

**Comment Summary and Responses**

Reconsideration of the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL  
(Harbor Toxics TMDL)

Comment Due Date: July 26, 2022

<b>No.</b>	<b>Commenter</b>
1.	The Port of Long Beach
2.	The Beach Cities Watershed Management Group
3.	The County of Los Angeles and the Los Angeles Flood Control District
4.	The Palos Verdes Peninsula Watershed Management Group (PVP WMG)
5.	Los Angeles City Bureau of Sanitation
6.	The City of Long Beach
7.	The City of Los Angeles Harbor Department
8.	Ray Tahir, TECS Environmental
9.	The Pacific Merchant Shipping Association
10.	United States Environmental Protection Agency
11.	Heal the Bay, Los Angeles Waterkeeper (LAW), Chartrand Environmental LLC, Clean Water Action, Friends of Ballona Wetlands, Sierra Club Angeles Chapter, Lisa Kaas Boyle, Esq., Los Angeles Neighborhood Land Trust, and Breast Cancer Prevention Partners
12.	The Los Angeles Department of Water and Power
13.	The City of Norwalk

*Footnotes with substantive information are included as parentheticals in response summaries. Footnotes in comment letters that only cite to references are not included in response summaries. Full copies of comment letters are available in Board Member Agenda Packages and available to the public upon request.*

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0.1	Multiple	A number of comments submitted regarding the reconsideration of the Harbor Toxics TMDL were beyond the scope of the revisions to the TMDL that were circulated for notice and comment.	<p>The Notice of Public Hearing and Opportunity to Comment circulated on May 27, 2022, (Notice) indicated that comments "shall be limited to the proposed revisions to the TMDL for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters." The proposed revisions outlined in the Notice were to incorporate:</p> <ul style="list-style-type: none"> <li>• the 2018 Amendments to the Water Quality Control Plan for Enclosed Bays and Estuaries of California - Sediment Quality Provisions, also known as the Sediment Quality Provisions (SQPs), including sediment quality objectives (SQOs) for the protection of the benthic community and human health, into compliance options for the Waste Load Allocations (WLAs) and Load Allocation (LAs) and the Implementation Sections of the TMDL</li> <li>• additional source assessment and implementation recommendations for PCBs</li> <li>• additional linkage analysis</li> <li>• revisions to monitoring requirements to require improved PCBs methods</li> <li>• revisions of the fish tissue monitoring frequency to be consistent with sediment sampling</li> <li>• other revisions to correct errors or for clarification</li> </ul> <p>Comments beyond the scope of these revisions will not be considered by the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board).</p>
1.1	Port of Long Beach	The Port of Long Beach is grateful for the ongoing and successful	Comment noted.

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		<p>collaboration demonstrated through the Harbor Technical Working Group (HTWG). The HTWG was established nearly a decade ago as a collaboration between staff from the Port of Long Beach (Port), Port of Los Angeles (POLA), the Los Angeles Regional Water Quality Control Board (LARWQCB), the State Water Resources Control Board (SWRCB), and the Southern California Coastal Water Research Project (SCCWRP) to conduct, review, and consider new studies, modeling, and compliance strategies for the TMDL. The HTWG met monthly from 2013 through 2018 to further advance the science and technical understanding of the harbor complex. Through the HTWG, we identified pollutant sources and exposure pathways contributing to fish tissue contamination, supported the development of the Sediment Quality Objectives (SQOs) for human health, developed the harbors' bioaccumulative and hydrodynamic models, and completed numerous special studies.</p>	
1.2	Port of Long Beach	To our knowledge, the HTWG was a "first of its kind" collaboration between the SWRCB, LARWQCB, and permittees.	Comment noted.

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		<p>We are very appreciative that much of the work performed together through the HTWG is evident throughout the tentative resolution, proposed Basin Plan amendment, and staff report, resulting in a much-improved TMDL. In addition, we are encouraged to see the use of sediment quality objectives (SQOs) as an alternative measure for wasteload allocation (WLA) and load allocation (LA) compliance, as the SQOs for human health protection are based on the best available science and was developed through the HTWG.</p>	
1.3	Port of Long Beach	<p>While we are very appreciative of the revisions to the TMDL included in the Basin Plan Amendment (BPA) and Staff Report, specifically the incorporation of alternative methods to demonstrate the attainment of beneficial uses, we are still concerned that the implementation actions may not result in anticipated reductions in fish tissue as planned in the proposed TMDL schedule. Attainment of legacy pollutants is a regional problem and therefore requires a regional solution. More studies are needed to link numeric targets, load allocations, and wasteload allocations to beneficial uses. As a result, we have developed</p>	<p>The commenter's appreciation of the revisions is noted. The concern about implementation actions not being sufficient to reduce pollutant concentrations in fish tissue by the final compliance date of 2040 is addressed in response to comment 2.12. To summarize that response, the models, developed with the oversight of the Harbor Technical Work Group (HTWG), predict the time for fish to reach concentrations that are protective of human health, considering the implementation of various actions to reduce contamination, such as different levels of upstream sediment load reduction and remediation of contaminated hot spots in sediments. According to the model predictions, the 2040 deadline is achievable while being as short as possible. Regarding the comment that more studies are needed, please see responses to specific comments below.</p>

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		the following comments for your consideration.	
1.4	Port of Long Beach	The 2011 TMDL numeric targets, waste load allocations (WLAs), and load allocations (LAs) have not been revised. Therefore, our original comments that these values are not based on the best available science, still stand.	<p>It is not necessary to revise the Harbor Toxics TMDL numeric targets, WLAs, and LAs. The numeric targets, WLAs, and LAs are based on the best available science, both at the time of the 2012 TMDL and now. Since the adoption of the 2012 TMDL, the Los Angeles Water Board and State Water Resources Control Board (State Water Board or SWRCB) staff, with assistance from the Southern California Coastal Water Research Project (SCCWRP), oversaw and contributed to the development of special studies and modeling that supported the development of updated implementation provisions for the SQOs for benthic community and human health protection through the HTWG. These advancements in the science and technical understanding of the harbors do not support the modification of numeric targets, WLAs, and LAs, as discussed in response to comment 1.7. Instead, they support, and this reconsideration of the TMDL focuses on, the inclusion of updated SQO implementation provisions as an alternative means of compliance demonstration for the existing WLAs and LAs. This approach is fully in line with the direction in State Water Board Resolution 2012-008 approving the 2012 TMDL, as discussed in response to comment 1.6.</p> <p>The Los Angeles Water Board will continue to work with stakeholders to refine the numeric targets, WLAs, LAs, implementation actions, and the schedule, if appropriate, based on additional monitoring data, special studies, and guidance as they become available, completed, and approved in the future.</p>

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			See also responses to comments 1.5-1.8.
1.5	Port of Long Beach	The Port’s comments regarding the miscalculation of WLAs and LAs still apply. We were encouraged that the SWRCB directed the LARWQCB to <i>“reconsider the wasteload allocation and load allocations (including allocations assigned to existing bed sediments).”</i> However, the tentative amendment has not addressed this directive. Therefore, we recommend that the revision of WLAs and LAs be included in future TMDL reconsiderations.	<p>The WLAs and LAs in the 2012 TMDL were not miscalculated. For more information supporting the 2012 TMDL, see response to comments 20.1, 20.2, 20.3 provided during adoption proceedings for the 2012 TMDL (available at <a href="#">Adopted Basin Plan Amendments   Los Angeles Regional Water Quality Control Board (ca.gov)</a>).</p> <p>The proposed Basin Plan amendment addresses the directive in Resolution 2012-0008. The full direction in SWRCB Resolution 2012-0008 was “to carefully review and evaluate the results of special studies on foraging ranges of resident species and the linkages between pollutant concentrations in targeted species and sediment concentrations, including bioaccumulation dynamics, before reconsidering the wasteload allocation and load allocations (including allocations assigned to existing bed sediments) <b>necessary to achieve fish tissue targets</b>” [emphasis added], which is what the proposed TMDL revisions do. Reconsideration does not equate to revision. The special studies support the incorporation of implementation provisions for the human health SQOs into the TMDL. However, they do not include information to support revisions of the WLAs and LAs. (See also response to comments 1.4 and 1.6-1.8)</p>
1.6	Port of Long Beach	The SWRCB provided the LARWQCB with the authority to revise numeric targets if implementation actions are	SWRCB Resolution 2012-008 directs the Los Angeles Water Board to work with stakeholders to determine the best course of action if implementation actions to achieve human health

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		<p>unable to achieve the existing Fish Contaminant Goals (FCG)-based fish tissue targets. The staff report acknowledges that the proposed implementation actions will be insufficient to achieve the numeric targets within the proposed timeline,* yet the numeric targets within the tentative resolution have not been revised. Therefore, we recommend that revisions of numeric targets be included in future TMDL reconsiderations.</p> <p>* Staff Report for the Los Angeles Water Board, Section 4.6 (p. 49): <i>“the SQO will be met prior to the fish tissue returning to a level at or below the ATL3”</i>; note that FCGs are substantially lower than ATL3s.</p>	<p>SQOs (aka “indirect effects SQOs”) may not achieve the fish tissue numeric targets (based on FCGs). This may include revising the implementation schedule and/or revising, <b>if appropriate</b>, the numeric targets. In accordance with this direction, the proposed TMDL amendment includes revising the implementation schedule, but, as discussed in response to comment 1.7, it does not include revising the numeric targets because such a revision is not supported.</p> <p>Furthermore, subsequent to Resolution 2012-0008 and in consideration of the work performed by the HTWG, the State Water Board adopted the SQPs. The implementation provisions for the human health SQOs in the SQPs do not apply to waterbodies with TMDLs that were established on or before the effective date of the SQPs (March 11, 2019). The State Water Board recognized TMDL implementation can take decades and requiring regional water boards to reassess water bodies where TMDL implementation was already underway could jeopardize ongoing efforts to control pollutants (<i>Staff Report including Substitute Environmental Documentation for Amendments to the Water Quality Control Plan for Enclosed Bays and Estuaries – Part I Sediment Quality (Sediment Quality Provisions, June 5, 2018 (“2018 SQP Staff Report”), p. 108.</i>) Therefore, the State Water Board expressly declined to require regional water boards to implement the human health SQO assessment framework in existing TMDLs (see State Water Board, 2018 SQP Amendment, Appendix. C1, Response to Public Comments, comment no. 11.6, p. 60.)</p>

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			Nonetheless, the proposed TMDL revisions do incorporate the human health SQO assessment framework as one of the means of demonstrating compliance with WLAs and LAs.
1.7	Port of Long Beach	<p>The Port’s comments regarding the inappropriate use of FCGs and Effect Range Low values (ERLs) still apply.</p> <p>The HTWG and Peer Review team extensively evaluated the 2011 TMDL numeric targets and concluded that there are more appropriate numeric targets. For example, much work has been done to emphasize the appropriateness of advisory tissue levels associated with three meals per week (ATL3s) for compliance rather than FCGs.</p> <p>Most notably, the SWRCB selected ATL3s rather than FCGs to determine baseline screening thresholds for SQOs for human health protection. Further, the use of ERLs is recommended when a compound is not listed within the SQO framework (e.g., for chromium). Because the SQO includes multiple lines of evidence, the chemical value alone is not used to estimate effects. The other two lines, benthic structure and toxicity testing inherently incorporate all toxic compound effects.</p>	<p>The use of FCGs for the fish tissue numeric targets and ERLs for the sediment numeric targets is appropriate. TMDLs are required to contain numeric targets that represent the desired condition of the waterbody – a condition where water quality standards are attained, and beneficial uses are protected. FCGs represent the desired condition by directly addressing potential human health impacts from consumption of contaminated fish based on an acceptable level of risk. In contrast, ATL3s represent an achievable condition that considers the health benefits of eating fish in addition to the risk posed by eating contaminated fish.</p> <p>The commenter mischaracterizes how implementation of the SQPs, including various fish tissue contaminant thresholds such as FCGs and ATLs, should apply to this TMDL. A numeric target must be a numerical value and not a framework or condition based on multiple lines of evidence. Therefore, the proposed TMDL revisions incorporate the human health SQO assessment framework by allowing it as a means of demonstrating compliance with the WLAs and LAs, rather than by revising the numeric targets and the WLAs and LAs themselves. The HWTG and the peer review team concluded that the SQPs, including the use of ATL3s as screening thresholds for human health SQOs, were an appropriate pathway for assessing compliance, which is different than setting a numeric target.</p>



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1.8	Port of Long Beach	<p>We support the inclusion of SQOs in the tentative amendment as an alternative measure of WLA/LA compliance. However, the tentative amendment states that if WLA/LAs are attained via SQOs but fish tissue targets are not achieved, the LARWQCB will reconsider the TMDL to modify the WLAs and LAs rather than the numeric targets <i>“to ensure that the fish tissue targets are attained.”</i> We emphasize that the State Listing Policy requires the LARWQCB to apply methods and procedures consistent with SQOs. This suggests that ATL3s, as the thresholds adopted by the SWRCB, should form the basis of the numeric targets. In addition to modifying WLA/LAs to meet FCG-based fish tissue targets, we recommend that future reconsiderations of the TMDL include the modification of fish tissue targets to be consistent with the State Listing Policy.</p>	<p>The 303(d) listing/delisting methodology for human health SQOs does not support a change to the numeric targets in this TMDL. The Listing Policy, including the listing/delisting methodology for human health SQOs, establishes methods for making listing decisions and does not dictate or offer guidelines on how TMDL targets shall be set.</p> <p>The 303(d) Listing procedures in Chapter IV.A.4.e.2 of the SQPs for Tier 2 and Tier 3 assessments still require evaluation of both the FCGs and ALT3 thresholds to determine if a site is categorized as “Possibly Impacted”, “Likely Impacted”, or “Clearly Impacted” over the duration of the listing cycle (SQPs Table 19 &amp; Ch. IV.A.2.b.3). These thresholds provide a range of chemical exposure levels to assess consumption risk. The proposed revisions to the 2012 TMDL incorporate the same assessment framework used in the SQPs as one of the methods of demonstrating compliance with WLAs and LAs.</p> <p>Meeting the existing TMDL fish tissue numeric targets remains the ultimate goal of the Harbor Toxics TMDL in order to fully protect beneficial uses. Unless information or guidance becomes available that would affect our understanding of the levels of pollutants in fish that are safe to eat, the FCGs should remain the numeric targets in the TMDL. As of now, both the FCGs and ATL3 remain a valuable assessment tool in the SQPs.</p>
1.9	Port of Long Beach	<p>SQOs are included in the tentative basin plan amendment as an alternative measure of compliance. We suggest that the text be modified to (1) emphasize SQOs as the primary measure of compliance following their</p>	<p>The proposed change is unnecessary. The ordering of compliance alternatives for the SQOs is not intended to suggest any sort of emphasis or preference. All compliance options in the proposed TMDL revisions are equally appropriate and no one option is meant to be the primary measure of compliance.</p>

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		development to support refining the TMDL, and (2) describe the attainment of numeric targets as alternative measures of compliance.	
1.10	Port of Long Beach	Special studies that were conducted since the original BPA have resulted in significant changes to the tentative resolution. We recommend further studies, as recommended by the SWRCB, be encouraged to support further revisions to the numeric targets, WLAs, LAs, and compliance schedule in future reconsiderations. Given the SWRCB's support for TMDL reconsideration, we would support additional studies that may provide additional evidence for revising numeric targets, WLAs and compliance schedules and effective implementation actions. Additional studies that will help us understand the effectiveness of proposed implementation actions, as recommended by the SWRCB in Resolution 2012-0008, may include (1) refining watershed and hydrodynamic models; (2) characterizing direct air deposition loadings; (3) evaluating loadings from Los Angeles River and San Gabriel River to the Harbor; and (4)	<p>As the commenter points out, and as recommended in SWRCB Resolution 2012-0008, the Port of Long Beach, Port of Los Angeles, and Water Board staff, through the HTWG, did refine the watershed and hydrodynamic model, which contributed to the proposed revisions.</p> <p>As opportunities and funding become available, the Los Angeles Water Board may consider funding additional studies that would further characterize the contamination dynamics and fish consumption rates in the area covered by the TMDL and include those findings in future reconsiderations of the Harbor Toxics TMDL as appropriate.</p>

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		characterizing fish consumption rates in the Harbor.	
1.11	Port of Long Beach	<p>The compliance schedule contained in the tentative resolution is not consistent with the proposed implementation actions.</p> <p>Section 2.8 of the staff report for the LARWCQB (p. 22) states that the tentative compliance deadline of March 23, 2040, for Sediment Quality Objectives (SQOs) for human health protection is based on 100% upstream WLA reduction and hot spot removal (linked WRAP-bioaccumulation model Scenario 5). However, the implementation schedule provided in tentative amendment Chapter 7-40.2 only includes mechanisms for hot-spot removal. It is unclear to Port staff how the 100% WLA reduction that forms the basis of the implementation schedule will be achieved, as the tentative resolution only provides mechanisms for sediment reductions.</p>	<p>The proposed implementation schedule is consistent with the proposed implementation actions. The schedule includes more than just mechanisms for hot spot removal. The 100% WLA reduction will be achieved by incorporating WLAs in orders issued or reissued by the Los Angeles Water Board. As was the case in the 2012 TMDL, all responsible parties for all sources are expected to implement BMPs and/or remediation actions necessary to reduce loadings and meet required WLAs and LAs. Actions to achieve WLAs and LAs are meant to be implemented in phases with information from each phase being used to inform the implementation of the next phase.</p>
1.12	Port of Long Beach	<p>Re-evaluation and/or updates to the Linked Model should be based on monitoring triggers. The tentative Basin Plan Amendment states that the linked model (WRAP-Bioaccumulation Model) will be used to perform Tier 3</p>	<p>The requested change that updates to the linked model be conducted only if data suggest that updates are warranted was not made. A fixed reevaluation of the linked model every 5 years is reasonable and necessary in order to confirm that the sediment linkages are consistently estimated by the model. Five years is the frequency at which changes in baseline</p>

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		<p>Human Health SQO assessments every five years. Each assessment is proposed to include updated information such as <i>“[sediment, water and tissue] monitoring data, fish movement, and site-specific diet and fish consumption.”</i> We support conducting Tier 3 Human Health SQO assessments with updated monitoring data every five years when monitoring data suggests it is warranted (i.e., when shifts from baseline conditions [as defined in Appendix A of the Staff Report] are observed in sediment, water and tissue data). However, updating the linked model to incorporate updated fish movement and site-specific diet and fish consumption information would require revalidation and recalibration of the model. This is a significant effort that should only be exercised when there is reason to believe the hydrodynamics have changed or species have altered their behaviors. In addition, the comprehensive fish tracking study which supported the tentative resolution was a unique opportunity made possible by partnering with the EPA and California State University, Long Beach. Conducting a similar fish-tracking study</p>	<p>conditions and resulting sediment linkages are expected to be observed. The use of the most up to date data is crucial to ensure the most accurate model results for use in the human health SQO assessment.</p> <p>The Los Angeles Water Board understands that conducting updated fish movement, site specific diet, and fish consumption studies would require significant effort and funding. The proposed Basin Plan amendment and draft Staff Report are edited as shown below to address this concern:</p> <p align="center"> <u>The Greater Los Angeles and Long Beach Harbors responsible parties shall <del>perform and re-evaluate</del> the <del>re-run the linked model with updated inputs and re-evaluate the results</del> every five years <del>with updated information including but not limited to monitoring data, fish movement, and site-specific diet and fish consumption</del>. <del>Responsible parties should consider which model input variables (e.g., fish movement, site-specific diet, and fish consumption data) need to be updated. Justifications for any updates or decisions not to update the model inputs should be addressed in the Monitoring and Reporting Plan to be approved by the Executive Officer.</del></u> </p>

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		<p>would require a similar interagency effort and significant funding. Therefore, we request Chapter 7-40.1 Section 5.3 be revised to (1) remove the discussion regarding repeating the fish tracking study and other elements associated with the reconstruction of the linked model, and (2) specify that Tier 3 Human Health SQO reassessments occur every five years when monitoring data suggests it is warranted.</p>	
1.13	Port of Long Beach	<p>The tentative amendment does not contain clear guidance for permit writers.</p> <p>The tentative amendment applies the California Toxics Rule (CTR) to waste streams (<i>"The compliance point for the stormwater WLAs shall be at the storm drain outfall of the permittee's drainage area"</i>) rather than receiving waters, as originally intended (40 CFR §131.36.c.2.i: "For all waters with mixing zone regulations or implementation procedures, the criteria apply at the appropriate locations within or at the boundary of the mixing zones"). Receiving waters are allowed to have an assimilative capacity (Per 40 CFR §131.2(f)(SIC):</p>	<p>See response to comment 0.1. For the record, both the 2012 TMDL and the proposed amendment include the following clear compliance language guidance for permit writers:</p> <p align="center"><i>"The compliance point for the stormwater WLAs shall be at the storm drain outfall of the permittee's drainage area. Alternatively, if stormwater dischargers select a coordinated compliance monitoring option, the compliance point for the stormwater WLA may be at storm drain outfalls or at a point in the receiving water, which suitably represents the combined discharge of cooperating parties discharging to Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters."</i></p> <p>As stated above, the compliance point for the stormwater WLA may be at storm drain outfalls or at a point in the receiving water. The clarity of the guidance is demonstrated by the fact that the Regional MS4 permit includes multiple alternatives and compliance points consistent with the TMDL. The manner of</p>

