pollutant generation, and are fairly divided between public and private sources. The inclusion of these TMDLs into the IGP will help to ensure that all dischargers in the Los Angeles region are active in their stewardship of the local environment and that those waters deemed in need of greatest protection will receive the extra attention provided by these requirements. We support the Regional Board's efforts and have the following technical comments for your consideration.

### **Santa Monica Bay DDT and PCBs TMDL**

The Santa Monica dichlorodiphenyltrichloroethane (DDT) and polychlorinated biphenyls (PCBs) TMDL contains numerous waste load and load allocations. The TMDL applies mass-based WLAs for sediment-bound pollutant loads to industrial sources for DDT and PCBs. However, the IGP fact sheet does not require compliance directly with these WLAs; instead, it incorporates TMDL Action Levels (TALs) for Suspended Sediment Concentration (SSC) for these constituents. While the City supports the control of sediment discharged from industrial facilities to the MS4, TALs that are more closely tied to the constituents being addressed by the TMDL also seem appropriate to prevent a situation where an industrial discharger is meeting the SSC-based TAL, but is not meeting the WLA for all constituents. Therefore, the City requests that TALs consistent with the specific WLAs as found in the TMDL be included.

In addition, the IGP fact sheet for this TMDL states that dischargers will have to assess their facilities to determine if they have the potential to discharge DDT or PCBs and update their facilities' Stormwater Pollution Prevention Plans and Monitoring Implementation Plans as needed based on that reassessment. The dischargers will then have to monitor during Qualifying Storm Events (QSEs) for SSC, as described above, and comply with its corresponding TAL. The City's Hyperion Water Reclamation Plan (HWRP) may be subject to this SSC monitoring requirement as part of its required monitoring under the IGP. The City takes its responsibilities under the IGP for all of its facilities very seriously and has endeavored to already implement numerous advanced BMPs at all of its industrial facilities with the potential to discharge pollutants. Therefore the City requests that HWRP be allowed to conduct a pilot study to assess the level of SSC in HWRP's storm water and non-storm water discharges (NSWDs). The proposed pilot study will include sampling four QSEs during the first reporting year and analyzing the samples using the required test method ASTM D3977-97. Following the completion of this study, the City requests that if no SSC is found in HWRP's stormwater or NSWDs that it not be required to monitor for SSC in the future. In addition, independent of the pilot study results, the City requests that due to the City's existing efforts to improve water quality leaving HWRP, that it only be required to sample for the constituents required under this TMDL during two QSE's per reporting year, one in the first half and one in the second half of each reporting year, and at a maximum, no more than four.

## **Santa Monica Bay Bacteria TMDL**

Industrial permittees are subject to the Santa Monica Bay Bacteria TMDL (Bacteria TMDL) as follows (BPA pg. 4): *Discharges from general NPDES permits, general industrial storm water permits and general construction storm water permits are not expected to be a significant source of bacteria. Additionally, these discharges are not eligible for the reference system approach set forth in the implementation provisions for the bacteriological objectives in Chapter 3. Therefore, the waste load allocations for these discharges for all time periods are the bacteriological objectives contained in Chapter 3. Any future enrollees under a general NPDES permit, general industrial storm water permit or general construction storm water permit within the Santa Monica Bay watershed management area will also be subject to a WLA based on these bacteriological objectives.* However, the Bacteria TMDL is not incorporated into the IGP. For consistency with the TMDL and MS4 Permit, the IGP should be revised to incorporate the WLAs from the Bacteria TMDL.

## **Santa Monica Bay Nearshore and Offshore Debris TMDL**

The Santa Monica Bay Nearshore and Offshore Debris TMDL does not specifically assign an allocation for trash to industrial sources; however, industrial facilities have the potential to generate trash which is transported via wind and runoff into the City's MS4 where, per the MS4 Permit, it becomes the City's responsibility. The City believes that IGP dischargers should be equally diligent about trash management as the other specifically allocated parties in the TMDL. Therefore to the extent that IGP dischargers contribute trash to the City's MS4 and that additional trash load becomes part of a larger load of trash that the City is responsible under the TMDL to manage, the IGP dischargers should be required to exert an equivalent effort to control that trash before it leaves their sites.

The State acknowledges the contribution of trash to MS4s in its most recent Statewide efforts<sup>1</sup> to address trash in stormwater (Trash Amendments). The Trash Amendments are structured around each jurisdiction calculating and subsequently managing a trash load from specific land uses. The five priority land uses are presumed to generate the most trash and thus contribute the most to the problem, and industrial is one of these five and thus is deemed a significant source of trash.

## **Monitoring**

The data collected as part of IGP monitoring should be utilized to evaluate not only attainment of NALs/TALs, but should also be considered in the context of monitoring requirements. An agency, such as the City, should be able to propose modifications to monitoring frequencies based on the results of monitoring. The City requests that the IGP reflect an ability to propose

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<sup>1</sup> Amendment to the Water Quality Control Plan for the Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. 2015.

modified monitoring requirements based on data analysis to the Regional Board, and for the Regional Board Executive Officer to allow for revision based on the analysis.

The City would like to reiterate that by equitably sharing the responsibilities of pollutant control the State will help ensure that all potentially responsible sources are doing their part to protect water quality.

If you have any questions regarding our comments, please contact me at [Shahram.Kharaghani@lacity.org](mailto:Shahram.Kharaghani@lacity.org) or (213) 485-0587.

Sincerely,

  
SHAHRAM KHARAGHANI, Ph.D., PE, BCEE  
Program Manager

SK:VM:vm  
WPDCR9278

cc: Adel Hagekhalil, LASAN  
Hassan Rad, LASAN  
Hubertus Cox, LASAN  
Vivian Marquez, LASAN



A  Sempra Energy utility

March 31, 2016

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4th Street Suite 200  
Los Angeles, CA 90013

By Email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Subject: "Comments on Draft TMDL-Specific IGP Requirements – Santa Clara River Watershed", and more specifically the "Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria Total Maximum Daily Load (TMDL)"

Dear Ms. Vitale:

Southern California Gas Company (SoCalGas) appreciates the work that the Los Angeles Regional Water Quality Control Board (RWQCB) has done to complete this stage of the Specific Requirements for the Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria Total Maximum Daily Load (TMDL)" and the opportunity to provide constructive comments on the requirements.

**Comment:**

The definition of "wet weather days" in the Required Actions section of the TMDL following the table of parameter TALs (days of 0.1 inch of rain or more plus three days following the rain event) does not correspond to the storm water Industrial General Permit (IGP) definition of a Qualified Storm Event. That is, "*a precipitation event that produces a discharge from an industrial area that is preceded by 48 hours without precipitation*".

**Recommendation:**

SoCal Gas recommends that the definition be revised to be the same as the IGP definition or give an explanation for the difference.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darrell Johnson', with a large, stylized initial 'D' and a horizontal line extending to the right.

Darrell Johnson  
Environmental Programs Manager  
Southern California Gas Company

cc: Ricardo Moreno, SCG Water Quality Team Leader





March 30, 2016

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4th Street Suite 200  
Los Angeles, CA 90013

[losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Subject: *Comments In Re: TMDL-Specific Permit Requirements for the State Water Resources Control Board's Industrial General Storm Water Permit Affecting Los Cerritos Channel Watershed, San Gabriel River Watershed, and Los Angeles River Watershed*

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Dear Ms. Vitale:

**TECS Environmental** is pleased to offer comments regarding the possible inclusion of the Cerritos Channel, Los Angeles River (and Tributaries), and San Gabriel Watersheds. The comments are submitted on behalf of the cities of Compton, Gardena, San Fernando, and South El Monte.

## **I. TMDLs Are Under MS4 Permit Challenge**

As you are aware the current Los Angeles County MS4 Permit is under legal challenge from the cities of Gardena, Duarte, and Huntington Park. Others may join as well. Included in that challenge is opposition to the TMDLs as water quality based effluent limitation requirements (WQBELs), and waste load allocations (WLA) limitations in receiving waters. It is for this reason that none of the TMDLs, including those for the several watersheds located in the Los Angeles Basin, should be recommended for inclusion into the State Water Boards General Industrial Storm Water Activity Permit (GIASP) – until litigation is resolved.

## **II. Improperly Established TMDLs**

The problem with almost all of the TMDLs, as water quality standards is that they were developed based on wet weather conditions of receiving waters instead of ambient or dry weather conditions. According to a National Research Council publication entitled *Assessing the TMDL Approach to Water Quality Management*:

*Section 303(d) of the CWA makes it a responsibility of the states to assess whether ambient standards are being achieved for individual watersheds.*

This is affirmed by federal regulations and State Water Resources Control Board Order 2001-15, which asserted that neither federal nor state law require compliance with wet weather water quality standards. Because they were not properly established and could be voided through litigation, the State Board should not include any of the Los Angeles Basin TMDLs into the GIASP.

### **III. Incorrect Assignment of TMDLs to Reaches**

Further, several TMDLs incorporated into the L.A. MS4 Permit have been incorrectly assigned to water quality segments (reaches). Metals (copper, lead, and zinc) are listed in the MS4 Permit as being applicable to Reach 2 of the Rio Hondo. The same is true for Reaches 1 and 2 of the Arroyo Seco and for Reach 3 of the San Gabriel River. The Regional Board has also misapplied TMDLs for the harbors to upstream reaches of the Dominguez Channel. Thus, if subject industrial facilities are located in one of the aforementioned reaches subject to invalid TMDLs, they could be compelled to spend money needlessly on monitoring and best management practices (BMPs), including treatment controls.

### **IV. Los Angeles Basin TMDLs Inconsonant with 303(d) Listing Policy**

Several TMDLs adopted by the Regional Board do not comply with *Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List*. Specifically, TMDLs were placed on the 303(d) list without regard for compliance with "listing factors" contained in Section 3 of the listing policy. The policy requires meeting several criteria before a pollutant can be 303(d) listed. For example, there is no indication in the Los Angeles River Metals or the San Gabriel River Metals TMDL staff report, or any other supporting documentation, that a binomial distribution test was performed to determine if measured exceedances supported the rejection of a null hypothesis. Therefore, these non-conforming TMDLs cannot be applied to the GIASP – or any other stormwater permit for that matter.