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		<p>“Loading capacity: The greatest amount of loading that a water can receive without violating water quality standards”), which is not reflected in waste-stream measurements. Per the State Implementation Policy (SIP), the LARWQCB <i>“shall use all available, valid, relevant, representative information, as described in section 1.2, to determine whether a discharge may: (1) cause, (2) have a reasonable potential to cause, or (3) contribute to an excursion above any applicable priority pollutant criterion or objective”</i> [emphasis added]. Without including the assimilative capacity of receiving waters, the amendment as written is not consistent with SIP guidance for the determination of the reasonable potential of waste streams to cause an excursion.</p>	<p>compliance determination in other permits will be determined as those permits are developed consistent with the assumptions and requirements of the TMDL’s WLAs.</p> <p>The Harbor Toxics TMDL’s compliance provisions are consistent with the intent of the CTR. The portion of the CTR cited in the comment does not establish that all CTR compliance is determined at a mixing zone boundary but merely explains how the criteria would apply if a mixing zone were authorized by another regulation. In fact, the last half of the cited CTR provision states, “For all waters with mixing zone regulations or implementation procedures, the criteria apply at the appropriate locations within or at the boundary of the mixing zones; <b>otherwise</b> the criteria apply throughout the waterbody <b>including at the end of any discharge pipe, canal or other discharge point”</b> (emphasis added). As stated above, compliance for this TMDL may be determined at the outfall or in receiving water. The waters addressed by the TMDL have no approved mixing zone(s) because they are impaired due to exceedances of CTR criteria. There is no excess assimilative capacity. Therefore, WLAs based on applicable CTR criteria are the least stringent WLAs that could be applied.</p> <p>To the extent the comment suggests that The Harbor Toxics TMDL compliance provisions are inconsistent with the SIP, this is incorrect. Per footnote 1 of the SIP, the policy does not apply to regulation of stormwater.</p>
1.14	Port of Long Beach	The tentative amendment does not separate contributions of settleable and dissolved fractions of a discharge	See response to comment 0.1. For the record, the sediment WLAs were developed based on hydrodynamic modeling of the amount of sediment deposited. The settleable load was taken

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		<p>to determine WLAs/Las. (Tentative Basin Plan Amendment Section 6.2.3: <i>“Mass-based WLAs for metals and PAHs in sediment are assigned to the Terminal Island Water Reclamation Plant (TIWRP) (based on current discharge volume) and other point sources that have sufficient <u>discharge flow data</u>”</i> [emphasis added] – note that the inclusion of discharge flow data implies the use of both soluble and insoluble fractions of a discharge.) We recommend that the RWQCB clarify that TMDL sediment allocations reflected the settleable load, per SWRCB Resolution 2012-0008. (SWRCB Resolution 2012-0008 (p. 2): <i>“the mass-based sediment allocations in this TMDL indicate the allowable settleable pollutant load to bed sediments from each source.”</i>)</p>	<p>into account by using existing sediment concentrations in the active sediment layer defined as the top 5 cm of bed sediment concentrations (See proposed Basin Plan amendment, section 7.2.3). This reflects the amount of sediment that has been deposited, i.e., the settleable fraction. Therefore, it is clear that the allocations represent the allowable settleable load and no change is needed.</p>
1.15		<p>Following the precedent set by the Long Beach MS4 Permit and the current Regional MS4, we believe that the provision of SQOs as alternative means of water quality compliance for discharge should be the standard. As such, the provision should be applied to all National Pollutant Discharge Elimination System (NPDES) permits, including the pending reissuance of the</p>	<p>The proposed Basin Plan amendment offers the SQO implementation provisions in the SQP as an alternative compliance option for all sediment-based allocations (interim and final), including those for general stormwater permits. Note that because the SQP offers sediment-based objectives, their implementation provisions cannot be applied as a compliance option for the water column-based WLAs.</p>

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		Industrial General Permit and the pending Commercial/Industrial/Institutional (CII) permit, to provide consistency. We recommend the inclusion of SQOs as alternative means of water quality compliance for stormwater discharges in the tentative basin plan amendment to be consistent with this precedent.	
1.16	Port of Long Beach	We request that the deadline for the updated CSMP be revised to 6 months after final approval of the tentative amendment to address the final TMDL required actions.	The requested extension to 6 months to submit a revised Contaminated Sediment Management Plan (CSMP) is not necessary. Under the 2012 TMDL, the Dominguez Channel Responsible Parties, the Greater Harbors Responsible Parties, and the Consolidated Slip Responsible Parties subgroup were required to submit CSMPs by March 23, 2014. The CSMPs were submitted on time, but were never approved because the plans failed to include specific plans and milestones to remediate identified hot spots, with numeric estimates of load reduction or removal, as required by the TMDL, even after revisions were made in response to the Los Angeles Water Board's comments. The Los Angeles Water Board staff held several meetings with Responsible Parties in 2014, 2016, and 2017 to discuss the deficiencies listed above. Responsible Parties have had more than 8 years to revise these plans. The addition of Task 5b to the Harbor Toxics TMDL implementation schedule merely reiterates a longstanding deadline and provides a short window for Responsible Parties to come into compliance. However, the Los Angeles Water Board recognizes that the TMDL approval process might conclude later than the proposed due date of January 31, 2023. As such, Task 5b has been revised to require the CSMPs to be resubmitted 30 days after the effective date of



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			the TMDL reconsideration. See revised proposed Basin Plan amendment.
1.17	Port of Long Beach	<p><b>Requested Correction:</b> The Staff Report, p. 5 currently states: <i>“Per OEHHA, no white croaker, black croaker, topsmelt, barred sand bass, and barracuda caught in the Greater Harbor Waters should be eaten.”</i> Black Croaker and Barracuda should be removed from the list, as one serving per week is permitted for men aged 18 or older and women aged 50 or older per OEHHA.</p>	Black Croaker and Barracuda will not be removed from the list because, per OEHHA, white croaker, black croaker, topsmelt, barred sand bass, and barracuda are currently listed on the do not eat list for women 18-49 years and children 1-17 years.
1.18	Port of Long Beach	<p><b>Requested Correction:</b> In the Staff Report, p. 30, Table 1, Chlordane and dieldrin are listed as requiring a Tier II assessment at all sites. Table 1 should be corrected to reflect that all sites are “unimpacted” by chlordane and dieldrin.</p>	The draft Staff Report has been revised accordingly.
1.19	Port of Long Beach	<p><b>Requested Correction:</b> In the Staff Report, p. 30, Table 2, DDT is listed as “likely impacted” at all sites. Table 2 should be corrected to reflect that all sites are “likely unimpacted” by DDT.</p>	The draft Staff Report has been revised accordingly.
1.20	Port of Long Beach	<p><b>Requested Correction:</b> The Staff Report, p. 44 currently states: <i>“A new footnote 3 will read: It is assumed that when the sediment condition to protect human health is</i></p>	The proposed Basin Plan amendment has been revised accordingly.

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		<p><i>met, the fish tissue targets will be met. The TMDL may be reconsidered if the fish tissue targets are not met."</i></p> <p>Footnote 3 in the tentative amendment has not been modified from the original text ("A site-specific study to determine resident species shall be submitted to the Executive Officer for approval."). The footnote should be modified to reflect the text in the staff report.</p>	
1.21	Port of Long Beach	<p><b>Requested Correction:</b> In the Staff Report, Appendix F, Table 2, Chlordane and dieldrin are listed as requiring a Tier II assessment at all sites. Table 2 should be corrected to reflect that all sites are "unimpacted" by chlordane and dieldrin.</p>	The draft Staff Report has been revised accordingly.
1.22	Port of Long Beach	<p><b>Requested Correction:</b> In the Staff Report, Appendix F, Table 7, DDT is listed as "likely impacted" at all sites. Table 7 should be corrected to reflect that all sites are "likely unimpacted" by DDT.</p>	The draft Staff Report has been revised accordingly.
2.1	The Beach Cities Watershed Management Group	<p>BPA Section 6.1.2 Dominguez Channel Estuary and Greater Harbor Waters Interim Allocations (page 16): A new sentence has been added to the end of this section that reads "Intermittent dischargers can demonstrate compliance with the</p>	The proposed language in the Basin Plan amendment is intended to provide an alternative compliance option for irregular or intermittent dischargers, some of whom discharge very infrequently. These do not include MS4 dischargers.

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		<p>interim sediment limits by complying with performance-based water column effluent limits determined at the time of permit renewal." It is unclear what this new sentence means in practice and which responsible parties might be considered as intermittent dischargers. The staff report seems to put this statement in context with the recognition that collection of sufficient sediment to complete appropriate laboratory analyses for intermittent dischargers is difficult. Nevertheless, BPA Section 9.1 Dominguez Channel, Torrance Lateral, and Dominguez Channel Estuary Compliance Monitoring states that for water column monitoring "Sampling shall be designed to collect sufficient volumes of suspended solids to allow for analysis of the pollutants in the bulk sediment." In highly urbanized areas it is both technically infeasible and otherwise cost-prohibitive to design an effective sampling protocol for collection of sufficient sediment to analyze pollutants in the bulk sediment with the level of QAQC needed for reliable results. Very large quantities of water must be filtered to attain sufficient sediment which is infeasible</p>	<p>For clarity, the language following the interim concentration-based sediment allocations in the proposed Basin Plan amendment and staff report have been modified as follows:</p> <p align="center"><u>"4. For intermittent irregular non-MS4 dischargers only, can demonstrate compliance with interim sediment limits by complying with performance-based meet water column effluent limits determined at the time of permit renewal."</u></p> <p>For MS4 dischargers, it is feasible to collect sufficient samples to assess compliance with sediment allocations. MS4 discharges contribute to impairments in the Dominguez Channel and Greater Los Angeles and Long Beach Harbor area and should be monitored and controlled to reduce their loadings. The TMDL is currently incorporated into the MS4 permit and monitoring for sediment in stormwater runoff has been underway in this watershed and several other watersheds subject to sediment TMDLs for many years.</p>

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		<p>to do in the field during a storm and transporting large quantities of water to the lab for filtering is cost prohibitive given the quantities that are necessary. In addition, given the brief and intense nature of many storm events in the Los Angeles Basin, it is often impossible to collect sufficient water to produce the required sediment volumes for these analyses. Please include MS4 responsible parties in highly urbanized areas as intermittent dischargers who are not required to design a sampling protocol for analysis of pollutants in the bulk sediment.</p>	
2.2	The Beach Cities Watershed Management Group	<p>BPA Section 6.2.1, Table 11 Final Freshwater Mass-Based WLAs in Water For Dominguez Channel in Wet-weather: Please add a statement specifying how the mass-based WLAs for total copper lead and zinc are to be divided among the LA County MS4 Permittees. Should an MS4 Permittee's share be calculated based on its share of the area tributary to the freshwater section of the channel exclusive of Caltrans' area?</p>	<p>See response to comment 0.1. For the record, the requested change is not necessary. The freshwater mass-based WLAs, which have not changed since the 2012 TMDL, have already been incorporated into the MS4 permits. For example, the 2021 Regional MS4 Permit explains that the effluent limitations based on the WLAs are group-based and shared among all MS4 Permittees within the Dominguez Channel drainage area above Vermont Avenue (Regional MS4 Permit, Attachment P, p. P-3, fn 6). In addition, both the 2012 TMDL and the 2021 Regional MS4 permit allow for an individual permittee to demonstrate compliance with CTR criteria at the point of discharge.</p>
2.3	The Beach Cities Watershed Management Group	<p>BPA Section 6.2.3 Dominguez Channel Estuary and Greater Harbor Waters Allocations: Please clarify that MS4 Permittees' tributary areas to the</p>	<p>See response to comment 0.1. For the record, the 2012 TMDL already specifies that MS4 Permittees' tributary areas to the freshwater portion of the Dominguez Channel or Torrance Lateral should be excluded when calculating the area shares of</p>

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		freshwater portion of the Dominguez Channel or Torrance Lateral [should] be excluded when calculating the area shares of the sediment WLAs for the Dominguez Channel Estuary, i.e., Table 16 and/or 18.	the sediment WLAs for the Dominguez Channel Estuary (see Tables 16 and 18 in the proposed Basin Plan amendment.)
2.4	The Beach Cities Watershed Management Group	BPA 7-40.2 Implementation Schedule, Task 5b (new): Please include in the 'Responsible Party' column only those Dominguez Channel Responsible Parties in the Dominguez Channel Estuary Subgroup for bed sediment and fish as listed in Section 10.6.1 of the BPA. Since Task 5b requires that the Contaminated Sediment Management Plan (CSMP) previously prepared by the Dominguez Channel Estuary Subgroup be revised; this edit will clarify that responsible parties tributary to the freshwater (lined) portion of the Dominguez Channel are not responsible for revising or implementing the CSMP.	See response to comment 0.1. This TMDL reconsideration does not change the responsible parties required to submit an Implementation Plan and CSMP specified in the 2012 TMDL, Task 5. Task 5a and 5b in the proposed Basin Plan amendment apply to the same list of responsible parties as the 2012 TMDL (Dominguez Channel Responsible parties; Greater Harbors Responsible Parties; Consolidated Slip Responsible Parties subgroup). This list includes responsible parties tributary to the freshwater portion of the Dominguez Channel. None of the CSMPs submitted to the Los Angeles Water Board were ever approved. As such, the proposed Basin Plan amendment requires the same responsible parties to submit a revised CSMP under the new Task 5b. For additional discussion on the CSMP approval process, see response to comment no. 1.16.
2.5	The Beach Cities Watershed Management Group	BPA 7-40.2 Implementation Schedule, Task 14a: Please clarify that this task is referring to water column "WLAs" as specified in the Staff Report Task 14a.	Table 14a in the proposed Basin Plan amendment is correct. The allocations referenced there include both WLAs and LAs. The draft Staff Report has been updated to correctly match the proposed Basin Plan amendment to say, "Attain water column LAs and WLAs identified in Section 6.2.1 and Tables 11-15".
2.6	The Beach Cities Watershed	BPA 7-40.2 Implementation Schedule, Task 14a and Task 14b: Clarity is requested around the division of Task	Task 14a and Task 14b have been revised to clarify which deadlines apply to which WLAs/LAs as follows:

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	Management Group	14 into 14a and 14b: does Task 14a refer to concentration-based WLAs in water that apply to non-MS4 Permittees and Task 14b apply to MS4 Permittees subject to mass-based WLAs for sediment and water column? Or does Task 14a apply to all water column WLAs and 14b apply to all sediment LAs and WLAs?	<ul style="list-style-type: none"> <li>• Task 14a of the implementation schedule refers to the water column LAs and WLAs specified in Tables 11 through 15 of the revised proposed Basin Plan amendment.</li> <li>• Task 14b refers to sediment LAs and WLAs for Benthic Community Protection specified in Tables 16 and 17 of the revised proposed Basin Plan amendment.</li> </ul>
2.7	The Beach Cities Watershed Management Group	BPA 7-40.2 Implementation Schedule, Task 15 (new): Please clarify which specific WLAs for MS4 Responsible Parties are being referred to in Task 15, i.e., does Task 15 specifically apply to the WLAs and LAs for DDT and PCBs in sediment in Table 18 of the BPA?	Task 15 refers to sediment LAs and WLAs for human health protection and applies to all responsible parties as specified in the Waste Load and Load Allocations. It is correct that Task 15 applies to Table 18, Final Mass-based Allocations for Total DDT and Total PCBs in sediment.
2.8	The Beach Cities Watershed Management Group	BPA Section 6.2.3: The BPA (pages 19, 23) states that "Individual mass-based WLAs for an individual MS4 Permittee will be calculated based on its share, on an area basis, of the mass based WLA or other approved approach available at the time final mass-based WLAs are in effect and incorporated into the permit." Please clarify that the area share WLAs are an approved calculation method for final mass based WLAs for individual MS4 Permittees so that MS4 Permittees can rely on these WLAs for implementation. If an alternate approved method for WLA	See response to comment 0.1. No alternate approved method for WLA allocation is being contemplated at this time. The cited language is from the original 2012 TMDL and is merely intended to explain how the grouped MS4 WLAs could be incorporated into permits for individual MS4 permittees. The language has already been interpreted, and the WLAs incorporated into the 2012 Los Angeles County MS4 Permit, the 2014 Long Beach MS4 Permit, and the 2021 Regional MS4 Permit. See response to comment 2.2.

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		allocation is being contemplated, it should be established now so that Permittees can rely on it for implementation planning rather than waiting until final mass based WLAs are in effect.	
2.9	The Beach Cities Watershed Management Group	BPA, Section 3, pg. 7; Staff Report, Section 4.2.2, pg. 38: The BPA and staff report both state: "unlike DDT, PCBs remain in use today. In Los Angeles County, for example, there are transformers with over 17,000 kg of PCBs currently in use (USEPA 2019)." Except for City of Los Angeles Department of Water and Power, MS4 Permittees have no authority over electricity transmission or the capability to address PCB sources associated with electrical grid equipment. Accordingly, Southern California Edison (and other utilities involved in the grid) should be listed as Responsible Parties to this TMDL and given an implementation schedule for identifying the locations of PCB-containing transformers still in service and remediating contaminated soils from leaking transformers.	<p>See response to comment 0.1. The responsible parties under the TMDL were determined in the 2012 TMDL and the proposed Basin Plan amendment does not include any changes to the responsible parties. For the record, PCBs in use today and PCB contamination from the past may both be discharged to waterways via the MS4. The Clean Water Act and associated regulations require MS4 permittees to address stormwater and non-stormwater discharges from MS4s. (CWA § 402(p)(3)(B)(ii-iii), 40 CFR § 122.26(d)(2)(iv)(B).) Any discharges into and from the MS4 that are not authorized by separate NPDES permits, or specifically exempted, are therefore subject to MS4 permitting requirements and were appropriately assigned a WLA in the Harbor Toxics TMDL.</p> <p>In some cases, discharges of PCBs from sources associated with industrial activities and other commercial facilities are assigned separate WLAs in the Harbor Toxics TMDL that are implemented by other individual and general NDPEs permits, e.g., the Statewide Industrial General Permit including Harbor Generating Station and Long Beach Generating Station. Nonetheless, none of these permits remove the requirement that MS4 Permittees maintain their authority to prohibit, restrict, or control stormwater discharges from these entities into their storm drain systems. MS4 Permittees are ultimately</p>

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			responsible for identifying significant contributors of pollutants within their MS4 and taking appropriate steps to address these discharges.
2.10	The Beach Cities Watershed Management Group	Staff Report, Section 4.5.2, pg. 43: The "new footnote 3" which states "It is assumed that when the sediment condition to protect human health is met, the fish tissue targets will be met. The TMDL may be reconsidered if the fish tissue targets are not met." contradicts the statement on p. 49 which states, "The modeling, as detailed in Appendix A, demonstrates that, in fish, PCBs will take longer to meet targets than DDT. For PCBs, the model-estimated time for fish to reach ATL3, as required by the SQO for human health, will take between 5 and 48 years in the various FMZ established in the Greater Harbor Waters." The ATL3 (21 ug/kg) is well above the fish tissue target for PCBs (3.6 ug/kg) and as shown in Appendix A Tables 8 and 10, the fish tissue target for PCBs (3.6 ug/kg) is not possible to achieve within 100 years or more for many of the fish movement zones/and the practical model scenarios evaluated; this is due to the higher background concentrations of PCBs outside the Harbor, PCB inputs from regional	Although the SQOs are offered as an alternative TMDL compliance option, meeting the fish tissue numeric targets is still the ultimate goal of the TMDL in order to fully protect beneficial uses. The draft Staff Report and proposed Basin Plan amendment are consistent. Therefore, the footnote will remain to clarify that if the fish tissue targets are not met when the sediment conditions to protect human health are met, additional allocations (including for upstream sources and regional sources) and implementation actions may be needed to fully address the impairments.  Also, see response to comment 2.12.



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		sources, and PCBs coming from migration of fish into the Harbor. Please strike this footnote and consider revising Staff Report language to be consistent with the BPA.	
2.11	The Beach Cities Watershed Management Group	Staff Report, Section 4.5.2, pg. 45: The words "an assessment site area is" should be added after the words "Likely Impacted" in the Proposed TMDL text to read: "When a benthic community SQO assessment finds a site is Clearly Impacted or an assessment site area is Likely Impacted..." This will make the statement consistent with the compliance text on p. 44 Section 4.5.3 (Compliance Option for Intermittent Dischargers), which notes that "The qualitative sediment condition is assessed as... and ii) the total percent area is categorized as Possibly Impacted and/or Likely Impacted is less than 15% of the assessment site area to protect aquatic life as defined in the SQP". Please consider revising Staff Report language to be consistent with the BPA.	Language in Section 4.5.2 of the Staff Report is revised as follows for clarification (additional language in underline):  <i>"When a benthic community SQO assessment finds <u>an assessment site is Clearly Impacted or Likely Impacted</u>, the responsible parties shall ensure the <u>assessment site</u> will be investigated via an addendum to a TMDL coordinated monitoring plan and the responsible parties shall determine if remedial actions are appropriate."</i>
2.12	The Beach Cities Watershed Management Group	Appendix A (Tables 12 and 14) shows that most of the FMZs [Fish Movement Zones] (subareas of the Harbor) will not achieve the ATL3 (21 ug/kg) for well more than 18 years (i.e., well beyond	The model-estimated time for PCBs in fish to reach ATL3 assuming full TMDL implementation is between 5 and 48 years in the various Fish Movement Zones (FMZs). Thus, it may be true that the fish in some FMZs will not achieve the ATL3 for PCBs by 2040. However, as explained in Section 4.6, page 49, of

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		2040). Why has a deadline of 2040 been set when the linked model for the Greater Harbor waters shows that the deadline is not achievable?	<p>the draft Staff Report, the human health SQO will be met in sediment before the ATL3 is met in fish. The difference originates from the inclusion of a site linkage factor in the SQO. For example, based on current conditions, the human health SQO is being met in the sediment in most of the FMZs even though fish are not currently meeting the ATL3. Also note that the PCBs and DDTs levels in fish are predicted to be more quickly reduced in the first 5 to 10 years of model simulation. Therefore, in addition to the sediment meeting the human health SQOs by 2040, the concentrations of pollutants in fish will also be closer to attaining the ATL3.</p> <p>Based on the predicted results, the proposed 2040 deadline to meet the human health SQOs is achievable while being as short as possible.</p>
2.13	The Beach Cities Watershed Management Group	Please discuss in the Staff Report the impending EPA Residual Designation and Regional Water Board Permit to address currently unregulated Commercial, Industrial and Institutional sources of copper and zinc in the Dominguez Channel watershed discussion of these EPA estimates as these sources are significant contributors to MS4 Permittees current load responsibility for these constituents.	<p>See response to comment 0.1. For the record, these sources are already addressed in the 2012 TMDL, which includes WLAs for “any future” NPDES dischargers.</p> <p>As pointed out by the commenter, the Los Angeles Water Board and USEPA are considering potential regulatory requirements for stormwater runoff from certain commercial, industrial, and institutional (CII) facilities in the Dominguez Channel/Greater Los Angeles and Long Beach Harbor Watershed and the Los Cerritos Channel/Alamitos Bay Watershed to reduce pollutant levels in stormwater runoff that flows from these facilities. A proposed NPDES permit for CII facilities is currently scheduled to be considered at the December 8, 2022, Board meeting.</p>
3.1	The County of Los Angeles and the	The Staff Report should include language noting that the Dominguez Channel Estuary (DCE) CSMP and Status	The draft Staff Report has been revised to clarify that the DCE CSMP was submitted as scheduled. See revision to section 2.7.3 of the Staff Report, which now states, “Three separate CSMPs

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	Los Angeles Flood Control District	Update were previously submitted. The DCE CSMP was developed to support the long-term recovery of sediment and water quality in the Dominguez Channel. A draft CSMP was submitted by DCE CSMP Participating Agencies in March 2014. The DCE CSMP Participating Agencies include the cities of Carson, Long Beach, Los Angeles, and Torrance, Los Angeles County (County), the Los Angeles County Flood Control District (LACFCD), and the California Department of Transportation. Comments on the draft CSMP were provided by the Los Angeles Regional Water Quality Control Board (Regional Board) in July 2015 and a revised CSMP was submitted to the Regional Board on May 31, 2016. The Regional Board provided no further comments. As such, the DCE CSMP Participating Agencies initiated implementation of the CSMP as written, which included milestones related to gathering information on conditions and sources that were identified as deficiencies in the TMDL, implementing watershed-wide non-structural BMPs, and implementing structural BMPs, all of which were consistent with the Phase I	were submitted <u>as scheduled to the Los Angeles Water Board</u> including: <ul style="list-style-type: none"> <li>i) Los Angeles Harbor CSMP including Consolidated Slip and Fish Harbor submitted by the City of Los Angeles;</li> <li>ii) Dominguez Channel Estuary CSMP submitted by the California Department of Transportation, City of Long Beach, City of Los Angeles, City of Torrance, Los Angeles County, and Los Angeles County Flood Control District; and</li> <li>iii) Long Beach Harbor, Eastern San Pedro Bay, and Los Angeles River Estuary CSMP submitted by the City of Long Beach.”</li> </ul>

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		<p>requirements of the TMDL. A Status Update was provided to the Regional Board in March 2022 by the DCE CSMP Participating Agencies, and no comments or feedback were provided. The County and LACFCD request revisions to the Staff Report to note the timely submittal of the DCE CSMP and Status Update and that the DCE CSMP Participating Agencies initiated implementation of the CSMP as written.</p>	
3.2	The County of Los Angeles and the Los Angeles Flood Control District	<p>The proposed Basin Plan Amendment and Staff Report should identify private entities responsible for historical and ongoing pollution as responsible parties to the TMDL and include background information on recent settlement agreements and potential cleanup actions associated with the stormwater pathway investigation. As noted in the draft Basin Plan Amendment (BPA) and Staff Report, two Superfund sites are located in the portion of the watershed that drains to the Torrance Lateral and ultimately into the Dominguez Channel Estuary and Consolidated Slip. In September 2021, the US Department of Justice and a number of companies responsible for decades of pollution (including</p>	<p>The Los Angeles Water Board is aware of the settlement agreements referenced by the commenter. However, the Los Angeles Water Board disagrees that the Harbor Toxics TMDL or staff report should be updated to include background information related to these settlements or that the mere existence of these settlements agreements necessitates revisions to the existing WLAs or LAs for DDT at this time.</p> <p>Litigation to address historic releases of DDT and other hazardous substances from the Montrose Chemical Plant under the Comprehensive Environmental Response, Compensation, and Liability Act of 980, as amended (“CERCLA”) has been ongoing on since the 1990s. The 2012 TMDL and Staff Report provide a brief background on the Montrose Superfund Site as well as a Partial Consent Decree entered into by U.S. EPA and the State of California (including the Los Angeles Regional Water Board) to resolve certain claims in <i>United States of America and State of California versus Montrose Chemical Corporation of California, et al., United States District Court Central District of</i></p>

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		<p>Montrose Chemical Corp) entered into three settlement agreements. One of the agreements requires investigation of potential contaminant release in the historic stormwater pathway leading from the Montrose Superfund Site to the DCE. However, the amended TMDL does not discuss these agreements, or the potential implications of the findings and potential cleanup actions associated with the stormwater pathway investigation. Further, there is no discussion of the Regional Board’s involvement with reviewing the planning documents for the investigation, which included a work plan, field sampling plan, and quality assurance project plan, all of which were subject to public review and comment. Addressing the impacts of historical and current discharges of pollutants from private entities should be more thoroughly considered in the TMDL.</p> <p>The County and LACFCD request that 1) the Staff Report provide background information and the status of efforts related to the September 2021 settlement agreements, and 2) the BPA and Staff Report be revised to explicitly identify these private entities as</p>	<p><i>California</i>, Case No. CV 90-3122-AAH (JRx). (Basin Plan 7-517, 7-519 &amp; 2012 Staff Report § 4.1.3.) At the time the Harbor Toxics TMDL was adopted, U.S. EPA had not reached final remedial decisions related to portions of the Montrose Superfund Site, also called operating units (OUs), contaminated with DDT including OU1 (on and near property soils), the current stormwater pathway (OU2), and the “Neighborhood Areas” affected by the historic stormwater pathway (OU4 and OU6). (<i>Id.</i>) However, the 2012 TMDL contemplated that additional implementation actions and/or monitoring of DDT contaminated soils associated with the Montrose Superfund site during Phase I of implementation of the TMDL may affect future allocations under the TMDL. (Basin Plan, P. 7-520.)</p> <p>Nonetheless, nothing in the recent settlement agreements changes the status quo for the Montrose Superfund site as it relates to waterbody pollutant combinations addressed by the Harbor Toxics TMDL. These settlements were entered into by The United States, the State of California on behalf of the Department of Toxics Substance Control (DTSC), and a number of private entities, and memorialized through a series of partial consent decrees lodged with the U.S. District Court. The Los Angeles Water Board is not a party to any of these settlements and none the settlements require remedial actions to clean up DDT at any of the operating units that potentially impact TMDL waters (i.e., OU1, OU2, OU4 or OU6) for the following reasons:</p>

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		responsible parties to the TMDL and include requirements for monitoring, implementation, and reporting.	<ul style="list-style-type: none"> <li>• The partial consent decree entered into on August 6, 2020, relates to remedial action to address a chlorobenzene plume in the groundwater at the Montrose/Del Amo Dual-Site Groundwater OU (OU 3G).</li> <li>• The partial consent decree entered into on January 15, 2021 relates to remedial action at the Dense Non-Aqueous Phase Liquid (DNAPL) OU (OU 3D) and is limited to groundwater contamination issues.</li> <li>• The partial consent decree signed on March 12, 2021 involves the historic stormwater pathway (OU 6). However, this consent decree is limited to site investigation and expressly “does not address any ultimate Remedial Design (‘RD’) and Remedial Action (‘RA’)” because EPA has not selected a remedy nor even concluded that remedial action is necessary.” (<i>Partial Consent Decree: Montrose Superfund Site—Historic Stormwater Pathway South Operable Unit, 03-12-21, Part I.P, p. 6, lines 13-14.</i>)</li> </ul> <p>In light of all of the above, the requested changes to the Basin Plan or the Staff Report are unnecessary. If new information from a remedial investigation or action implicates allocations under this TMDL in the future, the Los Angeles Water Board may reconsider revisions to the TMDL allocations or implementation actions based on activities at the Montrose Superfund Site as necessary and appropriate.</p> <p>See also response to comment 13.3.</p>

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4.1	PVP WMG	Basin Plan Amendment (BPA), Table 2 pg. 4: Specify the units for the Freshwater Numeric Targets (i.e. ug/L)	The proposed Basin Plan amendment has been revised to include the units.
4.2	PVP WMG	Staff Report, Section 4.8, pg. 52-53, BPA, Table 5, pg. 6: The Sediment Targets for 2-methylnaphthalene and Dibenz[a-h]anthracene in Section 4.8 of the Staff Report need to specify ug/kg as the marine sediment target units per Table 5 of the BPA.	The draft Staff Report has been revised to include the units.
4.3	PVP WMG	BPA, Section 3, pg. 7; Staff Report, Section 4.2.2, pg. 38: The BPA and staff report both state that PCBs remain in use today and that a significant PCB source in Los Angeles County are “transformers with over 17,000 kg of PCBs currently in use.” Please include language identifying Southern California Edison (and other utilities involved in the grid) as a Responsible Party to this TMDL and give them an implementation schedule for removing PCB- containing transformers from service and remediating contaminated soils from leaking transformers. Except for City of Los Angeles Department of Water and Power, MS4 Permittees have no authority over electricity transmission or capability for dealing with PCB	See response to comment 2.9.

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		sources associated with electrical grid equipment.	
4.4	PVP WMG	<p>BPA, Section 3, pg. 7; Staff Report, Section 4.2.2, pg. 38:</p> <p>For interim compliance, this new sentence in the BPA is unclear to us as far as what it means in practice:</p> <p>“Intermittent dischargers can demonstrate compliance with interim sediment limits by complying with performance-based water column effluent limits determined at the time of permit renewal.” The staff report puts this statement in the context of the recognition that collection of sufficient sediment for intermittent dischargers is difficult to complete appropriate analyses. However, the compliance monitoring section says this, under the heading of Water Column Monitoring: “PCBs monitoring shall be required for 44 congeners using recommended EPA methods 8270 and 1668 and should be reported with a target reporting limit of 10 to 20 pg/L. Sampling shall be designed to collect sufficient volumes of suspended solids to allow for analysis of the pollutants in the bulk sediment.”</p>	<p>See response to comment 2.1. The cited text is from Section 6.1.2 of the proposed Basin Plan amendment, which applies to non-MS4 dischargers, some of whom discharge infrequently. For those dischargers, performance-based water column interim effluent limits will be determined at the time of permit renewal.</p> <p>The requirement that states, “Sampling shall be designed to collect sufficient volumes of suspended solids to allow for analysis of the pollutants in the bulk sediment” is in section 9.1 (Dominguez Channel, Torrance Lateral, and Dominguez Channel Estuary monitoring requirements) and section 9.2 (Los Angeles River and San Gabriel River monitoring requirements) and applies to MS4 dischargers.</p>
4.5	PVP WMG	BPA, Section 6.2.3, pg. 19, 23 and Tables 16 and 18:	The POLB’s WLAs for each waterbody are included under the MS4 City of Long Beach WLAs as explained in section 6.2 of the



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		The BPA indicates “Discharges from the Port of Los Angeles (POLA) and Port of Long Beach (POLB) are grouped with the MS4 dischargers.” Please clarify whether the Port of Long Beach’s WLA is included in the ‘MS4-LA County et al. WLAs’ or the ‘City of Long Beach WLA’.	2012 TMDL (renumbered as section 10.6.2 in the proposed Basin Plan amendment).
4.6	PVP WMG	BPA, Section 6.2.3, pg. 19-26 and Tables 16 and 18: The BPA (page 23) indicates ‘Municipal stormwater sources, including the Los Angeles, Long Beach, Caltrans, and other MS4 co-permittees, are assigned a single, mass-based allocation by the permit;’ however, the single, mass-based allocation is not specified for the City of Los Angeles in Tables 16 & 18. Please clarify.	The City of Los Angeles is subject to the mass based WLAs assigned to “MS4 - LA County et al.” specified for each water body in Tables 16 and 18.
4.7	PVP WMG	BPA, Section 6.2.3, pg. 19, 23: The BPA (pages 19, 23) states that “Individual mass-based WLAs for an individual MS4 Permittee will be calculated based on its share, on an area basis, of the mass based WLA or other approved approach available at the time final mass-based WLAs are in effect and incorporated into the permit.” Please provide an approved calculation method for final mass-based WLAs that individual MS4 Permittees can rely on now for	See response to comment 2.8.

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		implementation, rather than waiting until the final mass-based WLAs are in effect.	
4.8	PVP WMG	BPA, Section 7-40.2, pg. 48: In Task 5b, please only include in the 'Responsible Party' column only those responsible parties in the Dominguez Channel Estuary, LA River Estuary, and Consolidated Slip Subgroup for bed sediment and fish as listed in 10.6.1 and not all Dominguez Channel and Greater Harbor Responsible Parties.	See response to comment 2.4.
4.9	PVP WMG	BPA, p. 48; Staff Report, Table 4, pg. 48: Please clarify whether the BPA Task 14a is referring to water column "WLAs" as specified in the Staff Report Task 14a.	See response to comment 2.5.
4.10	PVP WMG	BPA, Section 7-40.2, pg. 49: Please clarify the division between Task 14a and Task 14b, does Task 14a apply to concentration-based WLAs in water that apply to non-MS4 Permittees and task 14b applies to MS4 Permittees subject to mass-based WLAs for sediment and water column. Please confirm/clarify.	See response to comment 2.6.
4.11	PVP WMG	BPA, Section 7-40.2, pg. 49: Please clarify which WLAs apply in Task 15. Is Task 15 meant to apply to the WLAs and LAs for DDT and PCBs only in	See response to comment 2.7.

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		sediment in Table 18 of the BPA (i.e., not total PAHs)?	
4.12	PVP WMG	Staff Report: According to EPA estimates, the impending Regional Water Board Commercial, Industrial and Institutional Permit to address sources of copper and zinc in the Dominguez Channel watershed from unregulated facilities and unregulated areas of IGP facilities will address approximately 42% of the MS4 load responsibility for zinc to the Dominguez Channel. Please consider including discussion of these EPA estimates in the Staff Report.	See response to comment 2.13.
4.13	PVP WMG	Staff Report, Section 4.5.2, pg. 43: Regarding the “new footnote 3” which states “It is assumed that when the sediment condition to protect human health is met, the fish tissue targets will be met. The TMDL may be reconsidered if the fish tissue targets are not met.” This statement contradicts the statement on p. 49 which states, “The modeling, as detailed in Appendix A, demonstrates that, in fish, PCBs will take longer to meet targets than DDT. For PCBs, the model-estimated time for fish to reach ATL3, as required by the SQO for human health, will take between 5 and	See response to comment 2.10.

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		<p>48 years in the various FMZ established in the Greater Harbor Waters.” The ATL3 (21 ug/kg) is well above the fish tissue target for PCBs (3.6 ug/kg) and as shown in Appendix A Tables 8 and 10, the fish tissue target for PCBs (3.6 ug/kg) is not possible to achieve within 100 years or more for many of the fish movement zones/and the practical model scenarios evaluated; this is due to the higher background concentrations of PCBs outside the Harbor, PCB inputs from regional sources, and PCBs coming from migration of fish into the Harbor. Propose striking this footnote. Please consider revising Staff Report language to be consistent with the BPA.</p>	
4.14	PVP WMG	<p>Staff Report, Section 4.5.2, pg. 45: The words “an assessment site area is” should be added before the words “Likely Impacted” in the Proposed TMDL text to read: “When a benthic community SQO assessment finds a site is Clearly Impacted or an assessment site area is Likely Impacted...” This will make the statement consistent with the compliance text on p. 44 Section 4.5.3 (Compliance</p>	See response to comment 2.11.

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		<p>Option for Intermittent Dischargers), which notes that “The qualitative sediment condition is assessed as... and ii) the total percent area is categorized as Possibly Impacted and/or Likely Impacted is less than 15% of the assessment site area to protect aquatic life as defined in the SQP”.</p> <p>Please consider revising Staff Report language to be consistent with the BPA.</p>	
4.15	PVP WMG	<p>BPA, Section 7-40.2, pg. 49: If Appendix A (Tables 12 and 14) shows that most of the FMZs (subareas of the Harbor) will not achieve the ATL3 (21 ug/kg) for well more than 18 years (i.e., well beyond 2040), then why is the deadline set for 2040? Based on the linked model for the Greater Harbor waters, this deadline is not achievable.</p>	See response to comment 2.12.

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5.1	Los Angeles City Bureau of Sanitation (LASAN)	The City understands that the reopener is focused on TMDL revisions that incorporate updated, currently effective Sediment Quality Provisions (SQPs), including the updated methods for the Sediment Quality Objectives (SQOs) to protect human health, and makes other related updates based on results of special studies conducted by the Port of Los Angeles and Port of Long Beach (Ports). The 2012 TMDL and proposed amended TMDL include provisions for the City to conduct studies to determine the portion of the Terminal Island Water Reclamation Plant (TIWRP) discharged pollutants that are deposited on bed sediment. The TIWRP discharges to the Outer Harbor where recent data presented in the May 2022 Regional Board Staff Report (page 15) indicate that the benthic community SQO TMDL threshold established in the SQPs and discussed in Section 3.2.2 of the Staff Report is met and that the sediments meet the human health SQOs for DDTs and PCBs.	See response to comment 0.1. For the record, the City completed the required study.
5.2	LASAN	The following comment seeks revisions to the TMDL to ensure all parties responsible for pollution in our watersheds play a meaningful and	Comment noted.

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		active role in the restoration of beneficial uses. The original TMDL identified historical and ongoing sources of toxic pollutants in the watershed and harbors. The 2022 Draft Staff Report expands the understanding of current sources based on studies completed subsequent to adoption of the original TMDL. The sources identified include agencies that represent and are funded by the public, such as the Municipal Separate Storm Sewer System (MS4) and the Terminal Island Water Reclamation Plant (TIWRP), as well as private entities including industrial sites, construction activities, and historical manufacturers of DDTs and PCBs.	
5.3	LASAN	The implementation expectations for MS4 Permittees are detailed and represent a substantial investment of public resources. Because the MS4 acts as a conduit of runoff, actions by MS4 Permittees to reduce loadings to protect beneficial uses is warranted. However, private entities also have a responsibility to act which should be commensurate with the load of pollutants which they historically or currently discharge. Their responsibilities should include	See response to comment 0.1. For the record, the 2012 TMDL assigns WLAs to private entities, including industrial facilities, construction sites, and other NPDES permittees, including future NPDES permittees. While most private entities are not specifically named in the TMDL, they are still legally required to implement this TMDL if they fall into a class of discharger that is assigned a WLA. For example, the Los Angeles Water Board and USEPA are developing potential regulatory requirements for certain CII facilities in the Dominguez Channel/Greater Los Angeles and Long Beach Harbor Watershed in accordance with the WLAs assigned to future NPDES permittees.