### **V. Los Angeles Regional Board Needs to Inform and Require GIASP Non-Filers to Obtain Coverage**

Since the Industrial/Commercial Inspection Program was implemented through the 2001 Los Angeles County MS4 Permit, thousands of inspections of industrial facilities have been performed by MS4 Permittees. By the end of FY 2006, MS4 Permittees reported thousands of non-filers to the Regional Board. Yet, the majority of them have not been brought into compliance by the Board. This was discovered through inspection visits conducted under the current MS4 Permit adopted in November of 2012. Many of the industrial facilities that reported to the Board as non-filers by 2006 were identified through the current inspection program as not having obtained GIASP coverage. Therefore, it would make sense not to even consider incorporating TMDLs into the GIASP until the Board makes sure that non-filers are covered either under the GIASP or under a non-exposure certification.

## VI. Other Concerns

Before subjecting any of the Los Angeles Basin TMDLs to GIASP facilities, the applicability of each TMDL to every GIASP category must be determined. For example, how would the bacteria TMDL apply to a transit facility? Or, how would the metals TMDL apply to a food processing facility? Further, how would waste load allocations for GIASPs be determined and how would compliance monitoring be performed -- at the last point of discharge at the facility, in the nearest downstream catch basin, or at an MS4 outfall? How would water quality based effluent limitations (WQBELs) be determined? Would they be strictly numeric as is the current case with Los Angeles County MS4s, or would they be in the form of best management practices (BMPs)? And who would be responsible for performing these tasks, Regional Board inspectors or MS4 Permittees implemented through the industrial facilities inspection program? These questions should, of course, be directed to the State Board's GIASP staff. Still, they are worth mentioning now.

In closing I would like to thank you for the opportunity to comment on this important matter. Should you have any questions please feel free contact me at 626.396.9424 or [rtahir@tecsenv.com](mailto:rtahir@tecsenv.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Tahir". The signature is stylized with a large initial "R" and a long horizontal stroke at the end.

Ray Tahir  
TECS Environmental



**Western States Petroleum Association**  
Credible Solutions • Responsive Service • Since 1907

Kevin Buchan  
Manager, Bay Area Region

**VIA ELECTRONIC MAIL**

March 31, 2016

San Francisco Bay Regional Water Quality Control Board  
Attention: Christine Boschen  
1515 Clay Street, Suite 1400  
Oakland, CA 94612.  
Via email: [Christine.boschen@waterboards.ca.gov](mailto:Christine.boschen@waterboards.ca.gov)

Los Angeles Regional Water Quality Control Board  
Attention: Pavlova Vitale  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013  
Via email: [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)

Santa Ana Regional Water Quality Control Board  
Attention: Barbara Barry  
3737 Main Street, Suite 500  
Riverside, CA 92501  
Via email: [barbara.barry@waterboards.ca.gov](mailto:barbara.barry@waterboards.ca.gov)

San Diego Regional Water Quality Control Board  
Attention: Erica Ryan  
2375 Northside Drive, Suite 100  
San Diego, CA 92108  
Via email: [sandiego@waterboards.ca.gov](mailto:sandiego@waterboards.ca.gov)

**Subject: WSPA Comments on Draft TMDL-Specific Industrial General Stormwater Permit Requirements**

Dear Ms. Boschen, Ms. Vitale, Ms. Barry, and Ms. Ryan:

On behalf of the Western States Petroleum Association (WSPA), I am pleased to provide comments in response to the recent notices regarding the incorporation of Total Maximum Daily Load (TMDL)-specific permit requirements for the State Water Resources Control Board's Industrial General Storm Water Permit (IGP).

WSPA is a non-profit trade association representing twenty-six companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas, and other energy supplies in California, Arizona, Nevada, Oregon, and Washington.

Given many of the requirements are proposed to be applied to implement TMDL provisions in other watersheds, we respectfully request that the comments outlined in this letter be considered for all TMDL implementation proposals noticed and the overarching reopener of the IGP later this year, including:

### **Region 2 – San Francisco Regional Water Quality Control Board**

- Sonoma Creek
- Napa River

### **Region 4 – Los Angeles Regional Water Quality Control Board**

- Los Angeles River
- Long Beach City Beaches & Los Angeles River Estuary
- San Gabriel River
- Los Cerritos Channel
- Santa Clara River
- Calleguas Creek & Watershed
- Oxnard Drain #3
- Ventura River/Ventura Coastal
- Colorado Lagoon
- Santa Monica Bay
- Marina Del Rey
- Ballona Creek, Estuary & Sepulveda Channel
- Los Angeles & Long Beach Harbors, Machado Lake, Dominguez Channel
- Los Angeles Area Lakes

## **Region 8 – Santa Ana Regional Water Quality Control Board**

- San Diego Creek
- Newport Bay
- San Gabriel River and Impaired Tributaries

## **Region 9 – San Diego Regional Water Quality Control Board**

- Chollas Creek
- Los Penasquitos Lagoon
- Rainbow Creek
- Shelter Island Yacht Basin
- Baby Beach in Dana Point Harbor and Shelter Island Shoreline
- Twenty Beaches and Creeks in SD Region

The following key points are put forth as overarching comments and recommendations with specific examples of TMDL sector-specific permit requirements that speak to the core issues raised.

### **Dischargers should be assigned Baseline Status for new constituents.**

The Los Angeles Regional Water Quality Control Board (Los Angeles Regional Board) proposes to incorporate each TMDL waste load allocation (WLA) as a numeric “TMDL Action Level (TAL),” which would be treated in the same manner as a Numeric Action Level (NAL) in the IGP.

The Los Angeles Regional Board also proposes that Responsible Dischargers would be assigned Level 1 compliance status four months after the TMDL-specific requirements are incorporated into the IGP. However, as indicated in the IGP at p. 49, “At the beginning of a Discharger’s NOI Coverage, all Dischargers have baseline status for all parameters.” A Discharger’s Baseline status for any given parameter “shall change Level 1 status if sampling results indicate an NAL exceedance.”

Because these TMDL-derived monitoring requirements will be new to IGP Responsible Dischargers, the Responsible Dischargers would have no data upon which to determine if discharges from their facility are likely to exceed TALs, or if additional BMPs (and which BMPs) might be required to prevent TAL exceedances.

For example, dischargers within the Los Angeles River watershed will be subject to requirements for metals (cadmium, copper, lead, zinc, selenium), nitrogen compounds (ammonia; applicable to specific SIC codes), and indicator bacteria. IGP permittees have

typically not measured concentrations of these constituents in discharges from their facilities, and thus have no basis for assessing whether control measures would be needed for these constituents. In addition, the choice of control measures may vary depending upon which constituents require control, and the potential source(s) of those constituents at each facility.

Placing Responsible Dischargers in Level 1 status immediately imposes requirements to complete an Exceedance Response Action (ERA) Evaluation, which would be inappropriate, and which imposes a potentially unnecessary burden, if an exceedance has not occurred. For this reason, WSPA requests that all dischargers be assigned Baseline Status for any new constituent for which monitoring data do not exist.

**Metals TMDLs for the Los Angeles River should be implemented in the IGP in consideration of the WER for copper and the recalculated criteria for lead.**

On April 9, 2015, the Los Angeles Regional Board adopted site-specific objectives (SSOs) for copper and lead (Order No. R15-004). The SSO for copper was based upon an extensive water effect ratio (WER) study, for which extensive sample collection and toxicity testing was conducted. The WER study found that copper was less toxic in ambient water in the Los Angeles River and its tributaries than in the laboratory water used to establish the default water quality criteria of the California Toxics Rule (CTR).

The WER study also found that dry weather was the critical condition (i.e., that wet weather conditions had lower potential to cause toxicity than dry weather conditions). The SSO for lead was based upon a study that incorporated updated toxicity data for lead, and that considered the species present in the Los Angeles River watershed.

Both SSOs indicated that the default water quality criteria of the CTR, which had been used to develop the original Metals TMDLs for the Los Angeles River, were conservative, and that higher copper and lead concentrations could be present in waters and provide an equivalent level of protection of aquatic species.

Although it appears that the SSOs for lead and copper have not yet been approved by the State Water Resources Control Board, the Office of Administrative Law, or USEPA, the proposed IGP amendments do not reference these SSOs. In fact, the proposed IGP amendments state that, "...WER(s) have a default value of 1.0 unless site-specific WER(s) are approved. No site-specific values have been approved for industrial storm water discharges" (proposed amendments for Los Angeles River and Tributaries Metals TMDL at p. 7).

This language leaves the impression that WER(s) must be approved for individual discharges or types of discharges. However, the Los Angeles Regional Board's adopting resolution for these SSOs indicated that the SSO study "was to determine WERs for copper that would apply to all sources in Reaches 1, 2, 3, and 4 of the LA River, as well as select tributaries: Compton Creek, Rio Hondo, Arroyo Seco, Verdugo Wash, Burbank Western Channel and Tujunga Wash" (Resolution No. R15-004 at p. 2; emphasis added). Because

the SSOs developed by the WER and recalculation studies apply to receiving waters for both wet and dry weather conditions, the IGP TMDL requirements should be written to acknowledge these studies and to facilitate the incorporation of the applicable SSOs for copper and lead into the TALs proposed for the IGP, at such time as the SSOs become fully approved.

**Requirements from metals TMDLs should implement TALs using the dissolved fraction of the metal, and should provide several ways of demonstrating compliance.**

Because the dissolved phase of a metal is the bioavailable fraction, and because water quality criteria for metals (e.g., CTR criteria) are expressed as dissolved metals, the proposals should be modified to implement the TALs for metals in the form of dissolved metals.

The Los Angeles Regional Board has previously taken this approach in the Ballona Creek Metals TMDL, which provides as follows: “Alternatively, permittees may be deemed in compliance with WQBELs if they demonstrate compliance with dissolved numeric targets in dry and wet-weather in the applicable receiving water.” (Attachment A to Resolution R13-010 at pp. 10-11) Thus, WSPA requests that the IGP revisions allow metals concentrations to be measured in the dissolved form.