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		<p>monitoring to assess impacts from historical and ongoing discharges and implementation of actions to remedy their contributions to impairments. However, the TMDL is lacking in 1) the number of notable private entities required to take action (similar to the ExxonMobil Torrance Refinery which is currently included in the TMDL) and 2) establishing implementation expectations for notable private entities through easily measurable allocations (i.e., concentration-based) and the associated monitoring requirements.</p>	<p>Additionally, the Harbor Toxics TMDL provides guidance to permit writers on how to implement the assigned WLA in permits where appropriate. In some cases, WLAs are already translated into concentration-based WLAs; e.g., the freshwater interim metal allocations for Dominguez Channel and Torrance lateral on page 7-498 of the Basin Plan (which is renumbered as Table 9 in the proposed Basin Plan amendment). In other cases, specific guidance is provided on how to calculate WLAs that apply to groups of dischargers. For example, the Harbor Toxics TMDL contains direction to implement mass-based allocations for metals and PAHs in sediment as annual limits and to calculate these limits for MS4 permittees based on the permittees share of the load, “on an area basis”. (Basin Plan 7-502). The Los Angeles Water Board agrees that additional direction is appropriate for certain private entities that are considered “irregular dischargers” in the Dominguez Channel Estuary and Greater Harbor waters subject to interim sediment WLAs. As such, the Los Angeles Water Board is proposing new language to provide additional guidance on how to implement these WLAs in permits. Please see response to comment 2.1 for additional information.</p>
5.4	LASAN	<p>Notable private entities with limited or no meaningful expectations established by the TMDL include entities responsible for two Superfund sites located in the Dominguez Channel Watershed: the Montrose Superfund Site and the Del Amo Superfund Site. As noted in the BPA, “These Superfund Sites are located in a community</p>	<p>See response to comment 0.1. The Los Angeles Water Board considered the relationship between the Montrose and Del Amo Superfund sites and the impairments Dominguez Channel watershed that are addressed in the Harbor Toxics TMDL when the TMDL was adopted in 2012. (see e.g., 2011 response to comment number 19.7.) The Los Angeles Water Board continues to disagree that entities responsible for historic discharges of DDT, PCBs, and other hazardous substances at the Montrose and Del Amo Superfund sites should be separately</p>



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		<p>known as Harbor Gateway, which is situated mostly in the City of Los Angeles and partially in unincorporated land in Los Angeles County. Harbor Gateway lies within the Kenwood Drain subwatershed, which discharges stormwater into Torrance Lateral which flows downstream into saline waters of Dominguez Channel Estuary and Consolidated Slip.” The Staff Report for the original TMDL suggests that historical pollution from the sites has moved downstream through the MS4 into receiving waters.</p> <p>To assess the potential contaminant release leading from the Montrose Superfund Site, the United States Department of Justice (DOJ) entered into a consent decree with Montrose Chemical Corporation of California, Bayer CropScience Inc., TFCF America Inc., and Stauffer Management Company LLC in September 2021 (Case No. 2:90-cv-03122-DOC-GJS). However, this investigation appears to be limited to the stormwater pathway and does not include requirements to evaluate impacts to the DCE and Consolidated Slip. Rather than utilizing the TMDL and State implementation tools to compel these private entities to address their</p>	<p>named as responsible parties in this TMDL. The Montrose and Del Amo Superfund sites and the Harbor Toxics TMDL address partially overlapping areas of contaminated sediments and pollutants. However, a variety of activities over the past decades have contributed to the current sediment contamination in the Dominguez Channel and Greater Los Angeles and Long Beach Harbor waters and discharges of heavy metals and organic pollutants remain an ongoing issue. As such, the TMDL applies to a significantly larger geographical area and addresses a broader range of pollutants than just DDT and PCBs. Furthermore, the Harbor Toxics TMDL assigned load allocations for the bed sediments to public agencies such as the City of Los Angeles (including the Port of Los Angeles), the City of Long Beach (including the Port of Long Beach), and State Lands Commission because these entities retain legal control over sediment management and dredging for these waters. (2011 response to comment number 19.8). As noted in the 2012 TMDL, coordinated monitoring with U.S. EPA or the entities responsible for investigation or remedial activities at the Superfund sites may be appropriate in some cases. However, full implementation of the Harbor Toxics TMDL is not contingent upon selection or completion of a remedy at the Montrose and Del Amo Superfund sites.</p> <p>See also response to comment 3.2.</p>

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		responsibility, the BPA simply recommends that USEPA require potentially responsible parties (PRPs) to conduct monitoring. The TMDL should require action through concentration-based allocations and not solely provide recommendations.	
5.5	LASAN	As it currently stands, the TMDL establishes requirements for the public to address pollution caused by private for-profit entities, inclusive of potentially remediating the DCE and Consolidated Slip at substantial costs to the citizens of Los Angeles who 1) live within Disadvantaged Communities within the Dominguez Channel watershed and 2) have already been impacted by decades of pollution caused by the same private for-profit entities. At a minimum the Staff Report should present information on the current requirements for the PRPs, the expected outcome of the implementation of those requirements, and, if the Regional Board’s authority for further regulation is limited, a detailed explanation of the limitations of the ability to establish additional requirements.	<p>See response to comment 0.1. The Los Angeles Water Board agrees that it is imperative that the impact of legacy pollution in the Dominguez Channel and the Greater Harbors is addressed as quickly possible. As such, the Los Angeles Water Board has proposed a schedule to attain the WLAs and LAs for human health protection that is as short as possible (see response to comment 2.12.) Nevertheless, the Los Angeles Water disagrees that the Harbor Toxics TMDL shifts the burden of achieving water quality objectives in the Dominguez Channel watershed to the residents. The Harbor Toxics TMDL is implemented by many private entities (see response to comment 5.3). The Harbor Toxic TMDL also appropriately names public entities that own and operate the MS4s as well as the ports because they contribute pollutants to these waterways.</p> <p>In light of all of the above, the requested changes to the Basin Plan or the Staff Report are unnecessary. If new information from a remedial investigation or action implicates allocations under this TMDL in the future, the Los Angeles Water Board may reconsider revisions to the TMDL allocations or implementation actions based on activities at the Montrose Superfund Site as necessary.</p>
5.6	LASAN	Through a lawsuit filed in March 2022, the City is actively working to recover	See response to comment 0.1. Cleanup of PCB contaminated sites is a Los Angeles Water Board priority. The Los Angeles

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		<p>the significant costs already expended by the public to address PCB contamination and seeking an order requiring that the defendants abate the public nuisance Monsanto created. However, the City and other municipalities should not be left to file lawsuits in the hopes of recouping costs. The Regional Board, through the TMDL and other regulatory tools, should take a lead role in the efforts to hold responsible parties accountable.</p>	<p>Water Board will continue to work with stakeholders to identify potential sources and associated responsible parties for implementing necessary remediation actions to reduce pollutant loading and remove impairments if appropriate based on monitoring data and information as they become available for review and consideration.</p>
5.7	LASAN	<p>Similarly, the TMDL lacks specificity on requirements to address other ongoing sources of pollution and leaves it to MS4 Permittees to investigate and potentially abate impacts. This includes industrial stormwater permittees, inclusive of owners of transformers that represent one of the significant remaining legal uses of PCBs, and projects covered under the construction general permit. Rather than solely recommending MS4 Permittees investigate the impacts from these sources, the TMDL should establish specific expectations for the owners and operators of these facilities. For example, the TMDL could establish requirements for industrial general permittees to inventory their</p>	<p>Section 4.2, Additional Source Assessment, of the draft Staff Report provides recommended actions - not requirements- for MS4 permittees to reduce PCBs loads in stormwater runoff by reducing the amount of contaminated sediment discharged to waterways and preventing PCBs sources from contaminating sediment before it is discharged.</p> <p>The TMDL currently assigns final WLAs for PCBS in water to all NPDES permittees, including industrial and construction facilities. Many of the permits that implement these WLAs contain requirements for inventory and source identification, monitoring, and pollution prevention plans as recommended by the commenter. Development of concentration-based allocations for bio-accumulative compounds in sediment for general construction and general industrial stormwater dischargers could be considered in the future when supporting data/information becomes available.</p>

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		current PCB usage, assess the potential for transport offsite, conduct monitoring, and establish specific actions to mitigate potential impacts. In short, LASAN is requesting that recommendations that are currently solely suggested to MS4 Permittees (i.e., the public) apply to for-profit businesses as well. Additionally, LASAN also requests that the TMDL establish final concentration-based allocations for bioaccumulative compounds in sediment for general construction and general industrial stormwater dischargers.	
5.8	LASAN	LASAN also requests flexibility with respect to the design and implementation of the monitoring program. The 2012 TMDL was adopted prior to the creation of Coordinated Integrated Monitoring Programs (CIMP), which provides the opportunity to customize and adapt monitoring for effectiveness. LASAN requests that the Draft BPA be revised to acknowledge the CIMPs and the ability to propose customized approaches for consideration and approval by the Regional Board.	See response to comment 0.1. The 2012 TMDL already allows for coordinated monitoring efforts to avoid duplication and reduce associated costs (See Section 9 of the proposed Basin Plan amendment for a detailed description of the required monitoring). The TMDL also provides flexibility in that CIMPs may be revised with Executive Officer approval. The proposed TMDL revision does not include any change to the previous language. The inclusion of additional language is not necessary.

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5.9	LASAN	<p>Additionally, on the PCB analytical methods the Draft BPA and Staff Report state that monitoring for PCBs shall use recommended USEPA methods 8270 and 1668 and should be reported with a target reporting limit of 10 to 20 pg/L. The City, as the lead of the Dominguez Channel Coordinated Integrated Monitoring Program (CIMP), currently utilizes a contract laboratory to run EPA Method 1668C to measure the 44 congeners at the proposed target reporting limit. Rather than stating both 8270 and 1668 be utilized, the City requests the BPA and Staff Report be revised to state that USEPA methods 8270, 1668, or equivalent methods be utilized to evaluate conditions in the receiving waters and attainment of WLAs.</p>	<p>The revised draft Staff Report, Section 4.5.4 page 47; and the revised proposed Basin Plan amendment, Section 10.1, page 30, have been revised as follows:</p> <p align="center"><i>“PCBs monitoring shall be required for 44 congeners using recommended EPA methods 8270 and 1668 <u>or equivalent methods</u> and should be reported with a target reporting limit of 10 to 20 pg/L.”</i></p>
5.10	LASAN	<p>Lastly, as part of the current reconsideration, LASAN requests that Regional Board staff confirm the calculation of the TIWRP PCB waste load allocation (WLA) and, if appropriate, update the WLA. Following the calculation approach presented in the BPA, it appears the TIWRP PCB WLA should be 3.7 g/yr, instead of the currently listed 0.37 g/yr.</p>	<p>The typo has been corrected. See revision in Table 18 of the revised proposed Basin Plan amendment, page 26.</p>

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6.1	City of Long Beach	We agree with the Port of Long Beach that the 2011 TMDL numeric targets, waste load allocations (WLAs), and load allocations (LAs) should be revised based on best available science that have been developed through the Harbor Toxics Working Group. We also support the recommendation that further studies be conducted to aid with potential revisions to the numeric targets, WLAs and LAs, and compliance schedule in future reconsiderations.	See response to comment 1.4 and 1.10.
6.2	City of Long Beach	We agree with the Port of Long Beach that the tentative BPA should be modified to (1) emphasize SQOs as the primary measure of compliance (instead of an alternative measure of compliance) and (2) describe the attainment of numeric targets as alternative measures of compliance.	See response to comment 1.9.
6.3	City of Long Beach	The BPA (Section 3, page 7) and staff report (Section 4.2.2, page 38) both state: "Unlike DDT, dieldrin, and chlordane, PCBs remain in use today, albeit in much smaller amounts than in the past. While much of the PCB pollution in the Greater Harbor waters happened decades ago, when PCBs were still in wide use, a smaller amount of PCBs still enters the Greater Harbor waters from land-based sources. In Los	See response to comment 2.9.

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		<p>Angeles County, for example, there are transformers with over 17,000 kg of PCBs in use (USEPA 2019).” As a result, Southern California Edison and other utilities involved with such transformers should be listed as a Responsible Party since municipal MS4 Permittees do not have authority over their facilities or the ability to address PCB sources associated with their equipment.</p>	
6.4	City of Long Beach	<p>We recommend that a revised CSMP to include identified hot spots, per task number 5b of the tentative BPA, be due at least six months after the effective date of the revised TMDL instead of the January 31, 2023 deadline that is proposed.</p>	<p>See response to comment 1.16.</p> <p>The proposed Basin Plan amendment was revised to require the CSMPs to be resubmitted 30 days after the approval of the TMDL reconsideration. See revised proposed Basin Plan amendment (Table 7-40.2) and Staff Report (Section 4.6).</p>
7.1	The City of Los Angeles Harbor Department	<p>The Harbor Department has been part of the Harbor Technical Working Group (HTWG), along with the Port of Long Beach, LARWQCB, the State Water Resources Control Board (SWRCB), Southern California Coastal Water Resources Project, and the City of Los Angeles Bureau of Sanitation, Watershed Protection Division. The HTWG met from 2013 to 2019 and designed and directed a host of special studies and state-of-the-art modeling. We accomplished two major goals: 1)</p>	<p>Comment noted.</p>

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		<p>we created the Tier 3 human health component of the State sediment quality objectives (SQOs) and 2) we conducted robust studies to refine the TMDL Water Resources Action Plan model and link it to a new bioaccumulation model to be used in this reconsideration. Both ports spent several million dollars on this effort, and time and effort were spent by all involved in the HTWG. We very much appreciate the commitment that LARWQCB staff was able to make.</p> <p>The SWRCB officially adopted the sediment quality provisions for the protection of human health in 2018. The HTWG-directed special studies and site-specific (harbor) (<i>sic</i>) modeling played a predominant role in the development of the provisions. We appreciate that this effort is accurately summarized in the draft Staff Report and appendices and that the draft Basin Plan Amendment has been updated to include human health SQO as an alternative compliance method.</p> <p>We also appreciate that recommendations made by the HTWG were incorporated into the alternate</p>	



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		compliance using the benthic health SQO. These include compliance zones for the harbor (similar to, but not exactly the same as water body definitions), an area weighted approach, and an 85% threshold for compliance as long as there are no clearly impacted sites.	
7.2	The City of Los Angeles Harbor Department	We believe incorporation of the above changes improve the TMDL and we thank LARWQCB for their inclusion. However, we still have some concerns regarding some areas of the TMDL, most notably that the numeric targets, waste load allocations and load allocations have not been revised. These concerns are presented in the attached. Please refer to these complete indexed comments as you prepare your response.	See response to comments 1.4 – 1.7.
7.3	The City of Los Angeles Harbor Department	The 2011 TMDL numeric targets, waste load allocations (WLAs), and load allocations (LAs) have not been revised. Therefore, our original comments regarding the inappropriate use of these values in determining water and sediment compliance still stand.	See response to comment 1.4.
7.4	The City of Los Angeles Harbor Department	The WLAs and LAs included in the tentative amendment were developed using the flawed EFDC model which was heavily commented on during	See response to comment 0.1. For the record, the linkages have been updated in new modeling by the Ports of Long Beach and Los Angeles (the linked WRAP and bioaccumulation models) as overseen by the HWTG. The new modeling has been added to

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		circulation of the original TMDL and does not accurately describe the linkage between contaminant sources and water body impairments	<p>the TMDL as additional linkage analysis and to support bioaccumulation analyses, but these updates in themselves, are not sufficient to warrant revisions to the WLAs or LAs.</p> <p>In addition, see response to comment 20.2 provided at the time of consideration of the 2012 TMDL.</p>
7.5	The City of Los Angeles Harbor Department	SQOs rather than numeric targets should define sediment compliance. While the tentative amendment provides SQOs as an alternative measure of compliance, it still states the RWQCB will reconsider the TMDL to modify the WLAs and LAs rather than the numeric targets “to ensure that the fish tissue targets are attained.”	See response to comments 1.7 and 1.8
7.6	The City of Los Angeles Harbor Department	The use of Office of Environmental Health Hazard Assessment (OEHHA) Fish Contaminant Goals (FCGs) is unwarranted because FCGs were not intended to be used as numeric targets; they were designed solely as a starting point for developing appropriate targets that incorporate site-specific conditions. For this TMDL, there is an established alternative. The SWRCB selected Advisory Tissue Levels (ATLs) to form the basis for the SQOs for human health. ATLs were designed to protect human health by incorporating the health benefits of fish	<p>See response to comments 1.7 and 1.8. Also, refer to response to comment 20.3 on the 2012 TMDL. The response states, part, “The OEHHA document provides that “Fish Contaminant Goals can be used as a starting point for agencies to develop fish tissue-based criteria. Agencies that require screening criteria for mandated activities may still seek OEHHA’s advice for their development.”</p> <p>There is no statement in the OEHHA document specifying that that FCGs were not intended to be used as screening values or numeric targets.</p>

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(Harbor Toxics TMDL)

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		consumption into the risk analysis. We request that the numeric targets be revised in the tentative amendment to be based on ATL3s. This will (1) remove inconsistencies within the tentative amendment, as compliance with both the numeric targets and SQOs will be based on the same thresholds, (2) ensure that the tentative amendment is consistent with the State Listing Policy, and (3) reduce future effort on behalf of all parties as the amendment as-written will require future reconsideration per the staff report.	
7.7	The City of Los Angeles Harbor Department	The tentative amendment continues to use data collected between 2002 and 2008 to establish the current condition and set the basis for the development of WLAs and LAs. These data do not include the impacts of extensive dredging programs which have removed millions of cubic yards of impacted sediment over the last 20 years or the effects of Water Resource Action Plan (WRAP) measures which have reduced sources over the last 10 years. Thus, the WLAs and LAs developed in the tentative amendment are not applicable to the current conditions.	<p>The proposed TMDL revision does not use the 2002-2008 data to establish the current conditions. Appendix C of the proposed TMDL revision presents an assessment of current conditions using updated data.</p> <p>In addition, the modeling conducted by the Ports, which supports the TMDL schedule, includes as the “baseline” scenario the ongoing and planned Port capital improvement programs (e.g., deepening and terminal redevelopment) in addition to the expected future projections due to natural recovery. The modeling also uses 2014 as the initial year, which includes the impacts of extensive dredging programs prior to 2014.</p> <p>Additional dredging programs that remove contaminated sediment will help meet the assigned allocations.</p>

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7.8	The City of Los Angeles Harbor Department	<p>The tentative amendment does not contain clear guidance for permit writers for development of permits based on sediment impairments for the Greater Harbor Area.</p> <p>This TMDL is based on sediment quality limits and the does not include any water column related limits. The SWRCB acknowledged “the mass-based sediment allocations in this TMDL indicate the allowable <u>settleable</u> pollutant load to bed sediments from each source” [emphasis added].</p> <p>However, Table 15 only provides dissolved based California Toxics Rule (CTR) to waste streams and does not include alternatives means of compliance using the SQOs or other mass-based limits. As a result, this leads writers to use CTRs in effluent limits when the receiving waters are in attainment. By doing this, it limits the ability to incorporate assimilative capacity. In addition, the mechanisms for permit compliance are not consistent. We request that guidance for the assessment of settleable loads with appropriate criteria be provided and the use of SQOs in the receiving waterbody be added as an alternative demonstration of compliance.</p>	See response to comments 1.13, 1.14, and 1.15.

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7.9	The City of Los Angeles Harbor Department	<p>The compliance schedule contained in the tentative resolution is not consistent with the proposed implementation actions nor with our understanding of contaminant fate and transport mechanisms within the Greater Harbor. The WRAP-Bioaccumulation linked model is a tool that can help us understand the relative effectiveness of large-scale management actions on fish tissue concentrations. With the linked model, we learned that it will take time to see reductions in tissue concentrations from watershed controls and sediment remediation programs because the background concentrations of these bioaccumulatives are elevated across the region. The model predicts conditions which will occur up to 20 years after the realization of reductions.</p> <p>Meeting the currently proposed schedule of 2040 for human health SQO compliance would assume that both hot spots and 100% watershed reductions in PCBs were in effect in 2020.</p> <p>Further, the proposed schedule in Chapter 7-40.2 only includes mechanisms for hot-spot removal.</p>	<p>See response to comments 2.12 and 1.11.</p> <p>The modelled 20-year decline rate referenced in the comment applies to fish tissue concentrations, not sediment concentrations. The model doesn't predict how long it will take to meet the human health SQOs in sediment. The model predicts how long it will take to meet the ATL3 in fish. We have confidence that the human health SQOs will be met in sediment prior to 2040 because, as described in the draft Staff Report, the human health SQO will be met prior to the fish tissue attaining the ATL3. For example, based on current conditions, the human health SQO is being met in the sediment in most of the FMZs even though fish are not currently meeting the ATL3.</p> <p>While there is no additional scheduled reconsideration in the TMDL, the TMDL can be reconsidered at any time. See for example Section 4.7 of the draft Staff Report, which includes language stating that:</p> <p align="center"><i>“the Los Angeles Water Board may reconsider the WLAs, LAs, and implementation schedule based on new data, special studies including Regional sources evaluation, and implementation progress toward meeting the assigned LAs and WLAs. Additional special studies may be conducted to support the TMDL reconsideration. The results of any such Executive Officer-approved studies shall be evaluated at the time of TMDL reconsideration to refine the TMDL as appropriate.”</i></p>

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		The attainment of legacy pollutants is a regional problem and therefore requires a regional solution and will take time. We request additional TMDL reconsiderations be planned, or the compliance timeline extended to match the anticipated schedules for both hot spot and watershed load reductions.	
7.10	The City of Los Angeles Harbor Department	Re-evaluation and/or updates to the Linked Model should be based on monitoring triggers. The tentative Basin Plan Amendment states that the linked model (WRAP-Bioaccumulation Model) will be used to perform Tier 3 Human Health SQO assessments every five years. Each assessment is proposed to include updated information such as “[sediment, water and tissue] monitoring data, fish movement, and site-specific diet and fish consumption”. We support conducting Tier 3 Human Health SQO assessments with updated monitoring data every five years when monitoring data suggests it is warranted (i.e., when shifts from baseline conditions are observed in sediment, water and tissue data). However, updating the linked model to incorporate updated fish movement and site-specific diet and	See response to comment 1.12.