**The SWRCB should consider a regional approach to addressing issues related to non-industrial pollutant source demonstrations and natural background pollutant source demonstrations.**

Currently, the IGP allows Level 2 dischargers (i.e., those dischargers that have entered Level 2 status due to the exceedance of NALs) to make findings that “the exceedance of the NAL is attributable solely to the presence of non-industrial pollutant sources” or that “the NAL exceedance is attributable solely to the presence of the pollutant in the natural background that has not been disturbed by industrial activities.”

However, the Los Angeles Regional Board has found that “industrial sources are generally not expected to be significant sources of bacteria,” (see proposed amendments for Long Beach City Beaches and Los Angeles River Estuary TMDL for Indicator Bacteria at p. 5); it is also well established that wildlife, including birds, are significant sources of bacteria.

Similarly, atmospheric deposition is a documented source of metals to storm water.

Thus, if exceedances of these constituents occur, it cannot be assumed that the source is the industrial facility—but the burden of conducting studies to establish a non-industrial or background pollutant source demonstration may be significant. For this reason, we encourage the Los Angeles Regional Board and the State Water Board to consider allowing IGP Responsible Dischargers to team with each other, or with other permittees within the Region (e.g., MS4 permittees), to conduct these studies and make these demonstrations if they are needed.



**The IGP should be amended to provide several ways of demonstrating compliance with TMDL requirements.**

Recent permit requirements adopted by the Los Angeles Regional Board recognize that water quality based effluent limitations (WQBELs) derived from TMDLs for metals can be met in one of three ways: (i) Final metals WQBELs are met; or (ii) CTR total metals criteria are met instream; or (iii) CTR total metals criteria are met in the discharge (see, e.g., p. N-8 of the 2012 Los Angeles MS4 permit, Order No. R4-2012-0175, describing the incorporation of the metals requirements of the Harbor Toxics TMDL into MS4 permit).

If the receiving water body is in attainment of TMDL requirements and water quality objectives, IGP permittees should also be considered to be in compliance with TMDL requirements. For this reason, WSPA requests that similar language be incorporated into the TMDL requirements added to the IGP, such that IGP Responsible Dischargers will be determined to be in compliance with TMDL requirements, for all constituents, if the receiving water is in compliance with TMDL requirements.

**TALs for indicator bacteria should be applied only to discharges that drain directly to the receiving waters covered by the TMDL; water quality criteria for marine waters should not be applied to discharges to freshwater bodies.**

The proposed amendments indicate that the IGP amendments for bacteria would apply to “Responsible dischargers...that are within the direct drainages to the Long Beach City Beaches, as does the Los Angeles River Estuary direct drainage, as well as those dischargers within adjacent and upstream drainages, since discharges from those adjacent and upstream drainages are ultimately conveyed to the Long Beach City Beaches and the Los Angeles River Estuary.”

The proposed amendments further indicate that “the San Gabriel River, Los Angeles River, and Alamitos Bay watersheds (collectively termed “adjacent drainages”) discharge not directly to, but in close proximity to” the water bodies to which the TMDLs apply.

Thus, it appears that the Los Angeles Regional Board is proposing that monitoring requirements and TALs for total coliform, fecal coliform, and enterococcus would apply to all IGP Responsible Dischargers within the watersheds of the Los Angeles River, San Gabriel River, and Alamitos Bay. However, most dischargers within these watersheds discharge to freshwater receiving water bodies (e.g., the Los Angeles and San Gabriel River), in many cases dozens of miles upstream from the TMDL water bodies, where freshwater water quality objectives for bacteria are expressed in the form of *E. coli*.

To our knowledge, such an approach has not been previously applied. For example, the Los Angeles MS4 permit applies the requirements of the same Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDLs to only those MS4 permittees who discharge directly to those water bodies; the 2012 MS4 permit does not apply marine bacteria objectives to MS4 permittees whose discharges flow to freshwater water bodies (see Table K-5 at p. K-5 of the 2012 Los Angeles MS4 permit, Order No. R4-2012-0175).

It is inappropriate to require the analysis of total coliform, fecal coliform, and enterococcus for freshwater discharges, and inappropriate to apply TALs for marine water quality requirements upstream of discharges to marine water bodies. WSPA requests that the proposal be modified to clarify that TALs for marine water quality objectives only apply to direct discharges to the TMDL-specified water bodies.

We thank you for the opportunity to provide these comments. If you have any questions, please contact me at my office information below. Thank you.

Sincerely,

*Kevin Buchan*



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

April 11, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Los Angeles County Coastal Streams Watershed – Colorado Lagoon TMDL for Toxic Pollutants**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Colorado Lagoon Toxic Pollutants TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

The Proposed Approach to Incorporation Will Likely to Fail to Control Toxic Pollutants.

The numeric Waste Load Allocations (WLAs) are expressed as annual pollutants masses in gr/yr/ac for each toxic pollutant of concern (chlordan, dieldrin, lead, zinc, PAHs, PCBs, and DDT, Fact Sheet, p.3), but the "TMDL Action Level" (TAL) is expressed as a single concentration (1 mg/L) for Suspended Sediment Concentration (SSC). Better justification is needed for this abrupt change in methodology, as well as an explanation of the analytic route underlying the conversion from annual mass-based WLAs for individual toxics to a consolidated, instantaneous concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL, it is premature to conclude that the TAL is appropriate.

Even if the Water Boards can provide data and analysis to justify the use of a single concentration-based TAL for SSC, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone WQBELs, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Additionally, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of chlordan, dieldrin, lead, zinc, PAHs, PCBs, and DDT, and only those who have so identified themselves are subject to the TAL. The General Permit does not require any enrollees to monitor for chlordan, dieldrin, PAHs, DDT, or PCBs. (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it upon themselves to sample for these parameters, and

## Colorado Lagoon TMDL Incorporation for Toxic Pollutants

thus very likely that facilities that have the potential to discharge toxics will go undiscovered. The Fact Sheet includes backstop assurances (p.6) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.

Only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the annual mass-based WLAs. This creates an illegal compliance schedule under the California Toxics Rule. The incorporation approach taken has high likelihood of failure to achieve compliance with the TMDLs for toxic pollutants in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it effectively fails to require any monitoring whatsoever in a large number of cases. The entire proposed approach needs to be substantially reworked.

The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the annual standards. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.

Even if the SSC approach can be justified, *all* General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a mass-based WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis the exclusion of many enrolled facilities (how many is unclear since no data or analysis is provided) from the SSC monitoring requirement. Absent such a demonstration, the Water Boards should fully explain which land uses are least likely to be sources of toxics and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to "look the other way" even if facility operators had good reason to suspect the facility might be a source of toxic pollutants, and provides little in the way of accountability.

### The Water Boards Should Conduct an Environmental Analysis of the Proposal.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, fully enforceable TMDL-specific General Permit requirements. LAW urges the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Colorado Lagoon Toxic Pollutants TMDL and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. LAW also recommends studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current

proposal to rely on a TAL. The Water Boards should present information to justify the use of the consolidated concentration-based SSC TAL. The SED should also investigate an alternative incorporation approach relying on concentration-based WLAs for individual toxic constituents, rather than relying on SSC as a proxy for all toxic pollutants. The Water Boards must justify the numeric levels and units chosen and explain the analytic route from annual mass- and acreage-based WLAs to instantaneous concentration-based WLAs.

In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> As the Regional Board recognizes,<sup>2</sup> the incorporation of the WLA would clearly modify the underlying permit, the reasoning and case authorities in the attached letter remain on point here.

The Water Boards must also do a better job than assuming that no Responsible Dischargers are potential sources of several types of toxic pollutants, or that toxics in industrial stormwater flows are unlikely to be a significant source of pollution. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with the WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually potentially required of some subset of enrollees will achieve compliance with the mass-based WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

We are concerned that the use of a “TMDL Action Level” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on a TAL represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to a SWPPP update, and only after a minimum of 6 months must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the annual mass-based WLAs (but not the TAL).

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

<sup>2</sup> See p.2, referring to State Board’s “proceedings to consider amendment” of the General Permit by adding TMDL-specific requirements.

Colorado Lagoon TMDL Incorporation for Toxic Pollutants

The current proposed incorporation relying on a TAL is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

The Proposed Incorporation Approach Needs Thorough Rethinking.

In conclusion, the proposed approach to incorporating the WLAs for toxics in Colorado Lagoon into the General Permit needs to be substantially reworked, in many aspects completely from scratch. Much better justification for use of a single, concentration-based TAL for SSC is necessary. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed approach that first excludes many, perhaps all, Responsible Dischargers from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually requiring compliance with mass-based annual numerical standards, assuming BMPs are adequate, but not the instantaneous concentration-based TAL. The proposed approach falls far short of complying with the Clean Water Act.

We urge the Regional Board to recommend incorporating appropriate WQBELs for toxics, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for the constituents covered by the WQBELs, at least until better data is available. The Water Boards should also include a requirement to implement BMPs necessary to achieve the numeric effluent limitations.

Thank you for this opportunity to comment.

Sincerely,



Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

April 20, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Dominguez Channel and Greater LA/Long Beach Harbor TMDL for Toxic Pollutants**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Dominguez Channel and Greater LA/Long Beach Harbor Toxic Pollutants TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

The Proposed Approach to Incorporation Will Likely to Fail to Control Toxic Pollutants.

For copper, lead, and zinc, LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice and Fact Sheet.

For Dieldrin, DDT, PAHs, Chlordane, and PCBs, the numeric Waste Load Allocations (WLAs) are expressed as concentrations in micrograms per liter. The WLAs for cadmium, chromium, and mercury are expressed as a mass based concentration (mg/kg) in dry sediment. (Fact Sheet, p.7.). The "TMDL Action Level" (TAL) for all toxics except copper, lead, and zinc is expressed as a single concentration (1 mg/L) for Suspended Sediment Concentration (SSC). Better justification is needed for this change in methodology, as well as an explanation of the analytic route underlying the conversion from a mix of mass-based and concentration-based WLAs for individual toxics to a consolidated, instantaneous concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL for SSC, it is premature to conclude that the TAL is appropriate.

Even if the Water Boards can provide data and analysis to justify the use of a single concentration-based TAL for SSC, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. (This problem also applies to the TALs for copper, lead, and zinc as well.) LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone WQBELs for all toxics/metals, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices

(BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Additionally, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of cadmium, chromium, mercury, PAHs, DDT, and PCBs, and only those who have so identified themselves are subject to the TAL for SSC. The General Permit does not require any enrollees to monitor for DDT, PCBs, PAHs, cadmium, or chromium.<sup>1</sup> (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it upon themselves to sample for these parameters, and thus very likely that almost all facilities that have the potential to discharge these toxics will go undiscovered. The Fact Sheet includes backstop assurances (pp. 11-12) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.

With respect to all constituents except copper, lead, and zinc, only after self-identification as a source (which would require in most cases that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the WLAs. This approach for all constituents (including copper, lead, and zinc) creates an illegal compliance schedule under the California Toxics Rule and is inconsistent with the Basin Plan. The incorporation approach taken has high likelihood of failure to achieve compliance with the TMDLs for toxic pollutants in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever with the exceptions of copper, lead, and zinc and (maybe) mercury. The entire proposed approach needs to be substantially reworked.

The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the SSC TAL. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards for all toxics and metals. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.

Even if the SSC approach can be justified based on an analysis that meets the standards of the Clean Water Act, *all* General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis the exclusions (which could potentially encompass *every* enrollee and certainly encompass the vast majority) from the SSC monitoring requirement. The Water Boards should fully explain which land uses are least likely to be sources of toxics and why, and

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<sup>1</sup> A single industrial category (SIC 4953) is required to monitor for mercury.



what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to “look the other way” even if facility operators had good reason to suspect the facility might be a source of toxic pollutants, and provides little in the way of accountability.

The Water Boards Should Conduct an Environmental Analysis of the Proposal.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, fully enforceable TMDL-specific General Permit requirements. LAW urges the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Dominguez Channel and LA/Long Beach Harbor Toxic Pollutants TMDL and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. LAW also recommends studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. The Water Boards should present information to justify the use of the consolidated concentration-based SSC TAL. The SED should also investigate an alternative incorporation approach relying on WLAs for individual toxic constituents (as has already been done for copper, lead, and zinc), rather than relying on SSC as a proxy for all toxic pollutants. The Water Boards must justify the numeric levels and units chosen and explain the analytic route taken.

In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>2</sup> As the Regional Board recognizes,<sup>3</sup> the incorporation of the WLA would clearly modify the underlying permit, so the reasoning and case authorities in the attached letter remain on point here.

The Water Boards must also do a better job than assuming that no Responsible Dischargers are potential sources of several types of toxic pollutants, or that toxics in industrial stormwater flows are unlikely to be a significant source of pollution. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with the WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually potentially required of some subset of enrollees will achieve compliance with the WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

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<sup>2</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

<sup>3</sup> See p.1 of the Notice, referring to State Board’s “proceedings to consider amendment” of the General Permit by adding TMDL-specific requirements.

Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

We are concerned that the use of “TMDL Action Levels” as the exclusive method of WLA incorporation is unlawful. This problem includes the TALs for copper, lead, and zinc. Permitting agencies must ensure that NDPES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Fact Sheet, footnote 3, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TALs are used as a trigger for an adaptive management and monitoring program leading to a SWPPP update, and only after a minimum of 6 months (and likely much longer) must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the TALs for copper, lead, and zinc, while such a requirement never attaches to the other constituents. The California Toxics Rule does not permit such extended (and indefinite) compliance schedules for *any* of the constituents subject to a TAL. The current proposed incorporation relying on a TAL is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

The Proposed Incorporation Approach Needs Thorough Rethinking.

In conclusion, the proposed approach to incorporating the WLAs for toxics in Dominguez Channel and LA/Long Beach Harbor into the General Permit needs to be substantially reworked, in many aspects completely from scratch. Much better justification for use of a single, concentration-based TAL for SSC as a proxy for multiple pollutants is necessary. WQBELs must be an element of all the WLAs, including those for copper, lead, and zinc. Also, fundamental change is needed to a proposed approach that first excludes possibly every Responsible Discharger from monitoring several toxins, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of indeterminate length. The proposed approach falls far short of complying with the Clean Water Act.

We urge the Regional Board to recommend incorporating appropriate WQBELs for toxics, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for the constituents covered by the WQBELs, at least until better data is available. The Water Boards should also include a requirement to implement BMPs necessary to achieve the numeric effluent limitations.

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Dominguez Channel and LA/Long Beach Harbor TMDL Incorporation for Toxic Pollutants

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Arthur I. Pugsley". The signature is written in a cursive style with a large initial 'A'.

Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

April 20, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Los Angeles Harbor (Cabrillo Beach and Main Ship Channel) TMDL for Indicator Bacteria**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Los Angeles Harbor Indicator Bacteria TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

The Proposed Approach to Incorporation Will Not Lead to Control of Indicator Bacteria in Industrial Stormwater.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs into the General Permit at the levels specified in the Regional Board Notice and Fact Sheet. However, the proposed incorporation of the WLAs as "TMDL Action Levels" (TALs) rather than water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. The Water Boards should apply the straightforward process contemplated by the Clean Water Act and incorporate stand-alone numeric effluent limitations, coupled with a clear requirement that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Moreover, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of Indicator Bacteria. The General Permit does not require any land use category to monitor for Indicator Bacteria. (CAS000001 pp. 41-43.) It is thus very unlikely that any enrolled facility would take it upon themselves to sample for Indicator Bacteria, report a TAL exceedance, and enter into the adaptive management process outlined in the Fact Sheet. Much more like is a conclusory statement in a stormwater pollution prevention plan (SWPPP) update that the facility is not a source. The Fact Sheet includes backstop assurances (p.6) that the Water Boards could require a facility to revise its SWPPP or obtain an individual permit if the Boards were able to determine that the facility is a source for Indicator Bacteria. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.

## LA Harbor (Cabrillo Beach and Main Ship Channel) TMDL Incorporation for Indicator Bacteria

Only after self-identification as a bacterial source does the requirement to meet the TALs kick in, and then only indirectly, after a potentially lengthy period of updating a Discharger's SWPPP to incorporate Best Management Practices (BMPs) sufficient to meet the TALs. The current proposed incorporation is a pathway to easy avoidance of the TMDL and a virtual guarantee of failure to control Indicator Bacteria in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the TALs, since it is effectively fails to require any monitoring whatsoever. The entire proposed approach needs to be fundamentally reworked. A TMDL that would very likely never be triggered is not a TMDL at all.

The Fact Sheet (p.5) includes a conclusory statement that industrial stormwater is not expected to be a source of bacteria. No evidence is provided to support the claim, and the Fact Sheet undermines this assertion with the admission that some land uses regulated by the General Permit could be sources of Indicator Bacteria. Given the uncertainty, *all* General Permit enrollees should be required to monitor for Indicator Bacteria, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis that excluding *every* enrolled facility from the Indicator Bacteria monitoring requirement is somehow justifiable, given the lack of information on bacterial loads from industrial discharges.

The currently proposed system allows Responsible Dischargers to "look the other way" even if facility operators had good reason to suspect the facility might be a source of Indicator Bacteria, with little fear of accountability. For example, a Municipal Recycling Facility or a landfill- land uses known to be potentially significant sources of Indicator Bacteria- would not monitor for Indicator Bacteria based on the parameters at pp. 41-43 of the General Permit. Thus, these facilities would likely never report an exceedance of the TALs or take measures to stop the exceedance. Yet such facilities would likely be causing or contributing to an exceedance of the WLAs nonetheless.

To make matters even worse, the WLAs are incorporated as triggers for an adaptive management process, for those dischargers who, for whatever reason, have taken it upon themselves to monitor for and identify themselves as sources of Indicator Bacteria. Even for those parties who do self-report as potential sources, relying on a TAL means eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation. The TALs are not lawful substitutes for WQBELs even if the Water Boards could solve the other serious problems with the proposed approach.

### The Water Boards Should Prepare an SED Prior to Incorporation.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, enforceable incorporation alternatives. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the LA Harbor Indicator Bacteria TMDLs and reasonably foreseeable impacts, includes the information that will be required by the State Board as part of the incorporation process, and includes any Reasonable Assurance Analysis required by the Clean Water Act. The Water Boards must do a better job than assuming, without evidence, that no Responsible Dischargers are potential sources of Indicator Bacteria, or that Indicator Bacteria in industrial stormwater flows is unlikely to be a significant source of pollution.

In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit. Here, the incorporation of the WLAs would clearly modify the underlying permit, as the Regional Board recognizes (Notice, p.1, referring to submission of comments as part of “proceedings to consider amendment of the Industrial General Permit.”) Most of the reasoning and case authorities in the attached letter therefore remain on point here.<sup>1</sup>

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should analyze WLAs that have an effective mechanism to trigger applicability of numeric standards. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually required of will achieve compliance with the WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

The General Permit Must Incorporate WQBELs.

We are concerned that the use of “TMDL Action Levels” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Fact Sheet, Footnote 2, p.1.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to eventual development of BMPs, and only after a potentially lengthy period must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the TAL. Using TALs is needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

The Incorporation Approach Needs Fundamental Reworking.

In conclusion, the proposed approach to incorporating WLAs for Indicator Bacteria in Los Angeles Harbor into the General Permit needs to be completely reworked. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed approach that first excludes every Responsible Discharger from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually achieving a numerical standard, assuming BMPs are adequate.

We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for Indicator Bacteria and implement BMPs necessary to achieve the numeric effluent limitations.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Arthur I. Pugsley".

Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

March 25, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Los Cerritos Channel Watershed  
Los Cerritos Channel Metals TMDL**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Los Cerritos Channel Metals TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice. However, the proposed incorporation of the WLAs as "TMDL Action Levels" rather than water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Regional Board apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that permittees implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs.