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		fish consumption information would require revalidation and recalibration of the model. This is a significant effort that should only be exercised when there is reason to believe the hydrodynamics have changed or species have altered their behaviors. In addition, the comprehensive fish tracking study which supported the tentative resolution was a unique opportunity made possible by partnering with the EPA and Cal-State Long Beach. Conducting a similar fish-tracking study would require a similar interagency effort and significant funding. Therefore, we request Chapter 7-40.1 Section 5.3 be revised to (1) remove the discussion regarding repeating the fish tracking study and other elements associated with the reconstruction of the linked model, and (2) specify that Tier 3 Human Health SQO reassessments occur every five years when monitoring data suggests it is warranted.	
7.11	The City of Los Angeles Harbor Department	Special studies that were conducted since the original BPA have resulted in significant changes to the tentative resolution. We recommend further studies, as recommended by the SWRCB (SWRCB Resolution 2012-0008	See response to comment 1.10.

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		<p>,p. 2), be encouraged to support further revisions to the numeric targets, WLAs, LAs, and compliance schedule in future reconsiderations. Given the SWRCB's support for TMDL reconsideration, we would support additional studies that may provide additional evidence for revising numeric targets, WLAs and compliance schedules and effective implementation actions. Additional studies that will help us understand the effectiveness of proposed implementation actions, as recommended by the SWRCB in Resolution 2012-0008, may include (1) refining watershed and hydrodynamic models; (2) characterizing direct air deposition loadings; (3) evaluating loadings from Los Angeles River and San Gabriel River to the Harbor; and (4) characterizing fish consumption rates in the Harbor.</p>	
7.12	The City of Los Angeles Harbor Department	6. We request that the deadline for the updated CSMP be revised to 6 months after final approval of the tentative amendment to address the final Total Maximum Daily Load (TMDL) required actions.	See response to comment 1.16.



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7.13	The City of Los Angeles Harbor Department	<p><b>We request that the RWQCB correct the following transcription errors:</b></p> <p><b>Staff Report, p. 5:</b> <i>“Per OEHHA, no white croaker, black croaker, topsmelt, barred sand bass, and barracuda caught in the Greater Harbor Waters should be eaten.”</i></p> <p><b>Requested Correction</b> Black Croaker and Barracuda should be removed from the list, as one serving per week is permitted for men aged 18 or older and women aged 50 or older per OEHHA.</p>	Black Croaker and Barracuda will not be removed from the list because per OEHHA, white croaker, black croaker, topsmelt, barred sand bass, and barracuda are currently listed on the do not eat list for women 18-49 years and children 1-17 years.
7.14	The City of Los Angeles Harbor Department	<p><b>Staff Report, p. 22, regarding the Fish Movement Study:</b> <i>“...identified emigration of white croaker from the Harbor and onto the Palos Verdes Shelf,”</i></p> <p><b>Requested Correction</b> We recommend revising the text to <i>“identified migration of white croaker between the Harbor and the Palos Verdes Shelf,”</i> to reflect the additional movement of fish from the Palos Verdes Shelf to the Harbor.</p>	The draft Staff Report has been revised accordingly.
7.15	The City of Los Angeles Harbor Department	<p><b>Staff Report, p. 30, Table 1:</b> Chlordane and dieldrin are listed as requiring a Tier II assessment at all sites.</p> <p><b>Requested Correction</b></p>	The draft Staff Report has been revised accordingly.

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		Table 1 should be corrected to reflect that all sites are “unimpacted” by chlordane and dieldrin.	
7.16	The City of Los Angeles Harbor Department	<p><b>Staff Report, p. 30, Table 2:</b> DDT is listed as “likely impacted” at all sites.</p> <p><b>Requested Correction</b></p> <p>Table 2 should be corrected to reflect that all sites are “likely unimpacted” by DDT.</p>	The draft Staff Report has been revised accordingly.
7.17	The City of Los Angeles Harbor Department	<p><b>Staff Report, p. 44:</b> <i>“A new footnote 3 will read: It is assumed that when the sediment condition to protect human health is met, the fish tissue targets will be met. The TMDL may be reconsidered if the fish tissue targets are not met.”</i></p> <p><b>Requested Correction</b></p> <p>Footnote 3 in the tentative amendment has not been modified from the original text (<i>“A site-specific study to determine resident species shall be submitted to the Executive Officer for approval.”</i>). The footnote should be modified to reflect the text in the staff report.</p>	The draft Staff Report has been revised accordingly.
7.18	The City of Los Angeles Harbor Department	<p><b>Staff Report, Appendix F, Table 2:</b> Chlordane and dieldrin are listed as requiring a Tier II assessment at all sites.</p> <p><b>Requested Correction</b></p>	The draft Staff Report has been revised accordingly.

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		Table 2 should be corrected to reflect that all sites are “unimpacted” by chlordane and dieldrin <sup>28</sup> .	
7.19	The City of Los Angeles Harbor Department	<p><b>Staff Report, Appendix F, Table 7:</b> DDT is listed as “likely impacted” at all sites</p> <p><b>Requested Correction</b></p> <p>Table 7 should be corrected to reflect that all sites are “likely unimpacted” by DDT<sup>29</sup>.</p>	The draft Staff Report has been revised accordingly.
8.1	Ray Tahir	TECS Environmental appreciates the opportunity to comment on the proposed Basin Plan Amendment (BPA) to reconsider the 2012 Dominguez Channel Harbor Toxics TMDL (Harbor Toxics TMDL). After much analysis and consideration, I recommend that the BPA should not be approved for the following reasons:	Comment noted. See also response to comments 8.2 – 8.13.
8.2	Ray Tahir	Once adopted, the BPA would impose unwarranted and extra-legal requirements on MS4 permittees – designated as responsible permittees – through a re-opened or re-issued MS4 permit. These unwarranted requirements include compliance with various sediment quality targets for several pollutants in the Los Angeles River, San Gabriel River, and Dominguez Channel estuaries. These requirements are to be imposed specifically on MS4 permittees	See response to comment 0.1. The proposed TMDL does not propose any changes to responsible parties, targets, or WLAs and does not change monitoring requirements for the Los Angeles River and San Gabriel River. The Regional MS4 permit currently incorporates the responsible parties and requirements based on the targets, WLA and monitoring requirements in the 2012 TMDL, which have not changed in the proposed TMDL amendment.

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		designated as “responsible parties.” Compliance with sediment targets necessitates monitoring in the estuaries and an implementation of tasks ultimately aimed at remediating the San Pedro (Los Angeles) and Long Beach Harbors.	
8.3	Ray Tahir	The term responsible parties, which comes from the 2012 Harbor Toxics TMDL, is not explained. It merely identifies the parties, including MS4 Permittees in the Los Angeles River, San Gabriel River, and Dominguez Channel. However, according to the 2012 MS4 permit, attachment K, compliance with the Harbor Toxics TMDL does not apply to a Permittee to the extent that it is determined that the Permittee has been released from that obligation pursuant to the Amended Consent Decree entered in United States v. Montrose Chemical Corp., Case No. 90-3122 AAH (JRx). The Montrose Consent Decree, which is attached, mentions nothing about any MS4 Permittee being subject to this TMDL let alone released from it. Furthermore, according to USEPA a responsible party or potential responsible party is defined as follows:	<p>See response to comment 0.1. The responsible parties under the 2012 TMDL were established by the Los Angeles Water Board in 2012 and the proposed Basin Plan amendment does not include any changes to the responsible parties.</p> <p>The term “responsible parties” as used in the 2012 TMDL and retained in the proposed Basin Plan amendment refers to any person or entity that is assigned a WLA, LA, or other task in the TMDL. A full list of responsible parties is available in section 6 of the Harbor Toxics TMDL, which has been renumbered as section 10.6 in the proposed Basin Plan amendment.</p> <p>The definition of Potentially Responsible Party (PRP) quoted by the commenter is a summary of which persons may be liable under section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) for the release of a hazardous substance. TMDLs are adopted pursuant the Clean Water Act, not CERCLA. PRP is a legal term of art and is only used in the Harbor Toxics TMDL and associated materials when discussing U.S. EPA’s oversight of the Montrose Superfund site. An entity named as a PRP for a Superfund site would not be subject to a TMDL unless and until it is assigned a WLA, LA, or other task in a TMDL.</p>

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		<p><i>Potentially Responsible Party (PRP) — any individual or organization— including owners, operators, transporters or generators— potentially responsible for, or contributing to, a spill or other contamination at a Superfund site. Whenever possible, through administrative and legal actions, the U.S. Environmental Protection Agency (EPA) requires PRPs to clean up hazardous sites they have contaminated.</i></p>	<p>With respect to the comments related to a footnote in Attachment K of the 2012 Los Angeles County MS4 Permit that discusses the Amended Consent Decree in United States v. Montrose Chemical Corp., Case No. 90-3122 AAH (JRx), the footnote in question was not carried over to the Regional MS4 Permit that has been effect since September 11, 2021. The cited footnote was intended to acknowledge that some of parties to Amended Consent Decree are also identified as responsible parties for the Harbor Toxics TMDL and that these parties were released from certain non-CWA related liabilities outlined in the Amended Consent Decree. This footnote does not absolve any Permittee of its obligation to implement the Harbor Toxics TMDL nor could it. Implementation of TMDLs in NPDES permits is required by federal regulations. Nothing in the Amended Consent Decree preempted the State from requiring compliance with the Clean Water Act, including compliance with NPDES permits, to prevent further discharges of pollutants to impaired water bodies. (For additional discussion on this issue see response to comment no. 1.1 in the RTC for the 2012 TMDL and p. G-19 of the response to comments on the Tentative 2012 MS4 Permit, TMDL (Specific) Matrix.)</p> <p>Moreover, it is primarily one pollutant, DDT, that is associated with the Montrose Superfund site. Conversely, the TMDL addresses numerous other pollutants and utilizes a different authorities and tools than those used by USEPA to remediate Superfund sites. The other pollutants – heavy metals, PAHs, PCBs and other legacy pesticides are not within Superfund’s focus at the Montrose OU2 Site – the stormwater pathway including Torrance Lateral, Dominguez Channel Estuary and Consolidated Slip. The other pollutants and corresponding</p>

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			allocations present within the TMDL justify the requirement for other responsible parties to participate in the cleanup of those sediments.
8.4	Ray Tahir	The harbors are a superfund site. USEPA has not determined that MS4 Permittees in the Los Angeles and San Gabriel Rivers, and Dominguez Channel contributed to the contaminated harbors. In other words, USEPA is the only regulatory agency that can determine a responsible or potential responsible party and has not done so for any MS4 Permittee.	See response to comment 0.1. The Greater Los Angeles and Long Beach Harbor Waters are not USEPA Superfund sites. There are two Superfund sites located within Dominguez Channel Watershed: the Montrose Superfund Site and the Del Amo Superfund Site. While USEPA will determine potentially responsible parties or “PRPs” under CERCLA, the Los Angeles Water Board has determined the responsible parties for the TMDL. Discussion about these two sites can be found in the 2012 TMDL (Basin Plan pages 7-519-520). See also response to comment 8.3.
8.5	Ray Tahir	BPA requires responsible parties to comply with sediment quality targets in the estuaries, despite the fact that the most recent CWA 303(d) list does not show sediment impairments for the Los Angeles River, San Gabriel River, and Dominguez Channel estuaries. Either by accident or design, compliance with sediment quality targets imposes an unnecessary cost on so-called responsible parties.	See response to comment 0.1. As discussed in Section 2 of the 2012 DC and Greater Harbor Waters TMDL, the San Gabriel River and the Los Angeles River above the estuary were not the focus of the TMDL. However, a discussion of the San Gabriel River and the Los Angeles River above the estuary as a source to the Harbors, was included. Per the 2012 DC and Greater Harbor Waters TMDL, responsible parties for metals TMDLs in the San Gabriel River and Los Angeles River will directly or indirectly support the goals of this TMDL. As such, responsible parties identified in these TMDLs are required to submit a Report of Implementation to describe how current activities support the downstream Harbor Toxics TMDL. Los Angeles River and San Gabriel River Metals TMDL responsible parties were also identified as responsible parties for conducting water and sediment monitoring at the mouth of the San Gabriel River to determine the contribution to the impairments in the Greater Harbor Waters. (Basin Plan p. 7-515 & 7-523 § 6.3.) The Los Angeles River and San Gabriel River metals TMDLs responsible

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			<p>parties are not assigned WLAs or LAs in the Harbor Toxics TMDL unless separately identified in section 6.1 or 6.2 on Pages 7-522 and 7-533 of the Basin Plan (which have been renumbered as sections 10.6.1 and 10.6.2 in the proposed Basin Plan amendment).</p> <p>In addition, impairments included on the most recent 303(d) list (the 2020-2022 303(d) list) include PCBs, Chlordane, DDT, and other pollutants in sediment in the Los Angeles River, San Gabriel River, and Dominguez Channel estuaries.</p>
8.6	Ray Tahir	<p>MS4 Permittees are not required to monitor in receiving waters (Los Angeles and San Gabriel Rivers and the Dominguez Channel). The end-of-the-line for MS4s is discharge from outfalls. Monitoring is only required at the outfalls to determine compliance with Water Quality Based Effluent Limits.</p>	<p>See response to comment 0.1. The requirements for monitoring were in the 2012 TMDL. There is no change to the 2012 TMDL monitoring requirements in the proposed TMDL revision. NPDES permits, including MS4 permits, implementing the Harbor Toxics TMDL must be consistent with the monitoring program in the Basin Plan for this TMDL (pp. 7-510 to 7-515.)</p> <p>While the requirements of the MS4 permit are not under consideration in this TMDL revision, monitoring requirements in MS4 permits are not limited to effluent monitoring. Receiving water monitoring is required in MS4 permits to measure effects of MS4 discharges on the receiving water, to identify water quality exceedances, to evaluate compliance with water quality based effluent limitations and receiving water limitations, and to evaluate whether water quality is improving, staying the same or declining.</p> <p>Monitoring by the owners and/operators of MS4s is required pursuant to Clean Water Act section 308(a) and 40 CFR sections 122.41(h), (j)-(l), 122.44(i), 122.48, 122.26(d)(2)(i)(F), 122.26(d)(2)(iii)(D) and 122.42(c). 40 CFR section 122.26(d)(2)(iii)(D) identifies monitoring at outfalls, field</p>

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			screening points, and in-stream stations, and requires representative data collection.
8.7	Ray Tahir	The MS4 Permit does not require Permittees to clean-up toxics in the harbors. The responsibility to remediate the harbors of the toxics falls directly on the true responsible parties identified in the aforesaid Montrose Consent Decree, including but not limited to Montrose Chemical Corporation as determined by USEPA. Also, note that referenced in the Montrose Consent Decree is the Los Angeles County Sanitation District. It was through its Joint Outfall that DDT and PCBs contaminated sediment was discharged to the Los Angeles and Long Beach Harbors. However, no reference to the Sanitation District is made in the Reconsideration of the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL - Staff Report.	See response to comments 0.1, 3.2, and 8.4.  Los Angeles County Sanitation District is a permitted discharger through several NPDES permits (Pomona, Whittier Narrows, Los Cayotes and Long Beach Wastewater Reclamation Plants) to the San Gabriel River and as such is subject to TMDLs for the San Gabriel River; for a discussion of contributions of dischargers to the San Gabriel River and Los Angeles River above the estuary, see response to comment 8.5. The Los Angeles County Sanitation District is also subject to requirements of the Santa Monica Bay DDT and PCBs TMDL through its NPDES permit for the Joint Water Pollution Control Plant.
8.8	Ray Tahir	The Regional Board has provided no evidence proving that the MS4 Permittees, as so called responsible parties, had discharged sediment contaminated by DDT, various pesticides, and PCBs (all of which have been banned for decades) in stormwater runoff to the harbors. And	See response to comment 0.1. While not a subject of this TMDL revision, Section 4. Sources Assessment, of the 2012 TMDL Staff Report identifies the potential sources of OC Pesticides, PCBs, sediment toxicity, PAHs and metals compounds to Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters. As identified in the 2012 TMDL, the regulatory mechanisms to implement the TMDL include, but are not limited to, general NPDES permits, individual NPDES permits,



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		<p>in any case, once again, the Regional Board does not have the authority to determine who is a responsible party or potential responsible party. Only USEPA has that authority.</p>	<p>MS4 Permits covering jurisdictions and flood control districts within these waters, the Statewide Industrial Storm Water General Permit, the Statewide Construction Activity Storm Water General Permit, the Statewide Stormwater Permit for Caltrans Activities, and the authority contained in Sections 13263, 13267 and 13383 of the Cal. Water Code.</p> <p>See also response to comments 8.3 and 8.4 for a discussion on the distinction between a “responsible party” in a TMDL and a “PRP” under CERCLA and the authority to make these determinations.</p>
8.9	Ray Tahir	<p>The BPA staff report also claims that Los Angeles River and San Gabriel River MS4 Permittees, as responsible parties, are required to comply with sediment targets associated metals. However, neither the BPA staff report, the 2012 Harbor Toxics TMDL staff report, the 2012 MS4 Permit, nor the current MS4 Permit, provides a legal or technical justification for this requirement. The requirement also ignores the fact that many Los Angeles River and San Gabriel River MS4 Permittees are not subject to the metals TMDLs because they are not on the CWA 303(d) list.</p>	<p>See response to comment 0.1. The regulatory authority to adopt this TMDL was provided in the adopting resolution (Resolution No. R11-008) and discussed in the Staff Report dated May 5, 2011. The Los Angeles Water Board disagrees that the Harbor Toxics TMDL inappropriately assigns certain tasks to the Los Angeles River and San Gabriel River MS4 permittees. See response to comment 8.5.</p> <p>The Los Angeles Water Board also disagrees with the suggestion that the Harbor Toxics TMDL improperly includes upstream portions of the watershed that are not on the 303(d) List. Section 303(d)(1)(c) of the Clean Water Act requires the development of TMDLs to address the water quality impairments identified on the 303(d) list. A TMDL must address all sources of pollution, including discharges of pollution upstream of the impaired portion of the waterbody, since these upstream sources contribute to the impairment downstream. Once a TMDL has been established, the Regional Water Boards implement the TMDLs primarily through requirements in</p>

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			<p>discharge permits, including MS4 permits, that discharge either directly or indirectly to the impaired waterbody. While the 303(d) list and TMDLs are related, the commenter misunderstands the relationship between the 303(d) delisting process and its impact on an existing TMDL. The 303(d) list contains a priority ranking of impaired waterbodies that require TMDLs. The 303(d) list is not regulatory. TMDLs are not placed on or removed from the 303(d) list, and changes to the 303(d) list do not affect established TMDLs. Further, waterbodies that are removed from 303(d) list may still be included in TMDLs if discharges to these waterbodies reach an impaired water. Even if all reaches to a waterbody are no longer listed as impaired, in most cases, the TMDL may only be revised or removed through a separate Basin Plan amendment that is wholly unrelated to the 303(d) listing process. However, it is often appropriate to continue to implement the TMDL to ensure that the waterbody stays in attainment.</p>
8.10	Ray Tahir	<p>As mentioned by the City of Norwalk, MS4 Permittees in the Lower San Gabriel River do not drain to either the Los Angeles or Long Beach Harbor. They drain to Seal Beach, which is located in Orange County. The nearest harbor is Long Beach, located about 8 miles to the west.</p>	<p>See response to comments 0.1 and 13.4.</p>
8.11	Ray Tahir	<p>MS4 Permittees in the Upper San Gabriel River (Reach 3 and above) and Upper Rio Hondo (Reach 2 and above) drain to several spreading grounds. 90% to 95% of stormwater runoff is</p>	<p>See response to comment 0.1. The Los Angeles River and San Gabriel River are major sources of freshwater loading to the Greater Harbor waters. Discussion of the Los Angeles River and San Gabriel River above the estuary as sources to the Harbors on the whole, is included in the Staff Report for the 2012 TMDL.</p>

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		infiltrated into these macro-infiltration structures for groundwater recharge. Therefore, stormwater runoff from these MS4 Permittees would not make it to the estuaries or the harbors.	As identified in Section 2, Environmental Setting of the Staff Report, the Los Angeles River Watershed and San Gabriel River Watershed are not the focus of these TMDLs. Specific WLAs and LAs are not assigned to Los Angeles River and San Gabriel River in the proposed Basin Plan amendment. However, a discussion of the Los Angeles River above the estuary and the San Gabriel River and estuary as a source to the Harbors on the whole, is included.
8.12	Ray Tahir	Another issue: the draft resolution to adopt the basin plan amendment includes "Attachment A," which is a resolution that was already used to adopt the basin plan in 2011. The resolutions are in conflict.	The proposed Attachment A is not a resolution but a proposed Basin Plan amendment, which includes the proposed revisions. The proposed Basin Plan amendment will revise the existing section 7-40 of the Basin Plan, if adopted.
8.13	Ray Tahir	Thus, in the final analysis, it would seem that the only course of action the Regional Board has is to withdraw its plan to amend the BPA. But before so doing, the Regional Board may want to hold a workshop that would confirm the validity of these issues and provide Regional Board staff the opportunity to address them.	Los Angeles Water Board staff held a workshop to discuss the TMDL reconsideration on <b>June 8, 2018</b> . The Board will consider these issues during the October 13, 2022, meeting and act accordingly.  Given the response to comments 8.1 - 8.13, the proposed revisions to the TMDL are ready for consideration by the Los Angeles Water Board.
9.1	The Pacific Merchant Shipping Association (PMSA)	The Pacific Merchant Shipping Association (PMSA) appreciates the opportunity to comment on Proposed Amendment to the Water Quality Control Plan for the California Regional Water Quality Control Board - Los Angeles Region (LA Region) to Revise the Total Maximum Daily Load (TMDL)	Comment noted.