Because the WLAs are incorporated as triggers for an adaptive management process eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation, the proposed incorporation creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. While the current proposal to develop a trigger for an adaptive management process leading to additional BMPs might ultimately play some useful role in implementing the TMDLs, it cannot be the exclusive approach taken, as is now the case. The TALs are not lawful substitutes for WQBELs.

Environmental Review Process Issues

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Los Cerritos Channel Metals TMDLs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an



MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the TMDLs would clearly modify the underlying permit, since currently the TMDLs are not incorporated into the General Permit, so most of the reasoning and case authorities in the attached letter remain on point here.

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the BMPs eventually required will achieve compliance with the WLAs.

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

We are concerned that the use of “TMDL Action Levels” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Notice, footnote 3, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after a minimum of 10 months past incorporation must a discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the TAL. Using TALs is also needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

Using TALs to trigger an adaptive management program leading to SWPPP revisions and an eventual requirement for prevention of exceedances of the TAL also effectively creates a compliance schedule for metals regulated by the California Toxics Rule (CTR). Such compliance schedules are not permitted beyond 2005 (or 2010 at the latest in a few cases).

The lack of WQBELs also means that the proposed monitoring program must be revised to include monitoring sufficient to adequately determine compliance with a WLA based WQBEL.

#### The Numeric Limits Should be Incorporated as WQBELs, not TALs.

In conclusion, while the use of TALs might be an appropriate adaptive management measure, TALs can never be the sole, or even primary, approach to incorporating WLA s for Los Cerritos Channel

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

metals into the General Permit, as WQBELs must be an element of the WLAs. We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that permittees implement BMPs necessary to achieve the numeric effluent limitations, and undertake sufficient monitoring to demonstrate compliance.

Direct incorporation of a WQBEL is much simpler, more direct, has much less potential for confusion than the current proposal, and is legally required.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Arthur I. Pugsley".

Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

April 14, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Machado Lake Subwatershed  
Machado Lake TMDL for Eutrophics and Related Effects**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Eutrophics TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice and Fact Sheet.

The Water Boards Should Incorporate WQBELs Into the General Permit.

The proposed incorporation of the WLAs as “TMDL Action Levels” (TALs) and “Numeric Action Levels” (NALs) rather than water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Regional Board use the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that Responsible Dischargers implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs/NALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as NALs. (Regional Board Notice, footnote 2, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL/NAL is used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after an absolute minimum of 6 months past incorporation (and most likely significantly longer) must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is

revised to include BMPs to prevent an exceedance of the TAL/NAL. Such an approach, even if it could be made consistent with the requirement for WQBELs, is needlessly indirect and may require an amendment to the Basin Plan to allow the elongated compliance schedule. The current proposed incorporation relying on TALs/NALs is also possibly inconsistent with the TMDL Implementation Plan. The lack of WQBELs also means that the proposed monitoring program must be revised to include monitoring sufficient to adequately determine compliance with WLA-based WQBELs.

Data Gaps Should be Closed and/or Coupled with Expanded Monitoring Requirements.

The current proposal limits monitoring for eutrophics and related effects to a handful of Standard Industrial Classification Codes (SICs), thereby exempting some General Permit enrollees (how many are exempted is unclear from the Fact Sheet) from the monitoring requirements. We are concerned that primary reliance on SICs, many of which are quite old, could lead to some discharges of nitrogen compounds remaining undetected (for example, from newer industries not covered by existing SICs or existing industries whose technological evolution has increased potential discharges of nitrogen compounds since the SICs were developed). The Water Boards need to back up the proposed limitations to certain SICs with a reasonable assurance analysis (RAA), as required by the Clean Water Act, the Porter-Cologne Act, and the General Permit. In addition, the Water Boards are treating the TALs for nitrogen and phosphorus as proxies for other pollutants, including algae, ammonia, and odors. The Water Boards should also conduct a RAA to demonstrate that the proposed TALs are sufficiently protective with respect to these other pollutants as well.

The backstop assurance (Fact Sheet, p.6) that the Water Boards could require a facility to monitor for nitrogen compounds and/or obtain an Individual Permit if evidence later emerges that the facility is causing or contributing to an exceedance of a WLA assumes that the Water Boards would have the time and resources to enforce such a requirement against all potential dischargers who in hindsight were erroneously excluded from the initial list of Responsible Dischargers. A much better approach is to ensure that all potential dischargers of pollutants covered by the WLA monitor for those pollutants up front. The current system allows Responsible Dischargers to “look the other way” if facility operators had good reason to suspect the facility might be a source of eutrophic and related pollutants but lacked a SIC on the included list. These facilities would never report an exceedance of the TALs or take measures to stop the exceedance. Yet such facilities would likely be causing or contributing to an exceedance of the WLA nonetheless.

Absent a demonstration that the listed SICs capture the universe of General Permit enrollees with potential to discharge eutrophic and related compounds causing or contributing to exceedances of the WLAs, the Water Boards should require *all* enrollees to monitor for nitrogen compounds, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements.

The Water Boards Should Prepare an SED.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze incorporation approach alternatives. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Machado Lake Eutrophics and related pollutants WLAs

and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process.

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs/NALs. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually required will achieve compliance with the WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

In addition, the SED should include written Responses to Comments. Attached is a letter LAW recently sent to the Regional Board in a the context of an MS4 Permit, explaining LAW's position that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the WLAs would clearly modify the underlying permit, as the Regional Board recognizes. (Regional Board Notice, p.1, referring to the TMDL incorporation as "proceedings to consider amendment of the Industrial General Permit.") The reasoning and case authorities in the attached letter thus remain on point here.

The Current Proposed Incorporation Approach is Inadequate.

In conclusion, WQBELs must be an element of the WLAs. This direct approach to incorporation should be coupled with the requirement that Responsible Dischargers monitor for eutrophic compounds and implement BMPs necessary to achieve the numeric effluent limitations. Additional information should be provided to confirm the adequacy of the proposed list of SICs subject to monitoring requirements and/or the list of SICs subject to the monitoring requirement should be expanded.

Thank you for this opportunity to comment.

Sincerely,



Arthur Pugsley

Senior Staff Attorney

attachment

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

April 14, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Machado Lake Subwatershed  
Pesticides and PCBs**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Machado Lake Pesticides and PCBs TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. LAW reserves the right to submit additional comments when the State Board takes up the matter.

The Proposed Approach to Incorporation Will Likely to Fail to Control Toxic Pollutants.

The numeric Waste Load Allocations (WLAs) are expressed as pollutant masses in micrograms per kilogram for each toxic pollutant of concern (PCBs, DDT, DDE, DDD, total DDT, Chlordane, and Dieldrin, Fact Sheet, p.3), but the "TMDL Action Level" (TAL) is expressed as a single concentration of 1 mg/L for Suspended Sediment Concentration (SSC). Better justification is needed for this methodology, as well as an explanation of the analytic route underlying the conversion from mass-based WLAs for individual toxics to a consolidated, concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL, it is premature to conclude that the TAL is appropriate.

Even if the Water Boards can provide data and analysis to justify the use of a single concentration-based TAL for SSC as a proxy for all toxics, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and incorporate stand-alone WQBELs, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Additionally, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of chlordane, DDT, dieldrin, and PCBs, and only those who have so identified themselves are subject to the TAL. The General Permit does not require any enrollees to monitor for any of these substances. (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take

it upon themselves to sample for these parameters, and thus very likely that facilities that have the potential to discharge toxics will go undiscovered. The Fact Sheet includes backstop assurances (p.5) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.

Only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the annual mass-based WLAs. This system creates an illegal compliance schedule under the California Toxics Rule. The incorporation approach taken has high likelihood of failure to achieve compliance with the TMDLs for toxic pollutants in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever of enrollees who have not self-identified as sources for toxics. The entire proposed approach needs to be substantially reworked.

The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the TAL. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.

Even if the SSC approach can be justified, *all* General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a mass-based WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should fully explain which land uses are least likely to be sources of toxics and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to "look the other way" even if facility operators had good reason to suspect the facility might be a source of toxic pollutants, and provides little in the way of accountability.

#### The Water Boards Should Conduct an Environmental Analysis of the Proposal.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, fully enforceable TMDL-specific General Permit requirements. LAW urges the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Machado Lake Pesticides and PCBs TMDL and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. LAW also recommends studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on a TAL. The Water Boards should present information to justify the use of the consolidated concentration-based SSC TAL. The SED should also investigate an alternative incorporation

approach relying on concentration-based WLAs for individual toxic constituents, rather than relying on SSC as a proxy for all toxic pollutants. The Water Boards must justify the numeric levels and units chosen and explain the analytic route from mass-based WLAs to instantaneous concentration-based WLAs.

In addition, the SED should include written Responses to Comments. Attached is a letter LAW recently sent to the Regional Board in the context of an MS4 Permit, explaining LAW's position that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> The incorporation of the TAL would clearly modify the underlying permit, as the Regional Board recognizes. (Regional Board Notice, p.1 referring to submission of comments as part of "proceedings to consider amendment of the Industrial General Permit.") The reasoning in the attached letter applies with equal force whether the amended NPDES permit concerns industrial stormwater or municipal stormwater.

In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with the WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually potentially required of some subset of enrollees will achieve compliance with the mass-based WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

The use of a "TMDL Action Level" coupled with the omission of WQBELs is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on a TAL represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as "Numeric Action Levels" (NALs). The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to a SWPPP update, and only after a minimum of 6 months must a self-reporting discharger demonstrate that the facility's Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the mass-based WLAs (but not the concentration-based TAL). Actual compliance with the mass-based WLAs will likely not occur until substantially beyond the updating of the SWPPP, effectively creating a lengthy compliance schedule. The promulgation of an open-ended compliance schedule for substances covered by the California Toxics Rule is also illegal. Compliance schedules of any length are banned after 2005 (or at the latest in 2010 in a few cases). The current proposed incorporation relying on a TAL is also inconsistent with the TMDL Implementation

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.



Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

The Proposed Incorporation Approach Needs Thorough Rethinking.

In conclusion, the proposed approach to incorporating the WLAs for toxic pollutants in the Lake Machado Subwatershed into the General Permit needs to be substantially reworked, in many aspects completely from scratch. Much better justification for use of a single, concentration-based TAL for SSC is necessary. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed approach that first excludes many, likely all, Responsible Dischargers from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually requiring compliance with mass-based WLAs, assuming BMPs are adequate, but not the instantaneous concentration-based TAL. The proposed approach falls far short of complying with the Clean Water Act.

LAW urges the Water Boards to incorporate appropriate WQBELs for toxics, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for the constituents covered by the WQBELs, at least until better data is available. The Water Boards should also include a requirement to implement BMPs necessary to achieve the numeric effluent limitations.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Arthur I. Pugsley".

Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

April 11, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Marina del Rey Harbor Watershed  
Marina del Rey Harbor TMDL for Toxic Pollutants**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Marina del Rey Harbor Toxic Pollutants TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

The Proposed Approach to Incorporation Will Likely to Fail to Control Toxic Pollutants.

The numeric Waste Load Allocations (WLAs) are expressed as annual pollutants masses in gr/yr/ac for each toxic pollutant of concern (copper, lead, zinc, chlordane, DDT, p,p'-DDE, and PCBs, Fact Sheet, p.3), but the "TMDL Action Level" (TAL) is expressed as a single concentration (1 mg/L) for Suspended Sediment Concentration (SSC). Better justification is needed for this abrupt change in methodology, as well as an explanation of the analytic route underlying the conversion from annual mass-based WLAs for individual toxics to a consolidated, instantaneous concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL, it is premature to conclude that the TAL is appropriate.

Even if the Water Boards can provide data and analysis to justify the use of a single concentration-based TAL for SSC, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone WQBELs, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Additionally, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of copper, lead, zinc, chlordane, DDT, p,p'-DDE, and PCBs, and only those who have so identified themselves are subject to the TAL. The General Permit does not require any enrollees to monitor for chlordane, DDT, p,p'-DDE, or PCBs. (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it upon themselves to sample for these parameters, and thus very

## Marina del Rey Harbor TMDL Incorporation for Toxic Pollutants

likely that almost all facilities that have the potential to discharge toxics will go undiscovered. The Fact Sheet includes backstop assurances (p.6) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.

Only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the annual mass-based WLAs. This creates an illegal compliance schedule under both the Basin Plan and the California Toxics Rule. The incorporation approach taken has high likelihood of failure to achieve compliance with the TMDLs for toxic pollutants in industrial stormwater. As a corollary, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever. The entire proposed approach needs to be substantially reworked.

The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the annual standards. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.

Even if the SSC approach can be justified based on an analysis that meets the standards of the Clean Water Act, *all* General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a mass-based WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should also justify through data and analysis the exclusions (which could potentially encompass *every* enrollee) from the SSC monitoring requirement. The Water Boards should fully explain which land uses are least likely to be sources of toxics and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to "look the other way" even if facility operators had good reason to suspect the facility might be a source of toxic pollutants, and provides little in the way of accountability.

### The Water Boards Should Conduct an Environmental Analysis of the Proposal.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, fully enforceable TMDL-specific General Permit requirements. LAW urges the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Marina del Rey Harbor Toxic Pollutants TMDL and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. LAW also recommends studying alternative approaches to incorporation, including incorporation using WQBELs rather than the

current proposal to rely on a TAL. The Water Boards should present information to justify the use of the consolidated concentration-based SSC TAL. The SED should also investigate an alternative incorporation approach relying on concentration-based WLAs for individual toxic constituents, rather than relying on SSC as a proxy for all toxic pollutants. The Water Boards must justify the numeric levels and units chosen and explain the analytic route from annual mass- and acreage-based WLAs to instantaneous concentration-based WLAs.

In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> As the Regional Board recognizes,<sup>2</sup> the incorporation of the WLA would clearly modify the underlying permit, the reasoning and case authorities in the attached letter remain on point here.

The Water Boards must also do a better job than assuming that no Responsible Dischargers are potential sources of several types of toxic pollutants, or that toxics in industrial stormwater flows are unlikely to be a significant source of pollution. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with the WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually potentially required of some subset of enrollees will achieve compliance with the mass-based WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

We are concerned that the use of a “TMDL Action Level” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on a TAL represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Fact Sheet, footnote 5, p.5.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to a SWPPP update, and only after a minimum of 6 months must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the annual

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

<sup>2</sup> See p.2, referring to State Board’s “proceedings to consider amendment” of the General Permit by adding TMDL-specific requirements.

mass-based WLAs (but not the TAL). The current proposed incorporation relying on a TAL is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

The Proposed Incorporation Approach Needs Thorough Rethinking.

In conclusion, the proposed approach to incorporating the WLAs for toxics in Marina del Rey Harbor into the General Permit needs to be substantially reworked, in many aspects completely from scratch. Much better justification for use of a single, concentration-based TAL for SSC is necessary. WQBELs must be an element of the WLAs. Also, fundamental change is needed to a proposed approach that first excludes possibly every Responsible Discharger from monitoring, and then relies on self-reporting by those who undertook monitoring anyway (or Water Boards enforcement staff having the time and resources to conduct detailed individual site investigations required to discover TAL exceedances). Even after these unlikely events occur and an exceedance of the TAL is demonstrated, the information is then used as a trigger for an adaptive management process of eventually requiring compliance with mass-based annual numerical standards, assuming BMPs are adequate, but not the instantaneous concentration-based TAL. The proposed approach falls far short of complying with the Clean Water Act.

We urge the Regional Board to recommend incorporating appropriate WQBELs for toxics, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for the constituents covered by the WQBELs, at least until better data is available. The Water Boards should also include a requirement to implement BMPs necessary to achieve the numeric effluent limitations.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Arthur I. Pugsley".

Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

April 22, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Puddingstone Reservoir  
Mercury TMDL**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Puddingstone Reservoir Mercury TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice and Fact Sheet.

However, the proposed incorporation of WLAs as "TMDL Action Levels" (TALs) rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone WQBELs, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Additionally, the current proposal limits the obligation to conduct an assessment of potential mercury discharges to a single Standard Industrial Code (SIC 4953). The Fact Sheet includes backstop assurances (p.6) that the Water Boards could require other facilities to revise stormwater pollution prevention plans (SWPPP) or obtain an individual permits if the Boards were able to determine that such facilities have the potential to discharge mercury. The Water Boards should conduct a Reasonable Assurance Analysis to provide support for the limitation to a single SIC, or else expand the assessment/monitoring requirements.

Only after self-identification as a source- proposed to be limited to a single SIC- does the potential requirement to update the facility's SWPPP apply. Then, six months later, the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the WLAs, which in this

case are identical to the proposed TALs. The proposed approach is needlessly roundabout. More importantly, it effectively creates an illegal compliance schedule under the California Toxics Rule.

Absent a Reasonable Assurance Analysis that justifies the exclusion of all but one SIC from any assessment and monitoring requirements, *all* General Permit enrollees should be required to monitor for mercury, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should fully explain which land uses are least likely to be sources of mercury and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers who are not included in SIC 4953 to “look the other way” even if facility operators had good reason to suspect the facility might be a source of mercury, and provides little in the way of accountability for such facilities.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, fully enforceable TMDL-specific General Permit requirements. LAW urges the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Puddingstone Reservoir Mercury TMDL and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. LAW also recommends studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on a TAL.

In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> As the Regional Board recognizes,<sup>2</sup> the incorporation of the WLAs would clearly modify the underlying permit, the reasoning and case authorities in the attached letter remain on point here.

The SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with the WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually potentially required of some subset of enrollees will achieve compliance with the WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

The use of a “TMDL Action Level” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

<sup>2</sup> See Notice p.1, referring to State Board’s “proceedings to consider amendment” of the General Permit by adding TMDL-specific requirements.

Puddingstone Reservoir TMDL Incorporation for Mercury

effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on a TAL represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Fact Sheet, footnote 2, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to a SWPPP update, and only after a minimum of 6 months (and realistically much longer) must a self-reporting discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the WLAs, but not the numerically identical TALs. The current proposed incorporation relying on a TAL is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

In conclusion, the proposed approach to incorporating the WLAs for mercury at Puddingstone Reservoir into the General Permit needs to be substantially reworked. WQBELs must be an element of the WLAs. The limitation to a single SIC needs much better justification. Even after an exceedance of the TAL is demonstrated, the information is used as a trigger for an adaptive management process which creates an indefinite compliance schedule. The proposed approach falls far short of complying with the Clean Water Act.

We urge the Regional Board to recommend incorporating appropriate WQBELs for mercury, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for mercury, at least until better data is available or a properly conducted reasonable assurance analysis justifies the proposed monitoring limitations. The Water Boards should also include a requirement to implement BMPs necessary to achieve the numeric effluent limitations.

Thank you for this opportunity to comment.

Sincerely,



Arthur Pugsley

Senior Staff Attorney

attachment





Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

March 25, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Los Cerritos Channel Watershed  
Los Cerritos Channel Metals TMDL**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Los Cerritos Channel Metals TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the General Permit at the levels specified in the Regional Board Notice. However, the proposed incorporation of the WLAs as "TMDL Action Levels" rather than water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Regional Board apply the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that permittees implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs.

Because the WLAs are incorporated as triggers for an adaptive management process eventually requiring compliance with the numeric limits indirectly, rather than as a simple effluent limitation, the proposed incorporation creates an impermissible compliance schedule, and also fails to meet the data and analysis requirements set out in the General Permit. While the current proposal to develop a trigger for an adaptive management process leading to additional BMPs might ultimately play some useful role in implementing the TMDLs, it cannot be the exclusive approach taken, as is now the case. The TALs are not lawful substitutes for WQBELs.

Environmental Review Process Issues

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Los Cerritos Channel Metals TMDLs and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. In addition, the SED should include written Responses to Comments. We have attached a letter we recently sent to the Regional Board in the context of an

MS4 Permit, explaining why we believe that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> Here, the incorporation of the TMDLs would clearly modify the underlying permit, since currently the TMDLs are not incorporated into the General Permit, so most of the reasoning and case authorities in the attached letter remain on point here.

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. Currently, data is lacking as to whether the BMPs eventually required will achieve compliance with the WLAs.