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		<p>for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters. PMSA is an independent, not-for-profit association focused on global trade and represents owners and operators of U.S. and foreign-flagged vessels and terminals at U.S. West Coast ports.</p> <p>Firstly, PMSA is encouraged by the collaborative efforts with the Port of Long Beach and the Port of Los Angeles (Ports), which were established through the Harbor Technical Working Group (HTWG). The ports have made many commendable long-term commitments and realized measurable water quality improvements; they continue to stand as environmental leaders.</p> <p>The Water Quality Control Plan is vital and any proposed amendments deserve the utmost effort and validation, as it sets the basis for permit writers and stakeholders alike. How total maximum daily loads (TMDLs) are incorporated are crucial to ensuring appropriate and feasible requirements and limits are applied. It is especially appreciated that the best-available science was applied to create</p>	

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		<p>an alternative method to demonstrate compliance. However, concerns do remain, and in support of the Ports' own respective comment letters, PMSA wishes to draw further attention to the following items of interest.</p>	
9.2	PMSA	<p><u><i>The Tentative Basin Plan Amendment fails to provide clear guidance on sediment impairments for permit writers</i></u></p> <p>The Tentative Basin Plan Amendment (Amendment) does not adhere to codified regulations (40 CFR §131.36.c.2.i: "For all waters with mixing zone regulations or implementation procedures, the criteria apply at the appropriate locations within or at the boundary of the mixing zones.") in terms of which waters to apply the California Toxics Rule (CTR); Amendment Section 10.5 points to the storm drain outfall waste stream, rather than the appropriate receiving waters. This is a critical fault in the Amendment, as receiving waters are permitted to have a loading assimilative capacity ( Per 40 CFR §131.2(f): "Loading capacity: The greatest amount of loading that a water can receive without violating water quality standards."), which</p>	See response to comments 1.13, 1.14, and 1.15.

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		<p>would not be reflected in waste-stream measurements. Permit writers would be forced to use CTRs in effluent limits while the receiving waters are fully in attainment, a nonsensical situation for the ultimate goal of TMDL compliance for the Harbor. Further, it is in opposition to a previous State Water Resources Control Board (SWRCB) Resolution ( SWRCB Resolution 2012-0008: "The mass-based sediment allocations in this TMDL indicate the allowable settleable pollutant load to bed sediments from each source.") as well as the State Implementation Policy (SIP). As currently written, the proposed TMDL is inherently flawed by being based on sediment quality limits and not receiving water column limits.</p> <p>An alternate measure of compliance utilizing sediment quality objectives (SQOs) should become standard, as set by precedent in the Regional MS4, as well as the Long Beach MS4 Permit. PMSA recommends this industry accepted and agency approved provision be applied to all National Pollutant Discharge Elimination System (NPDES) permits going forth.</p>	

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9.3	PMSA	<p><u>Outstanding issues remain from the 2011 TMDL numeric targets, waste load allocations, and load allocations</u></p> <p>Previous comments from industry regarding the miscalculation of TMDL numeric targets, waste load allocations (WLAs), and load allocations (LAs) <i>from a decade ago</i> still apply today, as they have unfortunately not been addressed in this Amendment. In 2012, the SWRCB directed the LA Region to “reconsider the waste load allocation and load allocations (including allocations assigned to existing bed sediments).” This Amendment has not addressed this Resolution and the LA Region is requested to reconsider these allocations.</p>	See response to comment 1.4.
9.4	PMSA	<p>The inclusion of SQOs in the Amendment as an alternative measure of LA/WLA compliance is highly supported, as they were developed collaboratively in the HTWG and are based on the best available science. However, the Amendment states that if the SQOs are applied, but fish tissue targets are not ultimately achieved, the RWQCB may reconsider the TMDL to modify WLAs and LAs, rather than the numeric targets. As the State Listing</p>	See response to comment 1.8.

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		Policy <sup>1</sup> requires methods and procedures to be consistent with SQOs, modifications to the targets are recommended, in order to adhere to adopted policy. Further, the numeric targets are urged to be revised, based on the SWRCB's own staff report, which acknowledged that the numeric targets would not be achieved as written.	
10.1	United States Environmental Protection Agency (USEPA)	At the bottom of page 12 and top of page 13 of the proposed Amendment, under 5.3 Linked Model Evaluations, it states that the Greater Los Angeles and Long Beach Harbors responsible parties shall perform and re-evaluate the Tier 3 Human Health SQO assessment every five years with updated information including but not limited to monitoring data, fish movement, and site-specific diet and fish consumption. We support these re-evaluations and recommend adding this requirement to Table 7-40.2, the Implementation Schedule for completeness and clarity.	The draft Staff Report and proposed Basin Plan amendment have been revised.
10.2	USEPA	At page 15, under Table 10, Interim Concentration-based WLAs in Sediment for Dominguez Channel Estuary and Great Harbor Waters (mg/kg	The proposed Basin Plan amendment has been revised. See corrections in Table 10, page 16 of the revised proposed Basin Plan amendment.

<sup>1</sup> State of California State Water Resources Control Board. 2015. Section 6.1.3.1.A. (Pg. 20)



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		sediment), it states that numbers in bold are also the final allocation. However, none of the numbers are bolded. We recommend either deleting the note or bolding the appropriate values for clarity.	
10.3	USEPA	At page 22, under the section entitled Mass-based Allocations for Metals and PAHs in Sediments, it states that “Compliance with mass-based and concentration-based allocations for Cu, Pb, Zn, Cd, Cr Hg and total PAHs in sediment may be demonstrated via any one of three different means” and then three methods are listed. The first method states that compliance may be demonstrated if final sediment allocations, as presented in Tables 17 and 18, are met. It appears that Tables 16 and 17 should have been referenced, not Tables 17 and 18.	Table numbers have been updated accordingly.
10.4	USEPA	At page 49, in Table 7-40.2, Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL: Implementation Schedule, item number 14, attainment of allocations, has been split into three subsections (a. water column, b. sediment LAs and WLAs for Benthic Community Protection, and c. LAs and WLAs for Human Health Protection).	The proposed Basin Plan amendment has been revised.

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		We recommend including a list of the tables of the referenced allocations for each entry for clarity.	
10.5	USEPA	5. In section 6.2, Final Allocations, wasteload allocations are listed by type of permit (e.g., MS4) and permittee/s (e.g., CalTrans). If possible, please include the permit number associated with the wasteload allocation.	The proposed Basin Plan amendment has not been updated with specific permit numbers. Given the large number of permits in the included watersheds and the fact that permit numbers are subject to change, including permit numbers would not be of use in this Basin Plan Amendment.
11.1	Heal the Bay, Los Angeles Waterkeeper, Chartrand Environmental LLC, Clean Water Action, Friends of Ballona Wetlands, Sierra Club Angeles Chapter, Lisa Kaas Boyle, Esq., Los Angeles Neighborhood Land Trust, and Breast Cancer Prevention Partners (NGOs)	On behalf of Heal the Bay, Los Angeles Waterkeeper (LAW), Chartrand Environmental LLC, Clean Water Action, Friends of Ballona Wetlands, Sierra Club Angeles Chapter, Lisa Kaas Boyle, Esq., Los Angeles Neighborhood Land Trust, and Breast Cancer Prevention Partners, we submit the following comments concerning the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants Total Maximum Daily Load (TMDL). The undersigned groups are dedicated to safeguarding inland and coastal water, the health of our communities, and the health of ecosystems on which we all depend. We would first like to recognize that we are all on unceded Indigenous land. The waterways addressed in this TMDL are on Tongva, Chumash, and Kizh land and we acknowledge and respect	Comments noted.

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		Tongva, Chumash, and Kizh elders past, present, and emerging.	
11.2	NGOs	<p>We are encouraged that the Los Angeles Regional Water Quality Control Board (Regional Board) is moving forward with Phase II of the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL (DC and Harbor Toxics TMDL), with updates to the Sediment Quality Objectives (SQOs) to protect human health. Phase I of the DC and Harbor Toxics TMDL was initiated with the approval of the TMDL, effective in 2012. Unfortunately, over the past 10 years of Phase I, the responsible parties under the TMDL have achieved very little implementation progress regarding the required remediation activities, including the failure to develop an approved Contaminated Sediment Management Plan (CSMP). We therefore support the focus on implementation in Phase II to establish and achieve concrete milestones for remediation activities to guarantee attainment of toxic standards in the Dominguez Channel and Harbor waters. However, we believe that adjustments should be made to the DC and Harbor Toxics TMDL to incorporate</p>	Comment noted

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		<p>a more comprehensive understanding of the cumulative impacts of harbor toxicity and to hold responsible parties accountable for compliance, while ensuring an adequate margin of safety. These adjustments must not delay implementation of remediation, but rather should inform any updates to the DC and Harbor Toxics TMDL, as well as to the CSMP.</p>	
11.3	NGOs	<p><b>The Regional Board must hold the responsible parties accountable under the DC and Harbor Toxics TMDL by accelerating the final timeline for compliance with Human Health SQOs and encouraging innovative approaches to remediate contamination.</b></p> <p>Phase I of the DC and Harbor Toxics TMDL confirmed frequent exceedances of pollutant limits within the water column, fish tissue, and sediments:</p> <ul style="list-style-type: none"> <li>● Within the water column, Dichlorodiphenyltrichloroethane (DDT) and polychlorinated biphenyls (PCBs) often exceeded Waste Load Allocations (WLAs); metals like copper frequently exceeded California Toxics Rule (CTR) limits, particularly during wet</li> </ul>	See response to comments 11.4 through 11.7.

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		<p>weather; and other organic compounds like Polycyclic aromatic hydrocarbons (PAHs) also exceeded limits, though less frequently than other pollutants listed above.</p> <ul style="list-style-type: none"><li>• Within fish tissue, total DDT was found above CA Office of Environmental Health Hazard Assessment (OEHHA) Fish Contaminant Goals (FCG), though below OEHHA Advisory Tissue Level for consumption of three servings of fish per week (ATL3). Total PCBs were above both FCG and ATL3.</li><li>• Bed-sediments and suspended sediments also pose a serious compliance concern. In the San Gabriel River Estuary, metals, PAHs, PCBs, and DDT were above even interim allocations for suspended sediments, which is particularly concerning given that interim limits are performance-based, rather than risk based, and already pose a serious risk to both ecological and human health, even when they are met. Suspended sediments indicate a continuing source of pollution while bed-sediments are important in determining compliance with SQOs. Sediments in the Greater</li></ul>	

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		<p>Harbor Waters were found to be contaminated in general, with metals and chlorinated hydrocarbons frequently exceeding targets and fewer, but still some, exceedances of PAHs.</p> <p>More concerning, however, is that the <b>responsible parties have completed little to no implementation</b> required under Phase I of the TMDL. There is still no final approved CSMP in place, even though the Regional Board first required the responsible parties to submit one in 2014. Owing to this unreasonable delay, the staff report notes that a Cleanup and Abatement Order is likely to be necessary to compel cleanup of contaminated hotspots that would otherwise be included in the CSMP. Implementation of the TMDL under the Municipal Separate Storm Sewer System (MS4) Permit, especially when incorporated into the Watershed Management Programs that serve as a safe harbor from enforcement, has largely proved ineffective in light of the frequent exceedances of interim limits and other applicable standards. Appendices D and E to the staff report for the TMDL,</p>	

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		<p>identifying implementation actions from the ports, mostly describe monitoring and routine maintenance activities that are insufficient to address and remediate the sources of toxic contamination in the Dominguez Channel and harbor waters.</p> <p>In light of the information gathered in Phase I of the DC and Harbor Toxics TMDL, and the absence of meaningful implementation to date, <i>immediate</i> implementation of remediation in Phase II and Phase III is necessary to protect the Dominguez Channel and the Greater Los Angeles and Long Beach harbor waters and their beneficial uses from further harm. <u>The Regional Board can achieve prompt implementation by (a) moving the compliance timeline for Human Health SQOs from 2040 to 2035, (b) fully enforcing violations of interim and final limits under the TMDL, and (c) encouraging innovative remediation activities under the TMDL.</u></p>	
11.4	NGOs	<p><i>a. While we support the 2032 deadline to achieve Load Allocations (LAs) and Waste Load Allocations (WLAs), the separate compliance timeline for achieving the Human Health SQOs</i></p>	<p>The Los Angeles Water Board appreciates the commenters' support of the 2032 deadline for water column LAs and WLAs for copper, lead, zinc, cadmium, mercury, and PAHs, and of the inclusion of language requiring a prompt submission of revised</p>

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		<p><i>should be accelerated, with a deadline of 2035 rather than 2040.</i></p> <p>In the original 2012 DC and Harbor Toxics TMDL, Regional Board staff recommended a 20-year timeline with a 2032 deadline for water column LAs and WLAs. Heal the Bay previously recommended a reasonable and shorter timeline of 15 years (see Heal the Bay’s comment letter regarding the 2012 TMDL in Attachment 1), but that recommendation was not accepted. Although we had hoped that responsible parties would achieve full compliance by 2027, given the lack of progress thus far, we are encouraged to see the staff recommendation to maintain the original 2032 deadline for water column LAs and WLAs for copper, lead, zinc, cadmium, mercury, and PAHs. <u>Ten years is more than reasonable to achieve compliance with TMDL requirements for LAs and WLAs.</u></p> <p>It will require immediate implementation of remediation both through reduction of stormwater pollution and through direct remediation of identified hotspots. Therefore, we are <u>also encouraged to</u></p>	<p>CSMPs and the potential development of Clean up and Abatement Orders to ensure the remediation of hot spots.</p> <p>In order to take into consideration the time needed for State Board, OAL, and EPA approval of the revised TMDL, the proposed Basin Plan amendment has been revised to require the CSMPs to be resubmitted 30 days after the approval of the TMDL reconsideration instead of by January 31, 2023. See revised draft Basin Plan amendment (Section 7-40.2) and Staff Report (Section 4.6).</p> <p>The compliance timeline to attain sediments LAs and WLAs for human health protection was derived using a model developed by the Ports of Long Beach and Los Angeles with review by State and Los Angeles Water Board staff to characterize the fate and transport of PCBs and DDT in water, sediment and fish tissue in the Greater Harbor Waters.</p> <p>The model was used to run simulations using a series of management scenarios (such as baseline condition, 100% upstream Waste Load Reduction (WLR) reduction, 50% upstream WLR reduction, 100% sediment load reduction, 100% hot spot removal, etc.) to evaluate the efficiency of additional source control measures to reduce contamination.</p> <p>The predicted numbers of years to reach the FCG and ATL3 for PCBs and DDTs in fish tissue under different scenarios are provided in Appendix A to the Staff Report. For DDT, the model predicts that fish are attaining the ATL3 now. For PCBs, the model-estimated time for fish to reach ATL3 (as required by the human health SQO) assuming full TMDL implementation</p>



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		<p><u>see the staff recommendation that responsible parties revise their CSMP by January 31, 2023 to include concrete implementation milestones indicating progress toward the 2032 deadline, or else face a Cleanup and Abatement Order to require cleanup of contaminated hotspots.</u> We agree that responsible parties have had ample time to develop their CSMPs and a short period is sufficient for any necessary revision, and that the failure to meet the new 2023 deadline would be sufficient grounds for an enforcement action.</p> <p>For decades, risk reduction for human exposure to toxic contamination of fish tissue has been managed through fish consumption advisories, disseminated through education and outreach programs. Heal the Bay’s Angler Outreach Program (AOP), a component of the Fish Contamination Education Collaboration (FCEC) managed by the US Environmental Protection Agency (EPA), is designed to educate pier and shore anglers in Los Angeles and Orange Counties about the risks of consuming fish contaminated with toxins such as DDT and PCBs, and</p>	<p>including hot spot removal, is between 5 and 48 years in the various FMZs.</p> <p>Based on the predicted results, the proposed 18-year timeframe to meet the human health SQOs (March 2040) is achievable and as short as possible.</p> <p>In addition, Section 4.7 of the draft Staff Report includes language stating that:</p> <p><i>“the Los Angeles Water Board may reconsider the WLAs, LAs, and implementation schedule based on new data, special studies, and implementation progress toward meeting the assigned LAs and WLAs. The results of any such Executive Officer-approved studies shall be evaluated at the time of TMDL reconsideration to refine the TMDL as appropriate.”</i></p> <p>The models were developed by the Ports of Los Angeles and Long Beach. However, the modeling was not conducted exclusively by the Ports. Los Angeles Water Board staff and State Water Board staff, including Water Board modeling staff, with assistance from the Southern California Coastal Water Research Project (SCCWRP) oversaw and contributed to the development of the Ports’ model through the HTWG. Every principal element of the model was discussed and reviewed by the Harbor Technical Working Group. In addition, an informal peer review of the linked model was conducted by a panel of recognized experts. This peer review provided an independent, third-party evaluation of the overall modeling framework and suitability to address TMDL compliance strategies. The panel was comprised of three model experts with specialized experience to individually evaluate the various components of the model. These model experts were selected based on</p>

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		<p>which fish should be avoided. Heal the Bay is proud to have a team of multi-lingual staff who have educated Southern California pier anglers for nearly 20 years in multiple languages including Spanish, Chinese, Tagalog, Vietnamese, Khmer and Russian. Since its inception in 2003, Heal the Bay’s AOP team has educated more than 170,000 pier anglers. We appreciate these anglers and the knowledge and experiences they share with us to increase our understanding and improve our program. While we will continue to engage with diverse fishing communities to decrease their risk of exposure to these contaminants, <u>risk reduction can no longer remain the sole responsibility of communities that fish and consume contaminated fish. Addressing contamination at its source through remediation must be prioritized to directly safeguard human and environmental health and take the burden off the most vulnerable communities.</u></p> <p>We strongly urge the Regional Board to accelerate the final compliance deadline from the current proposal of 2040. The 2040 deadline for Human</p>	<p>professional expertise and availability to participate and complete the peer review process. For more details on the peer review, see Section 3 of Appendix A.</p> <p>The model supports the implementation deadline of 2040. Regarding the contribution of commercial, industrial, and institutional (CII) dischargers, while CIIs were not called out specifically in the model, the scenarios which included waste load reductions from upstream sources reflected the contribution and potential reduction from CII dischargers. The development of the CII permit will not change the overall load from upstream (MS4) sources or how it is modeled. The CII permit will address specific sources within the MS4 footprint with additional regulation, which will ensure that the WLAs for combined upstream sources will be met.</p>

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		<p>Health SQOs allows for continued risk exposure to communities that consume contaminated fish for another 18 years. While we recognize that remediation takes significant resources, including time, it is imperative that agencies and responsible parties act quickly to reduce exposure by implementing remediation and pollution prevention activities.</p> <p><u>We believe the modeling underpinning the 2040 compliance date for the TMDL is incomplete and insufficient to support such a long time horizon for compliance.</u> As an initial matter, we note that the modeling was conducted exclusively by the Port of Los Angeles and the Port of Long Beach, two of the primary responsible parties under the DC and Harbor Toxics TMDL. As such, the Regional Board should scrutinize the modeling closely to ensure that it accurately reflects the possible remediation actions and compliance timelines. From our review, however, we note several deficiencies with the modeling that call into question the defensibility of the 2040 compliance deadline.</p>	