#### Legal Issues with Reliance on NALs and TALs Rather Than WQBELs

We are concerned that the use of “TMDL Action Levels” as the exclusive method of WLA incorporation is unlawful. Permitting agencies must ensure that NPDES permits authorizing storm water discharges associated with industrial activities include both 1) technology based protections *and* 2) water quality based effluent protections in the form of WQBELs. As the State Board has recognized (General Permit Fact Sheet, pp. 23-26), the inclusion of WQBELs consistent with WLAs is non-discretionary.

The current proposal relying on TALs represents neither a technology based nor a water quality based effluent limitation. TALs have the same permitting status as “Numeric Action Levels” (NALs). (Regional Board Notice, footnote 3, p.2.) The State Board has held that NALs are neither technology based nor water quality based effluent limitations. (CAS000001 at 11.) In addition, the TAL is used as a trigger for an adaptive management and monitoring program leading to development of BMPs, and only after a minimum of 10 months past incorporation must a discharger demonstrate that the facility’s Stormwater Pollution Prevention Plan (SWPPP) is revised to include BMPs to prevent an exceedance of the TAL. Using TALs is also needlessly indirect. The current proposed incorporation relying on TALs is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

Using TALs to trigger an adaptive management program leading to SWPPP revisions and an eventual requirement for prevention of exceedances of the TAL also effectively creates a compliance schedule for metals regulated by the California Toxics Rule (CTR). Such compliance schedules are not permitted beyond 2005 (or 2010 at the latest in a few cases).

The lack of WQBELs also means that the proposed monitoring program must be revised to include monitoring sufficient to adequately determine compliance with a WLA based WQBEL.

#### The Numeric Limits Should be Incorporated as WQBELs, not TALs.

In conclusion, while the use of TALs might be an appropriate adaptive management measure, TALs can never be the sole, or even primary, approach to incorporating WLA s for Los Cerritos Channel

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.

metals into the General Permit, as WQBELs must be an element of the WLAs. We urge the Regional Board to recommend incorporating the proposed WLAs, currently expressed as TALs, into the General Permit as WQBELs, as the Clean Water Act requires. This direct approach should be coupled with the requirement that permittees implement BMPs necessary to achieve the numeric effluent limitations, and undertake sufficient monitoring to demonstrate compliance.

Direct incorporation of a WQBEL is much simpler, more direct, has much less potential for confusion than the current proposal, and is legally required.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Arthur I. Pugsley". The signature is written in black ink and is positioned above the printed name.

Arthur Pugsley

Senior Staff Attorney

attachment



Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale, Senior Environmental Scientist  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

May 13, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Santa Monica Bay  
Nearshore and Offshore Debris TMDL and Summary of LAW Comments on TMDL Incorporation  
Process to Date**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Santa Monica Bay Nearshore and Offshore Debris TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit or "IGP"). This letter briefly outlines our major concerns. We reserve the right to submit additional comments when the State Board takes up the matter.

LAW supports the importation of the numeric Waste Load Allocations (WLAs) from the TMDLs directly into the IGP at the levels specified in the Regional Board Notice and Fact Sheet. The WLAs create a "zero trash" standard for some IGP enrollees, which LAW fully supports.

The Water Boards Should Incorporate WQBELs Into the General Permit.

However, the proposed incorporation of the WLAs as a "TMDL Action Level" (TAL) rather than as a water quality based effluent limitations (WQBEL) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards use the straightforward process contemplated by the Clean Water Act and propose incorporation of stand-alone numeric effluent limitations, coupled with a clear requirement that Responsible Dischargers implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance.

Further Information Is Needed on the Limitations in the Definition of Responsible Dischargers.

The current proposal limits monitoring for plastic pellets to a handful of Standard Industrial Classification Codes (SICs), and facilities with the word "plastic" in the name, thereby exempting some General Permit enrollees (how many are exempted is unclear from the Fact Sheet) from the monitoring requirements. We are concerned that heavy reliance on SICs, many of which are quite old, could lead to some discharges remaining undetected (for example, from newer industries not covered by existing SICs or existing industries whose technological evolution has increased potential discharges of plastic pellets since the SICs were developed). Similarly, not every user of plastic pellets necessarily includes the word "plastic" in the facility name. While using both SICs and names of facilities helps to reduce the risk of an unduly limited definition of "Responsible Discharger," the Water Boards need to back up the proposed limitations to certain SICs and names of facilities with a reasonable assurance analysis (RAA).

The backstop assurance (Fact Sheet, p.6) that the Water Boards could require a facility to monitor for plastic pellets and/or obtain an Individual Permit if evidence later emerges that the facility is causing or contributing to an exceedance of a WLA assumes that the Water Boards would have the time and resources to enforce such a requirement against all potential dischargers who in hindsight were erroneously excluded from the initial list of Responsible Dischargers. A much better approach is to ensure that all potential dischargers of pollutants covered by the WLA monitor for those pollutants up front. Absent a demonstration that the listed SICs and facilities containing the name “plastic” capture the universe of General Permit enrollees with potential to discharge plastic pellets, the Water Boards should greatly expand the monitoring requirements for plastic pellets, at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. Also, a monitoring program sufficient to determine compliance with WQBELs (as opposed to TALs) needs to be developed.

The Water Boards Should Prepare an SED.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze incorporation approach alternatives. We urge the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Santa Monica Bay Nearshore and Offshore Debris TMDL and reasonably foreseeable impacts, and includes the information that will be required by the SWRCB as part of the incorporation process.

We recommend studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on TALs. In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with applicable WLAs. The Fact Sheet lacks supporting data as to whether the required BMPs will achieve compliance with the zero pellets standard.

In addition, the SED should include written Responses to Comments. Attached is a letter LAW recently sent to the Regional Board in the context of an MS4 Permit, explaining LAW’s position that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup>

LAW Fully Supports the Zero Pellets WLA, but Other Aspects of the Proposed Incorporation Raise Concerns.

WQBELs must be an element of the WLAs for the Santa Monica Bay Nearshore and Offshore Debris TMDL. Additional information should be also provided to confirm that the limitations on the definition of “Responsible Discharger” will not undermine the TMDL, and the Water Boards should conduct at least a programmatic environmental review of the proposed incorporation, including written responses to comments.

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board in this instance.

Summary of LAW's Concerns with All Proposed TMDL Incorporations

LAW has commented individually on each TMDL Incorporation Notice and Fact Sheet for impaired waterbodies in Los Angeles County released by the Regional Board. As this phase of the review draws to a close, attached please find a spreadsheet summarizing the main issues presented by each proposed incorporation. LAW also takes this opportunity to reiterate its most prominent concerns:

- LAW objects to the TAL approach as the sole proposed method of incorporating TMDL-specific requirements into the IGP.
- The Clean Water Act requires promulgation of Water Quality Based Effluent Limitations (WQBELs), but *none* of the proposed incorporations are in the required form, instead all relying on TALs.
- The proposed approach creates a compliance schedule with respect to metals and toxics that is not permitted under the California Toxics Rule, and is inconsistent with the Basin Plan generally and several TMDL Implementation Plans in particular.
- The Water Boards should prepare at least a programmatic level environmental review document for each proposed incorporation, and should respond in writing to comments received.
- The Water Boards should conduct Reasonable Assurance Analyses to support the claims that BMPs will be adequate to ensure that WLAs are met.
- The Water Boards should provide better justification for using "suspended sediment concentration" as a proxy for multiple toxics.
- The Water Boards should require broader baseline sampling to ensure compliance with the WLA is demonstrated.
- The Water Boards should provide better justification for limiting certain categories of Responsible Dischargers to a subset of SICs (examples include eutrophics, toxics, and trash).
- The Water Boards should better justify the frequent reliance on polluter self-identification as a "gatekeeper" to meeting WLAs (examples include metals, toxics, salts, bacteria, and eutrophics).
- LAW reiterates its concerns with the possible use of WERs and Fish Tissue Studies that could dramatically raise the existing WLAs for some metals and toxics, and the need for a clearly defined process if adjustment of WLAs is proposed using WERs and Fish Tissue Studies.
- The Water Boards should fill in the many other data and analytical gaps left unresolved by the Notices and Fact Sheets.

LAW (along with representatives of Heal the Bay and the Natural Resources Defense Council) met with representatives of the State Water Resources Control Board on May 6 to discuss topics of mutual concern related to water quality in Los Angeles, and the issue of TMDL incorporation was briefly discussed. At the meeting, a SWRCB representative stated that before promulgating WQBELs the SWRCB must make a feasibility finding regarding compliance with the WQBELs. In the case of the IGP, the SWRCB Representative believed SWRCB would not be able to make such a finding, hence the reliance on TALs. LAW disputes the blanket conclusion against feasibility of compliance with WQBELs. More importantly, LAW believes the SWRCB representative misstated the nature of the feasibility demonstration for WQBELs in industrial stormwater permits. As clarified by EPA in a 2014 Guidance Memorandum:

As stated in the 2002 memorandum, where a State or EPA has established a TMDL, NPDES permits must contain effluent limits and conditions consistent with the assumptions and requirements of the WLAs in the TMDL. See 40 CFR § 122.44(d)(1)(vii)(B). Where the TMDL includes WLAs for stormwater sources that provide numeric pollutant loads, the WLA should, where feasible, be translated into effective, measurable WQBELs that will achieve this objective. This could take the form of a numeric limit, or of a measurable, objective BMP-based limit that is projected to achieve the WLA.

(See attached US EPA Guidance Memorandum, November 26 2014, at p.6.)

The EPA Guidance suggests the issuing authority should assess the feasibility of promulgating effective, measurable WQBELs where a WLAs provide numeric pollutant loads, not that the issuing authority make findings regarding the feasibility of compliance with WQBELs. Clearly, incorporating the WLAs in the TMDLs into the IGP as WQBELs (either as numeric effluent limits or as measurable, objective BMP based limits) is feasible in the context of the IGP.