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		<p>As an example, one consideration missing from the calculation of the 2040 compliance deadline is the forthcoming Commercial, Industrial and Institutional (CII) Permit, which explicitly is intended to clean up the Dominguez Channel and Los Cerritos Channel, both of which feed into the harbor. The Regional Board has been working to develop the CII permit for a long time, making the permit a foreseeable future subject of load reductions. The modeling under the DC and Harbor Toxics TMDL currently relies only on compliance with the 2021 Regional MS4 Permit as a basis to achieve load reductions from urban runoff into the Dominguez Channel and harbor waters. To the extent that the CII Permit may reduce loading of the same pollutants covered under the DC and Harbor Toxics TMDL, beyond what is required under the existing MS4 Permit, then the new CII Permit may support faster improvements in MS4 discharges than under the existing 2021 Regional MS4 Permit.</p> <p>For these reasons, <u>we strongly urge that the Regional Board advance the deadline to achieve Human Health</u></p>	

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		<p><u>SQOs from the proposed 2040 date to account for expected new permit requirements and for the responsible parties' failure to achieve meaningful implementation progress over the last 10 years.</u> We believe a more appropriate deadline for final compliance is 2035.</p>	
11.5	NGOs	<p><i>b. Responsible parties must be held accountable to implement BMPs and other innovative and preventative activities to ensure that the 2032 deadline for water column LAs and WLAs is met, and to achieve human health SQOs as soon as possible.</i></p> <p>The implementation plan for the DC and Harbor Toxics TMDL remains vague without an approved CSMP. Compliance with the final LAs and WLAs relies heavily on the implementation of National Pollutant Discharge Elimination System (NPDES) permits, including the Regional MS4 Permit. Heal the Bay's review of implementation under the 2012 MS4 Permit revealed that the Enhanced Watershed Management Program groups under the MS4 Permit were only about 9% complete towards final requirements by the end of the permit</p>	<p>As identified in the 2012 Basin Plan amendment, the regulatory mechanisms to implement the TMDL include, but are not limited to, general NPDES permits, individual NPDES permits, MS4 Permits covering jurisdictions and flood control districts within these waters, the Statewide Industrial Storm Water General Permit, the Statewide Construction Activity Storm Water General Permit, the Statewide Stormwater Permit for Caltrans Activities, and the authority contained in Sections 13263, 13267 and 13383 of the Cal. Water Code.</p> <p>The proposed Basin Plan amendment includes revisions to the TMDL Implementation Schedule to ensure responsible parties will address contamination on time. Those include the requirement to submit a revised CSMP with specific, concrete milestones to address hot spots in a timely manner and the addition of a final compliance date for the attainment of sediment allocations for the protection of human health, which may be demonstrated by the attainment of human health SQOs. As noted in the proposed Basin Plan amendment, the Los Angeles Water Board may develop a Clean Up and Abatement Order to address these hot spots if a CSMP is inadequate.</p>

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		<p>term. At that rate of implementation, these groups would achieve their total collective goal in 2082, well past MS4 Permit final deadlines ranging from 2021 to 2037, and also well past the 2032 deadline for water column LAs and WLAs under the DC and Harbor Toxics TMDL. Environmental groups and community members from across the Los Angeles Region, as well as some Regional Board Members, have called for better transparency and more accountability under the new 2021 Regional MS4 Permit. Accountability to implement required action under the 2021 Regional MS4 Permit before existing deadlines is critical to meeting the requirements of the DC and Harbor Toxics TMDL. <u>Accountability through enforcement of permit requirements must remain a priority for the Regional Board.</u></p> <p>To ensure accountability for prompt implementation that will achieve applicable requirements by existing deadlines, <u>the Regional Board must enforce violations of interim limits under the DC and Harbor Toxics TMDL,</u> such as the interim limit violations for suspended sediments in the San</p>	<p>Responsible parties are required to meet all requirements, including meeting interim and final WLAs. Please note that there are no assigned WLAs for the San Gabriel River estuary, but responsible parties identified in the effective San Gabriel River Metals TMDLs are responsible for conducting water and sediment monitoring at the mouth of the San Gabriel River, to determine the rivers' contribution to the impairments in the Greater Harbor waters and are separately required to meet any WLAs and LAs for metals assigned in those TMDLs.</p> <p>Comments about the enforcement of the MS4 permit are noted.</p>

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		Gabriel River Estuary, discussed above. Any violation of a performance-based interim limit, even for intermittent discharges, constitutes a serious violation and must be met with no less than the mandatory minimum penalty.	
11.6	NGOs	Further, <u>the Regional Board—and responsible parties under the DC and Harbor Toxics TMDL—should play an active role to identify any additional hotspots for toxic pollutants that are within the TMDL boundaries.</u> The DC and Harbor Toxics TMDL currently identifies three hotspots of toxic contamination in the subject waterways: the Consolidated Slip, the Fish Harbor, and the Dominguez Channel Estuary. However, additional hotspots or even additional potential superfund sites may exist that are not currently identified in the TMDL. The offshore dumpsites for toxic chemicals were not considered in the development of either the 2012 Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL, nor the 2012 Santa Monica Bay TMDL for DDT and PCBs. While we understand the offshore dumpsites are outside of the regulatory jurisdiction for the DC and Harbor Toxics TMDL, the	<p>New contamination hot spots may be identified as part of the ongoing monitoring requirements of the TMDL, triggering the need for additional investigation. As an example, the investigation of a suspected hot spot in Channel 2 of the Inner Long Beach Harbor is discussed in Section 2.7.3 of the draft Staff Report. Results from the 2016 compliance monitoring indicated that the Channel 2 area was Likely Impacted. As a result, the Port of Long Beach conducted investigative monitoring in the vicinity to confirm the result. The Channel 2 Confirmation Study assessment confirmed Likely Impacted and Possibly Impacted categories at the site. The Port of Long Beach is planning to implement sediment remediation actions to address the sediment contamination in Channel 2.</p> <p>In order to ensure appropriate management response to any newly discovered hot spots or areas of special concern, proposed revisions to the TMDL monitoring requirements are included in Section 4.5.2. of the draft Staff Report and section 9.2 of the proposed Basin Plan amendment.</p> <p>The investigation and remediation of hot spots outside of the footprint of the TMDL waterways is not within the scope of the TMDL. Those actions are taken through other regulatory mechanisms and special studies.</p>

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		<p>newly revealed information about toxic ocean dumping raises the possibility that there are additional hotspots for toxic contamination, of known contaminants or contaminants of emerging concern, that should be addressed under this TMDL. The Regional Board should conduct a literature review to identify any other potential hotspots that may have been reported and kept in the Regional Board records, and the TMDL should require responsible parties to continue undertaking extensive monitoring for additional contamination zones throughout the subject waterways.</p>	<p>In particular, the Los Angeles Water Board is participating in an interagency working group of Collaborating Agencies lead by U.S. EPA to address the deep-ocean dumpsite in the San Pedro Channel. The mission of the group is to develop plans to further understand the site, investigate potential risk to human health and the environment, and identify strategies that may be available to reduce adverse impacts. The Los Angeles Water Board will continue to work with the U.S.EPA and the Collaborating Agencies to address the concerns.</p> <p>In order to address specific concerns related to deep-ocean dumpsites, the draft staff report has been revised to add “Consideration of potential effect on benthic community and human health from deep ocean disposal outside of the Greater Harbor Waters” as a potential future reconsideration.</p>
11.7	NGOs	<p><i>c. Responsible Parties should consider innovative remediation activities to comply with the DC and Harbor Toxics TMDL requirements, which would also likely prove competitive for various funding opportunities, many of which require the use of multi-benefit approaches.</i></p> <p>We recognize that remediation of contaminants from the water column, from sediments, and from fish tissue can be a difficult and expensive undertaking. We also recognize that this critical action—to protect</p>	<p>While the Water Boards do not dictate methods of compliance, the substitute environmental document for the 2012 TMDL included an evaluation of nature-based solutions such as vegetated swales. In addition, the Water Board uses various tools to encourage nature-based solutions and projects with co-benefits, including, significantly, the MS4 permit.</p> <p>The Los Angeles Water Board will continue to work with responsible parties and stakeholders to identify project opportunities as CSMPs are revised. Any revised monitoring plans and CSMPs will be available for public comment prior to Executive Officer comment and/or approval. Heal the Bay, Los Angeles Waterkeeper, Chartrand Environmental LLC, Clean Water Action, Friends of Ballona Wetlands, Sierra Club Angeles Chapter, Lisa Kaas Boyle, Esq., Los</p>



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		<p>ecosystem and human health through restoration of our waters—is not the only challenge that communities around the Dominguez Channel and port harbors face. We recommend that the <u>DC and Harbor Toxics TMDL be structured to require responsible parties to consider innovative approaches to enhance remediation</u> of the heavy metals and organic compounds causing toxicity in the Dominguez Channel and Greater Los Angeles and Long Beach harbor waters, beyond merely compliance with NPDES permits and cleanup of specific contaminated hotspots.</p> <p><u>There are a variety of strategies that responsible parties can take to enhance remediation, such as including small adjustments to incorporate multi-benefit practices such as vegetated nature-based solutions during CSMP revision and other TMDL related updates.</u></p> <p>As an example, bioremediation through seaweed farming has proven effective in reducing water column contamination, with additional co-benefits, in a pilot project conducted in</p>	<p>Angeles Neighborhood Land Trust, and Breast Cancer Prevention Partners are invited to comment.</p>

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		<p>San Diego. Kelp forests provide an added benefit of dampening storm surges, which can specifically benefit the Los Angeles and Long Beach harbors, as a low-lying area at risk of flooding as sea level rises. There are additional opportunities for nature-based solutions in revitalization of the Dominguez Channel, which would support compliance with the DC and Harbor Toxics TMDL, while providing myriad co-benefits to the community.</p> <p>The Regional Board can encourage such activities and incentivize collaboration within the DC and Harbor Toxics TMDL by including vegetated nature-based solutions as an implementation option. <u>The Regional Board should also work closely with responsible parties and interested stakeholders to identify project opportunities as CSMPs are revised, and generally as a means of adaptive management throughout Phase II and Phase III of the DC and Harbor Toxics TMDL.</u></p>	
11.8	NGOs	<p><b>The DC and Harbor Toxics TMDL should be considered within the full context of chemical ocean dumping and toxic contamination throughout the Southern California Bight.</b></p>	<p>The TMDL considers the context of contaminant contributions of the Southern California Bight via the updated models and FMZs which recognize that fish move in and out of the Harbor. The proposed implementation schedule was developed based on this modeling.</p>

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		<p>The Regional Board should view this DC and Harbor Toxics TMDL, along with other TMDLs addressing enclosed bays, estuaries, or coastal waters, in an integrated way that considers the context of the TMDL within the larger Southern California Bight. Although contaminant contributions to the water column are confined within the jurisdiction of the DC and Harbor Toxics TMDL, once water reaches the coastline, it is no longer possible to consider one area of coastal waters as completely separated from another. The Southern California Bight contains numerous sites of contamination including the superfund site on the Palos Verdes shelf, as well as the dumpsites off the Santa Monica Bay shoreline containing multiple toxic chemicals such as DDT. These offshore dumpsites were reported and have remained as part of the Regional Board records, but have recently been brought back to public attention with the 2020 LA Times article by Rosanna Xia. There are numerous ongoing efforts to continue research into the extent of contamination throughout the Southern California Bight, with \$5.6</p>	<p>In addition, see response to comments 11.6 and 11.10.</p>

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		<p>million in federal funding and a matched allocation included in the 2022-2023 California State budget.</p> <p>While we acknowledge that the DC and Harbor Toxics TMDL is a regulatory tool specific to those waterbodies, we believe the TMDL itself should be structured to anticipate new discoveries regarding the extent of toxic ocean dumping in the Southern California Bight and to incorporate all newly developed information about chemical contamination into the TMDL's standards and requirements. We urge the Regional Board to use an integrated approach to coastal remediation and pursue potential relationships between individual regulatory schemes (such as the present DC and Harbor Toxics TMDL) and other Southern California Bight contamination sites (e.g., the Palos Verdes shelf superfund site and the offshore dumpsites). While we are very excited to learn about the forthcoming research, which will in many ways be necessary to inform next steps in remediation, we also know that implementation cannot wait without incurring severe impacts to human and</p>	

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		<p>ecological health. We need simultaneous implementation and adaptive management as this new information comes in.</p> <p>There are two primary ways the Regional Board can accomplish this goal: (a) incorporating evidence of ocean contamination in the Human Health SQOs; and (b) incorporating evidence of ocean contamination in the modeling developed to support compliance timelines.</p>	
11.9	NGOs	<p><i>a. The Regional Board should reconsider the Human Health SQOs, taking into account other contamination in the Southern California Bight.</i></p> <p>Considering the significant pollution burden facing marine life of the Southern California Bight, it is critical to ensure reduction of toxic chemicals wherever possible and to the extent practicable. The DC and Harbor Toxics TMDL offers an opportunity to reduce that pollution burden on marine life of the Southern California Bight as well as on local communities around the Dominguez Channel and Los Angeles and Long Beach Harbors. Indeed, the</p>	<p>See response to comment 0.1. The Human Health SQOs are objectives for bioaccumulative compounds including DDT and PCBs. As objectives, they set allowable levels of contaminants in sediment to protect beneficial uses (e.g., consumption of fish) and they do not consider the sources of contamination (i.e., whether the contamination comes ultimately from treatment plants, stormwater, or regional contamination).</p> <p>In addition, the application of the human health SQO framework including how it informs TMDL development and compliance determination was evaluated in the establishment of the human health SQOs using the Los Angeles and Long Beach Harbors as a test case. See the SCCWRP Technical Report 1000, <i>Development of a Sediment Quality Assessment Framework for Human Health Effects</i> October 2017 which was relied upon for the development of the human health SQOs.</p>

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		<p>Dominguez Channel and Harbor waters themselves are inherently connected to the rest of the Southern California Bight, serving as important habitat for many fish and other aquatic life that travel between various Fish Movement Zones (FMZ) throughout the ocean.</p> <p>We therefore recommend that the Regional Board <u>reconsider the Human Health SQOs, taking into account other contamination in the Southern California Bight and the compounding effect that toxicity in the harbor waters may have on aquatic life traveling in and out of the subject waters and other FMZs. Any reconsiderations or recalculations cannot delay implementation of remediation</u>, but rather should inform compliance actions throughout Phase II and Phase III of the DC and Harbor Toxics TMDL, as well as any future updates to the TMDL.</p>	
11.10	NGOs	<p><i>b. Models used for the DC and Harbor Toxics TMDL should consider offshore dumpsites for DDT and other contaminants off the Santa Monica Bay shoreline.</i></p> <p>At a minimum, the models prepared by the Port of Los Angeles and the Port of</p>	<p>The proposed Basin Plan amendment and draft Staff Report include language stating that site-specific sediment linkage analyses must be performed and re-evaluated every five years. While an additional fish tracking study would require significant effort and funding, it could be of value to validate or update the linkage analysis. The result of any future fish tracking study, if found to be reliable by the Los Angeles Water Board, could be</p>

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		<p>Long Beach for the DC and Harbor Toxics TMDL should consider the full context of contamination throughout the Southern California Bight. An example of this includes the linkage model, used to evaluate the impact of ongoing sources of toxicity and the relative contribution of water column and sediment sources to the fish receptors of concern, estimated recovery time, and assessment of the effectiveness of specific remedial actions. The Staff Report states that the “site-specific sediment linkage analyses must be performed and re-evaluated every five years with updated information including but not limited to monitoring data, fish movement, and site-specific diet and fish consumption.” Additionally, the DC and Harbor Toxics TMDL states, “adjustments or modifications to the site-specific sediment linkage and bioaccumulation model shall be specified in the [Monitoring and Reporting Plan] to be approved by the Executive Officer.” The Regional Board should specify that when responsible parties conduct re-assessments of sediment analysis every five years, they must <u>consider and incorporate new</u></p>	<p>used for a following site-specific sediment linkage analysis evaluation. In order to acknowledge the usefulness of additional fish tracking, the language in the proposed Basin Plan amendment has been modified as follows (addition in underline):</p> <p align="center"><i>“The linked model was used to support the Tier 3 Human Health SQO assessment, per the SQPs, of the Greater Los Angeles and Long Beach Harbor Waters to determine the current sediment conditions. The Greater Los Angeles and Long Beach Harbors responsible parties shall re-run the linked model with updated inputs <u>and re-evaluate the results every five years</u> <u>Responsible parties should consider which model input variables (e.g., fish movement, site-specific diet, and fish consumption data) need to be updated. Justifications for any updates or decisions not to update the model inputs should be addressed in the Monitoring and Reporting Plan to be approved by the Executive Officer”</u></i></p>

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		<p><u>information regarding contamination throughout the Southern California Bight, by way of the fish movement aspects of this model, in order to incorporate a more comprehensive understanding of the cumulative impacts of harbor toxicity.</u></p> <p>In summary, we request that the Regional Board ensure that the DC and Harbor Toxics TMDL properly accounts for ongoing developments regarding the extent of toxic chemical contamination in the Southern California Bight.</p>	
11.11	NGOs	<p><b>The DC and Harbor Toxics TMDL must contain an adequate explicit margin of safety to address the many uncertainties inherent in TMDL development, in the use of SQOs, and the cumulative effects of multiple sources of contamination in the Southern California Bight.</b></p> <p>The Regional Board is required under the Clean Water Act to include a margin of safety sufficiently protective to ensure that standards are attained and maintained by the TMDL. SQOs for enclosed bays and estuaries also must be developed to protect beneficial uses “with an adequate margin of safety.”</p>	<p>See response to comment 0.1. The proposed Basin Plan amendment does not propose any changes to the numeric targets, WLAs, and LAs. A change such as an additional margin of safety and new targets is outside the scope of these proposed changes and such a change, if appropriate and proposed, would need to be noticed for public comment so that responsible parties and other stakeholders could comment and have their comments considered.</p> <p>In addition, the 2012 TMDL did apply conservative assumptions because although compliance may be demonstrated by compliance with the SQOs (the applicable objective), the Waste Load Allocations for the upstream dischargers were calculated with the more conservative ERLs.</p> <p>Use of multiple targets can also function as an additional margin of safety in that if the first target does not compel requirements</p>



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		<p>The DC and Harbor Toxics TMDL states that the margin of safety is achieved through conservative assumptions originally made in the 2012 TMDL staff report (TMDL Staff Report, p. 9). We disagree and believe that those assumptions are neither conservative nor sufficient to ensure an adequate margin of safety. Because the DC and Harbor Toxics TMDL currently has an inadequate margin of safety applied to the final water column allocations owing to the many uncertainties inherent in TMDL development, <u>a 10% explicit margin of safety should be applied to all water column allocations for all waterbodies considered in the DC and Harbor Toxics TMDL.</u></p> <p>The DC and Harbor Toxics TMDL states that the margin of safety is achieved through the use of multiple numeric targets (water, fish tissue, and sediment), in addition to certain conservative assumptions underlying those targets. However, selection of multiple numeric targets does not constitute an implicit margin of safety; this simply represents the reality that there are multiple impairments in the</p>	<p>sufficient to achieve the target, the second target may compel requirements which, in fact, do so.</p> <p>The applicable objectives for sediments are the SQOs. The multiple lines of evidence approach and the assessment of non-chemically-related sediments as meeting the benthic community SQO are inherent to the SQO. Devising new objectives or modifying existing objectives are outside the scope of a TMDL.</p> <p>For the human health SQO, Tier 3, the assumption that the fish spend 100% of their time in the Harbor is a conservative assumption. The assessment of the human health SQO depends on the concentration of contaminant in the fish and the concentration in the sediment and the degree of linkage between the two. The assumption that the fish spend 100% of their time in the Harbor, provides for a strong linkage between the fish concentrations and sediment concentrations and a strong linkage provides for a stricter assessment and is therefore more conservative.</p>

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		<p>subject waterways, and that the TMDL must address each of those impairments. An explicit margin of safety for each numeric target is needed to account for uncertainties associated with application of the SQO approach.</p> <p>In addition, there are several notable non-conservative assumptions (such as the use of average value to integrate data points for the sediment assessment) made throughout the SQO plan, which carry over into this TMDL. Another example is the use of the multiple lines of evidence (MLOE) approach. The Staff Report states that sediments determined to be Unimpacted or Likely Unimpacted per the 2008 and 2011 SQOs were considered to be meeting targets even if Threshold Effect Concentrations (TEC), Effects Range Low concentrations (ERLs), or fish tissue derived sediment targets were exceeded. For Benthic Community Evaluation, if an assessed area does not meet the threshold, but it is not chemically related, then it is considered to be meeting the threshold anyway.</p>	

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		<p>Further, the assessment approach that determines an area to be Unimpacted, Likely Unimpacted, Likely Impacted, or Clearly Impacted incorporates a number of non-conservative assumptions. For the Tier 3 Human Health assessment, evaluated areas resulted in Likely Impacted by DDT, while the Tier 1 approach determined the same areas to be Unimpacted by DDT. The Regional Board considers the Tier 3 approach to be very conservative, because it considers a scenario where fish spend 100% of their time in the harbor, which is not the case. The assumption that this is a conservative approach is based on the fact that fish would spend some of their time elsewhere, in presumably cleaner water. However, with the Palos Verdes shelf superfund site and offshore dumping sites as possible additional sources of toxicity, this is no longer a conservative assumption but likely an accurate condition for local fish populations. Therefore, the assessment approach does not constitute a conservative assumption supporting a margin of safety, but actually reflects the current conditions better than the Tier 1 approach.</p>	

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		<p>In summary, these assumptions require additional margins of safety, which are currently lacking in the DC and Harbor Toxics TMDL. The Regional Board must apply the SQOs in a way that provides a protective explicit margin of safety beyond the use of conservative assumptions, which may not be as conservative or protective as previously thought. We recommend <u>continuing to assess multiple lines of evidence, but considering them as multiple potential impairments, and using a single line of evidence, when warranted, as sufficient to determine if an assessed area does not meet the threshold.</u> This would provide the necessary margin of safety to be more protective of both ecological and human health. A single line of evidence is warranted for robust techniques such as acute and chronic toxicity (and bioaccumulation) bioassays; in contrast, benthic bioassessment may not be able to serve as a single line of evidence, due to its intensive requirements of data robustness and replicability to demonstrate statistical significance.</p>	
11.12	NGOs	<b>The Regional Board should assess the Dominguez Channel for new non-tribal</b>	See response to comment 0.1. The Los Angeles Water Board is now in the early stages of the process to designate waterbodies

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		<p><b>Subsistence Fishing, Tribal Subsistence Fishing, and Tribal Cultural Beneficial Uses.</b></p> <p>The Dominguez Channel is a local waterway for many underserved environmental justice communities, including Carson and Wilmington. Through outreach with Heal the Bay's AOP team, we have learned that anglers, who have traveled a significant distance to fish at a pier, have expressed interest in a non-tribal Subsistence Fishing Beneficial Use for the Dominguez Channel. As such, <u>the Regional Board should assess the Dominguez Channel for new non-tribal Subsistence Fishing, Tribal Subsistence Fishing, and Tribal Cultural Beneficial Uses.</u> Given the recent adoption of the definitions for these beneficial uses in our region's Basin Plan, the Regional Board should proactively consider making these designations for the Dominguez Channel and should initiate outreach with local communities (including the cities of Carson and Wilmington) to collect evidence supporting such designations. Proactive outreach might also help to encourage innovative action and collaboration</p>	<p>for non-tribal Subsistence Fishing, Tribal Subsistence Fishing, and Tribal Cultural Beneficial Uses. We will be happy to work with Heal the Bay in efforts to gather information related to fishing by locals in the Dominguez Channel and harbor waterways and we know our efforts will benefit very much from a collaboration with Heal the Bay on this issue.</p>

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		<p>with cities like Carson that are interested in revitalization of the Dominguez Channel, which can in turn expedite the process of achieving compliance with the DC and Harbor Toxics TMDL. <u>Heal the Bay would be happy to work with the Regional Board</u> to facilitate conversations with various fishing communities and local communities surrounding the Dominguez Channel and harbor waterways to provide information obtained through conversations between anglers and our AOP team.</p>	
11.13	NGOs	<p><b>The Regional Board should incorporate proactive monitoring requirements into the DC and Harbor Toxics TMDL to detect and address contaminants of emerging concern.</b></p> <p>One of the underlying contamination issues involved with the need for a DC and Harbor Toxics TMDL is the use of environmentally persistent chemicals, such as PCBs and DDT, which do not break down naturally in the environment. The domestic use of DDT was banned with an EPA decree on June 14, 1972, and yet this pervasive contaminant remains in the environment in high concentrations,</p>	<p>See response to comment 0.1. TMDLs are a tool to address specific identified impairments. The pollutant must be first identified before the calculation of the maximum amount of a pollutant allowed to enter a waterbody so that the waterbody will meet and continue to meet water quality standards for that particular pollutant can be calculated. Monitoring specified in TMDLs is the specific monitoring required to demonstrate compliance with TMDL requirements or to meet other TMDL pollutant-specific goals.</p> <p>However, the Los Angeles Water Board is investigating CECs and the potential impacts to beneficial uses and incorporating monitoring requirements for CECs and other potential toxic pollutant into NPDES permits as appropriate when they are renewed. For example, the Los Angeles Water Board is supporting SCCWRP investigations including measurement methods and samples of surface waters, sediments, and fish</p>

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		<p>posing a severe risk to both ecological and human health. Recent research reports that DDT and related co-contaminants have severe effects on marine mammals and wildlife including dolphins, sea lions, and coastal California condors. Additional research shows the potential for DDT, and related co-contaminants, as long-lived endocrine disrupting chemicals and even as obesogens.</p> <p>Similarly, domestic manufacturing of PCBs was banned in 1979, with the exception of some inadvertent PCBs, and yet remains pervasive in the environment, as well. Not only does this chemical not break down naturally in the environment, but there are also still sources for PCBs entering the environment today. Although manufacturing of PCBs was banned, the commercial use of materials manufactured prior to 1979 and containing PCBs continues, as ongoing sources for release and exposure of this class of persistent chemicals. While the legacy compounds of DDT and PCBs continue to be present in high concentrations in the Dominguez Channel and harbor waters, there are a</p>	<p>from sites in both the Los Angeles and San Gabriel Rivers for microplastics, and techniques to separate and identify unknown chemicals based on common physical and chemical characteristics.</p> <p>In addition, the U.S. EPA will start to include monitoring requirements for PFAS in their NPDES permits. The Los Angeles Water Board has two NPDES permits that are jointly issued with EPA: Hyperion Treatment Plant and E.C. Little Water Recycling Facility. PFAS monitoring requirements will be included in these two permits when they are renewed.</p>

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		<p>host of contaminants of emerging concern (CECs) or other potentially toxic and bioaccumulative substances that have not been fully studied, which are likely also present in large concentrations due to the industrial activity within the relevant watersheds.</p> <p>Preventative action on CECs and other manufactured toxic chemicals is necessary to achieve the requirements of the DC and Harbor Toxics TMDL, and to reduce the risk of future pollution loading on these or any other waters of the U.S. and the State of California. The toxic contamination in the Dominguez Channel and harbor waters serves as an unfortunate example of the environmental and human health repercussions of chemical production without the proper protocols in place. The current approach to chemical manufacturing is to allow innovative chemicals to be manufactured and used in products before studying the potential toxic impacts of those chemicals. It is much more challenging to clean up persistent and bioaccumulative chemicals from the environment than it is to prevent those toxic chemicals from being released in</p>	



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		<p>the first place. We understand that the Regional Board’s mission with respect to the DC and Harbor Toxics TMDL is a narrow one, and we also hope this complicated problem informs the Regional Board and responsible parties under the TMDL about the need for a “green chemistry” approach in the manufacturing industry moving forward.</p> <p>As applied to the DC and Harbor Toxics TMDL, <u>we recommend that the Regional Board incorporate extensive monitoring requirements for additional CECs in the Dominguez Channel and harbor waters.</u> The Regional Board should work with responsible parties to develop a list of important CECs, including but not limited to PBDEs, PFAS, PPCPs (pharmaceuticals and personal care products), and synthetic hormones/estrogens. To protect public health, the Regional Board must require monitoring for these CECs as part of the DC and Harbor Toxics TMDL, and in other waterways under other regulatory tools available. Responsible parties should be held accountable to ensure that all toxic contamination of</p>	

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		any kind is continually tracked in a publicly transparent manner.	
12.1	The Los Angeles Department of Water and Power (LADWP)	LADWP appreciates the level of effort the Los Angeles Regional Water Quality Control Board (Regional Board) has put into the proposed Basin Plan Amendment and supports the staff recommendation that aligns the fish tissue sampling analysis to occur every five years instead of every two years, making it consistent with the sediment sampling and reporting program. However, there are still a few areas where LADWP requests clarification and suggests changes on the proposed amendments and submits comments as follows.	Comment noted.
12.2	LADWP	<p><b>Draft Staff Report Section 4.2.3, pages 39 and 40</b></p> <p>LADWP seeks clarification on the implementation of the additional PCB source assessment.</p> <p>The proposed Basin Plan Amendment asserts that current MS4 permittees shall be responsible for monitoring PCB loadings to Greater Los Angeles and Long Beach Harbor Waters via investigating individually owned sites</p>	<p>Section 4.2.3 of the Staff Report is <i>Potential Actions for MS4 Permittees</i>. The language referenced in the draft staff report is a recommendation rather than a requirement. It is up to the permittee to determine what type of monitoring would be useful in identifying locations of PCB discharges. The draft staff report recommends that MS4 permittees:</p> <p><i>“...investigate on-land PCBs contaminated soils and/or sediments. ... An identification of on-land sites with PCBs contamination, such as private properties, public rights-of-ways, and stormwater conveyances with reporting of investigation results, including identification of potentially contaminated properties and/or responsible parties to the Los Angeles Water Board and, if appropriate, the Department of Toxic Substances</i></p>

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		<p>for PCB contaminated soils and/or sediments.</p> <p>LADWP requests clarification as to which types of monitoring are required to identify locations of PCB discharges, and whether or not this monitoring could include data submitted for other permit reports (Stormwater, NPDES, etc.).</p>	<p><i>Control (DTSC), as well as in some instances to local agencies with authority to conduct oversight of hazardous materials would create opportunities for clean-up and reduction of PCB discharges."</i></p>
12.3	LADWP	<p>Also, LADWP recommends that all future water board decisions based on evaluation guidelines and monitoring methodology go through public review, and that the Regional Board continue to allow multiple pathways for demonstrating compliance with TMDL requirements.</p>	<p>The monitoring approach for this TMDL underwent public review and comment when the Harbor Toxics TMDL was adopted in 2012. Monitoring Plans developed to support this TMDL also underwent public review before they were approved.</p> <p>This Proposed Basin Plan Amendment recommends minor revisions to the monitoring plan related to the methodology used to measure PCBs congeners (see discussion in section 4.5.4 of the draft Staff Report). However, as explained in response to comment 12.2, the investigation of individually owned sites for PCB contaminated soils and/or sediments is a recommendation rather than a requirement and therefore is not required to undergo public review or to demonstrate TMDL compliance. However, the identification of PCB sources could lead to targeted actions to abate pollutants that could otherwise be discharged from the MS4, and ultimately help with TMDL compliance.</p>
12.4	LADWP	<p>Additionally, LADWP requests that the Regional Board clarify how BMPs will be evaluated for effectiveness in the</p>	<p>The TMDL does not have requirements for demonstration of BMP effectiveness. TMDL required monitoring data will be used to evaluate effectiveness of the TMDL and may be used by</p>

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		instance where additional BMPs are necessary.	responsible parties to evaluate the effectiveness of the BMPs and determine if additional BMPs/implementation actions are needed. To the extent implementation of additional BMPs is necessary to meet requirements in a discharge permit, or other Water Board order, implementing this TMDL, provisions related to evaluation of BMP effectiveness may be included. For example, the monitoring and adaptive management requirements through the MS4 permit assess subwatershed and watershed comprehensive BMP performance.
12.5	LADWP	<p><b>Proposed Basin Plan Amendment, Section 9.2, pages 31-34</b></p> <p>The proposed Basin Plan Amendment describes how benthic community and human health SQO sediment monitoring and sampling should be performed every five years.</p> <p>LADWP requests clarification on whether or not individual facilities would need to contribute to this monitoring program or if regional monitoring already required for existing permits would be sufficient.</p> <p>It is LADWP’s recommendation that SQO monitoring continue to be performed as part of regional monitoring programs, as this is a significant amount of data for analyzing, and responsible parties can</p>	<p>Benthic community and human health SQO sediment monitoring and sampling may be performed as part of regional monitoring programs, as has been the case so far for SQO monitoring.</p> <p>As stated in Section 9.2, page 35 of the proposed Basin Plan amendment:</p> <p><i>“the Greater Los Angeles and Long Beach Harbors responsible parties are each individually responsible for conducting water, sediment, and fish tissue monitoring. However, they are encouraged to collaborate or coordinate their efforts to avoid duplication and reduce associated costs. Dischargers interested in coordinated compliance monitoring shall submit a coordinated MRP that identifies monitoring to be conducted by the responsible parties.”</i></p>

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		coordinate further with individual facilities if necessary.	
13.1	The City of Norwalk	<p>The proposed BPA requires permittees as “responsible parties” in the Los Angeles River (LAR) and its tributaries, and the San Gabriel River (SGR) and its tributaries to implement a plan to meet sediment quality objectives for the Los Angeles and Long Beach Harbors. This includes the following requirements:</p> <p><i>Implementation. This element details pollution prevention, control, and restoration actions, responsible parties; and schedules necessary to attain water quality standards. The implementation strategy describes the plans, regulatory tools, or other mechanisms by which the allocations are to be achieved. The implementation for this TMDL is discussed in detail in the 2012 DC and Greater Harbor Waters TMDL staff report.</i></p>	<p>The responsible parties under the 2012 Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxicity TMDL (2012 TMDL or Harbor Toxics TMDL) were determined by the Los Angeles Water Board in 2012 and the proposed Basin Plan amendment does not include any changes to the responsible parties.</p> <p>The language cited by the commenter is part of a general description of the elements of the TMDL on page 9 of the draft Staff Report. This language is intended to provide background information about what a TMDL is, how it is developed, and how it is implemented. The language in the Staff Report does not and is not intended to impose any new or changed requirements applicable to any responsible parties identified in the TMDL.</p> <p>Additionally, the commenter’s suggestion that the proposed Basin Plan amendment “requires permittees ‘as responsible parties’ in the Los Angeles River (LAR) and its tributaries, and the San Gabriel River (SGR) and its tributaries to implement a plan to meet sediment quality objectives for the Los Angeles and Long Beach Harbors” is incorrect. Neither the 2012 TMDL or its proposed revision assign waste load allocations (WLAs) or load allocations (LAs) to Responsible parties in the Los Angeles River Watershed that could necessitate implementation actions to meet sediment quality objectives (SQOs) in the harbor. The 2012 TMDL acknowledges that parties in the LAR and SGR Watersheds are implementing other TMDLs (i.e. the LAR Metals TMDL adopted on September 6, 2007 and the SGR Metals TMDL</p>

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			<p>established by US.EPA on March 26, 2007) that “directly or indirectly support the goals of [the Harbor Toxics TMDL]. As such, the 2012 TMDL required these parties to submit certain monitoring and reporting requirements. (For a discussion of these requirements see response to comments 1.2, 1.3, and 14.2 provided during adoption proceedings for the 2012 TMDL.</p> <p>The 2012 TMDL also contemplated that permittees in the LAR and SGR watershed may be required to implement actions to meet water quality targets in the Greater Los Angeles and Long Beach Harbor Waters as part of the Phase II or III of the TMDL. (see page 7-521 of the Basin Plan.) However, to date, no such actions have been developed and/or required. The proposed Basin Plan amendment does not change this.</p>
13.2	The City of Norwalk	<p>“Implementation means” that LAR and SGR permittees will be responsible for USEPA’s Superfund cleanup of DDT, other pesticides and PCBs in the harbors. The BPA also requires sediment and toxics monitoring in the SGR Estuary.</p> <p>But the term “responsible party” is not defined anywhere in the 2012 DCHT-TMDL and associated documents, nor in the Reconsideration of the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL – Staff Report. It is only referenced in Attachment K of the 2012 MS4 Permit, which says under a footnote: <i>compliance with the Harbor</i></p>	<p>Neither the 2012 TMDL nor the proposed Basin Plan amendment include language indicating that LAR and SGR permittees will be responsible for USEPA’s Superfund cleanup of DDT, other pesticides, and PCBs in the harbors. See Response to comment 13.1. See also response to comment 8.3 for a discussion on the meaning of “responsible party”, “Potentially Responsible Party” and the footnote in the 2012 MS4 permit.</p>

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		<p><i>Toxics TMDL does not apply to a Permittee to the extent that it is determined that the Permittee has been released from that obligation pursuant to the Amended Consent Decree entered in United States v. Montrose Chemical Corp., Case No. 90-3122 AAH (JRx).</i> The consent decree mentions nothing about an MS4 Permittee being subject to this TMDL, let alone being released from it. Furthermore, according to USEPA, a responsible party or potential responsible party is defined as follows: Potentially Responsible Party (PRP) — any individual or organization— including owners, operators, transporters or generators—potentially responsible for, or contributing to, a spill or other contamination at a Superfund site. Whenever possible, through administrative and legal actions, the U.S. Environmental Protection Agency (EPA) requires PRPs to clean up hazardous sites they have contaminated.</p>	
13.3	The City of Norwalk	Furthermore, the harbors are USEPA Superfund sites. USEPA has not yet determined that MS4 Permittees in both the Los Angeles and San Gabriel Rivers, and Dominguez Channel have	See response to comment 8.4.

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		<p>contributed to the toxic contamination of the harbors. In other words, USEPA is the only regulatory agency that can determine an entity as a responsible or potential responsible party. Clearly, the EPA has not deemed any MS4 Permittee to be either.</p>	
13.4	The City of Norwalk	<p>Beyond this, the City and other Lower SGR permittees should not be subject to these requirements for the following reasons:</p> <ol style="list-style-type: none"> <li>1. As the City has mentioned previously on two occasions, Lower SGR permittees do not drain anywhere near the Dominguez Channel Estuary. They cannot because the Dominguez Channel Estuary is located northwest of the SGR Estuary and is at a higher elevation. (see Attachment 1)</li> <li>2. The toxic pollutants in sediment that include dichloro-diphenyl-trichloroethane (DDT), other pesticides, and polychlorinated biphenyls (PCBs) have been banned for decades.</li> <li>3. There is no evidence that the City or other SGR permittees have contributed to the</li> </ol>	<p>The Los Angeles Water Board disagrees. Per the 2012 TMDL, the City of Norwalk as a responsible party of the San Gabriel Metals TMDL is responsible for conducting water and sediment monitoring at the mouth of the San Gabriel River to determine the contribution to the impairments in the Greater Harbor Waters.</p> <ol style="list-style-type: none"> <li>1. Greater Harbor waters receive the discharges from the Dominguez Channel, Los Angeles River, San Gabriel Rivers and nearshore watershed. Table 5-1 of the 2012 TMDL staff report (page 63 of the 2012 Staff Report) and pages 8-9 of the 2012 Basin Plan amendment shows total loads from the contributing watersheds, including the SGR, to the Greater Harbor Waters.</li> <li>2. As discussed in the 2012 TMDL Staff Report, DDT and PCBs are legacy pollutants. Although they have been banned for the most part, they remain ubiquitous in the environment, bound to fine-grained particles. Urban runoff and rainfall higher in the watersheds mobilize the particles, which are then washed into storm drains and channels that discharge to the Dominguez Channel and Greater Harbor Waters. In addition, see the draft Staff Report, Section 4.2.2 for detailed information on PCBs sources, fate, and transport in the environment.</li> </ol>



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		<p>contamination of Long Beach Harbor by way of sediment transmittal. There have been no sediment samples taken from areas within Reach 1 and 2 of the Lower SGR to determine if they have been contaminated by the targeted toxic pollutants. There are “soft bottoms” in the SGR to the north and south of the City that are maintained by Los Angeles County Flood Control District (LACFCD). Soil samples probably have been taken at the time of periodic dredging to remove excess sediment. The regional board should ask the LACFCD to provide the soil sampling data. And if somehow should the results show that sediment quality objectives were not met, the Regional Board would need to determine/prove who is responsible.</p> <p>While the current TMDL 303(d) list for Dominguez Channel Estuary lists DDT in sediment and tissue, the 303(d) list for the Reach 1 and 2 of the San Gabriel</p>	<p>3. As discussed in Section 2 of the 2012 DC and Greater Harbor Waters TMDL, the San Gabriel River watershed was not the focus of the TMDL. However, a discussion of the San Gabriel River and estuary as a source to the Harbors was included. Per the 2012 DC and Greater Harbor Waters TMDL, the City of Norwalk, as a responsible party of the San Gabriel Metals TMDL, is responsible for conducting water and sediment monitoring at the mouth of the San Gabriel River to determine the contribution to the impairments in the Greater Harbor Waters.</p> <p>Regarding the Lower San Gabriel MS4 permittees’ obligations on this TMDL, see responses 8.2 and 8.8. For further discussion of the 303(d) list see response to comment 8.5.</p>

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		River, where the City drains into, does not make any reference to a toxic pollutant in sediment. This is the same for the San Gabriel River Estuary. According to the current MS4 permit, Lower SGR permittees are not subject to the Dominguez Channel Harbors Toxics TMDL implementation plan. So why is the Regional Board trying to bring it back through the BPA?	