LAW also further notes the statement by the Regional Board in establishing the LA River metals TMDLs that “[t]he general industrial storm water permittees shall achieve dry weather waste load allocations, which *shall be expressed as NPDES water quality-based effluent limitations* specified in accordance with federal regulations and state policy on water quality control. (Regional Board Resolution R2007-014, Attachment A, p. 18, emphasis added.) Feasibility findings are not mentioned, nor are TALs.

Also at the May 6 meeting, a SWRCB representative stated the belief that neither the Los Angeles Regional Board nor the State Board was planning to issue written responses to the comments received on the Regional Board Notices and Fact Sheets on incorporation of TMDL-specific requirements into the IGP. Since these documents are part of the “proceedings to consider amendment of the Industrial General Permit,” as the Regional Board has repeatedly recognized, LAW urges the Water Boards to prepare timely written responses, for the reasons detailed in the March 8 letter included as an attachment to this and previous comment letters. When the Regional Board “strongly encourages” public comments on a draft proposal, then either it or the SWRCB approves an amended final proposal without written responses to comments, interested parties, and members of the public at large, are left to guess which of their comments might have been incorporated into the subsequent iteration, or indeed considered at all. Transparency and accountability require the Water Boards disclose in writing how they have considered comments, questions, and criticisms of their proposed plan to incorporate TMDL-specific requirements into the IGP.

In addition, LAW takes this opportunity to clarify its position on Dry Weather WLAs for metals in the Los Angeles River and Ballona Creek. LAW remains supportive of the numerical standards for Wet Weather WLAs in both instances. However, as Heal the Bay has pointed out, the existing Dry Weather WLAs for zinc, copper, and lead in industrial stormwater in the LA River and Ballona Creek are set at zero, reflecting a prohibition on Dry Weather discharges of industrial stormwater. The only Dry Weather numerical limitation consistent with the existing WLAs would be a WQBEL/TAL of zero as well, but non-zero TALs are proposed. The Dry Weather numerical limits for metals in LA River and Ballona Creek industrial stormwater should therefore all be revised to zero, to be consistent with the existing Dry Weather WLAs.

LAW Comments on Santa Monica Bay Nearshore and Offshore Debris TMDL and Comment Summary

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Arthur I. Pugsley". The signature is written in a cursive style with a large initial 'A'.

Arthur Pugsley

Senior Staff Attorney

Attachments:

- 1) March 8, 2016 Letter to Regional Board regarding responses to comments;
- 2) Spreadsheet summary of comments submitted by LAW, HTB, VCK, and CCKA through May 13, 2016
- 3) November 26, 2014 EPA Guidance on establishing WLAs and incorporating WLAs into NPDES permits





Via e-mail to [losangeles@waterboards.ca.gov](mailto:losangeles@waterboards.ca.gov)  
Attn: Ms. Pavlova Vitale  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street Suite 200  
Los Angeles, CA 90013

May 9, 2016

**RE: Comments on Draft TMDL-Specific IGP Requirements- Santa Monica Bay  
TMDL for DDT and PCBs**

Dear Ms. Vitale:

Los Angeles Waterkeeper (LAW) thanks you for the opportunity to comment on the proposed Santa Monica Bay DDT and PCBs TMDL incorporation into NPDES Permit CAS000001 (the Industrial General Permit). This letter briefly outlines our major concerns. LAW reserves the right to submit additional comments when the State Board takes up the matter.

The numeric Waste Load Allocations (WLAs), which are quite low, are expressed as pollutant masses in grams per year (Fact Sheet, p.3), but the "TMDL Action Level" (TAL) is expressed as a single concentration of 1 mg/L for Suspended Sediment Concentration ("SSC," Fact Sheet, p. 4.) Better justification is needed for this change in methodology, as well as an explanation of the analytic route underlying the conversion from annual, mass-based WLAs for individual toxics to a consolidated, instantaneous concentration-based TAL. Without more information, including on whether the Water Boards undertook modeling or data analysis to support the TAL, it is premature to conclude that the TAL is appropriate.

Even if the Water Boards can provide data and analysis to justify the use of a single concentration-based TAL for SSC as a proxy for multiple toxics, the proposed incorporation of the SSC as a TAL rather than as water quality based effluent limitations (WQBELs) is inconsistent with the requirements of the Clean Water Act and its implementing regulations. LAW requests that the Water Boards apply the straightforward process contemplated by the Clean Water Act and incorporate stand-alone WQBELs, coupled with clear requirements that all enrollees in the General Permit implement Best Management Practices (BMPs) necessary to achieve the stand-alone WQBELs, and conduct monitoring necessary to demonstrate compliance. The current proposed incorporation relying on a TAL is also inconsistent with the TMDL Implementation Plan, and may require an amendment to the approved Basin Plan as well, which is silent on the use of TALs.

Additionally, the current proposal allows the Responsible Dischargers themselves to determine whether they are a source of DDTs and/or PCBs, and only those who have so identified themselves are subject to the TAL. The General Permit does not require enrollees to monitor for either family of these

substances. (CAS000001 pp. 41-43) It is very unlikely that any enrolled facility would take it upon itself to sample for these parameters, and thus very likely that facilities that have the potential to discharge these toxics will go undiscovered. The Fact Sheet includes backstop assurances (p.5) that the Water Boards could require a facility to revise its stormwater pollution prevention plan (SWPPP) or obtain an individual permit if the Boards were able to determine that the facility is a source for toxics. However, this backstop assurance, the fulfillment of which would be subject to resource and staffing levels at the Boards, is no substitute for WLAs expressed as WQBELs, coupled with a clear requirement for BMPs and monitoring to ensure the standards are met.

Only after self-identification as a source (which would require that a facility monitor a parameter not required by the General Permit) does the potential requirement to update the facility's SWPPP apply. Then- six months later- the only clear requirement is that the SWPPP "must be updated based on the results" of the assessment undertaken after self-identification. Notably absent is a requirement to prevent future TAL exceedances, although the updated SWPPP must contain BMPs sufficient to ensure compliance with the mass-based WLAs. Actual compliance with the mass-based WLAs will likely not occur until substantially beyond the updating of the SWPPP, effectively creating a lengthy compliance schedule. The promulgation of an open-ended compliance schedule for substances covered by the California Toxics Rule is illegal. Compliance schedules of any length are banned after 2005 (or at the latest in 2010 in a few cases). In addition, the current scheme fails to require monitoring sufficient to evaluate compliance with the WLAs, since it is effectively fails to require any monitoring whatsoever of enrollees who have not self-identified as sources for toxics.

The Notice and Fact Sheet provides no justification for treating SSC as a proxy for multiple toxins, or any evidence that BMPs will prove sufficient to ensure compliance with the TAL. The Water Boards should conduct a Reasonable Assurance Analysis that that proposed approach would lead to compliance with all applicable standards. Such an analysis is required by both the General Permit and the Clean Water Act itself. Failure to conduct the required analysis would be arbitrary and capricious, and improper.

Even if the SSC approach can be justified, *all* General Permit enrollees should be required to monitor for SSC (or, in the alternate, for each toxic substance that has a mass-based WLA), at least until such time as enough actual monitoring data supports excusing some facilities from additional or continued monitoring requirements. The Water Boards should fully explain which land uses are least likely to be sources of toxics and why, and what type of monitoring would be appropriate for various land uses. The current system allows Responsible Dischargers to "look the other way" even if facility operators had good reason to suspect the facility might be a source of toxic pollutants, and provides little in the way of accountability.

Prior to incorporation, some level of programmatic environmental review should be undertaken of the proposal and the Water Boards should analyze more workable, fully enforceable TMDL-specific General Permit requirements. LAW urges the Water Boards to prepare a Substitute Environmental Document (SED) that, at a minimum, programmatically examines incorporation of the Santa Monica Bay DDTs and PCBs TMDL and reasonably foreseeable impacts, and includes the information that will be required by the State Board as part of the incorporation process. LAW also recommends studying alternative approaches to incorporation, including incorporation using WQBELs rather than the current proposal to rely on a TAL. The Water Boards should present information to justify the use of the

consolidated concentration-based SSC TAL. The SED should also investigate an alternative incorporation approach relying on WLAs for individual toxic constituents, rather than relying on SSC as a proxy for all toxic pollutants. The Water Boards must justify the numeric levels and units chosen and explain the analytic route from annual mass-based WLAs to instantaneous concentration-based WLAs.

In addition, the SED should include written Responses to Comments. Attached is a letter LAW recently sent to the Regional Board in the context of an MS4 Permit, explaining LAW's position that the Water Boards must conduct some level of environmental review pursuant to the Clean Water Act, Porter-Cologne Water Quality Act, and California Environmental Quality Act, and respond to comments received in writing, prior to modifying an existing NPDES Permit.<sup>1</sup> The incorporation of the TAL would clearly modify the underlying permit, as the Regional Board recognizes. (Regional Board Notice, p.1 referring to submission of comments as part of "proceedings to consider amendment of the Industrial General Permit.") The reasoning in the attached letter applies with equal force whether the amended NPDES permit concerns industrial stormwater or municipal stormwater.

In addition, the SED should provide data and analysis necessary to demonstrate that BMPs will achieve compliance with the WLAs. Currently, data is lacking as to whether the unidentified BMPs eventually potentially required of some subset of enrollees will achieve compliance with the mass-based WLAs. The SED should also include the data and analysis required by the General Permit as part of the process of incorporating WLAs. Also, a monitoring program sufficient to determine compliance with WQBELs needs to be developed.

In summary, the proposed approach to incorporating the WLAs for DDTs and PCBs in Santa Monica Bay into the General Permit needs to be substantially reworked. LAW urges the Water Boards to incorporate appropriate WQBELs for toxics, as the Clean Water Act requires. This direct approach should be coupled with the requirement that all permittees monitor for the constituents covered by the WQBELs, at least until better data is available. The Water Boards should also include a requirement to implement BMPs necessary to achieve the numeric effluent limitations.

Thank you for this opportunity to comment.

Sincerely,



Arthur Pugsley

Senior Staff Attorney

attachment

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<sup>1</sup> Since the Regional Board does not have a formal approval role with the TMDL incorporation, the initial responsibility to respond in writing may lie with the State Water Resources Control Board, rather than the Regional Board, but apart from that detail the rest of the arguments in the attached letter appear applicable here.