

Comment Summary and Responses
Implementation Plan for the U.S. EPA-Established
Malibu Creek Nutrients TMDL and Malibu Creek and Lagoon Sedimentation and Nutrients TMDL
Comment Due Date: October 13, 2016

Date Received	Author
10/12/16	1. Las Virgenes-Triunfo Joint Powers Authority (JPA)
10/13/16	2. County of Los Angeles, Department of Public Works (LACDPW), Los Angeles County Flood Control District (LACFCD)
10/13/16	3. Ventura County Watershed Protection District (VCWPD)
10/13/16	4. City of Thousand Oaks
10/13/16	5. City of Malibu
10/5/16	6. City of Calabasas
10/13/16	7. Heal The Bay
10/13/16	8. Pepperdine University
10/13/16	9. Joyce Dillard

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1.1	JPA	Translate the winter nutrient WLAs to seasonal mass-based discharge specific WLAs. The JPA requests that the winter nutrient waste load allocations (WLAs) be translated to seasonal mass-based discharge specific WLAs, instead of the proposed concentration based averages, to address winter-wet conditions and recognize the JPA's plans to minimize its discharges to Malibu Creek. The JPA's strategy to comply with the winter nutrient WLAs consists of eliminating discharges to Malibu Creek, except for limited circumstances when discharge is required due to significant storm events, treatment plant upset or operational emergencies. An AWT [advanced water treatment] plant with a	The Regional Board is unable to make the requested change at this time. There is not enough information available at this time to evaluate the proposed approach, such as the concentration of nutrients in the Tapia WRF effluent during these storm related discharge events and the frequency with which these types of events occur. In addition, additional analysis of the proposed alternative is needed to ensure that the resulting limitations would be no less stringent than the current limitations in the permit. The 2013 TMDL states that, "in evaluating the

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		capacity of 6 million gallons per day (MGD) will be constructed and utilized to purify the excess recycled water and augment drinking water supplies stored in Las Virgenes Reservoir. The AWT plant, together with existing disposal options such as pumping to the Los Angeles River, will enable the JPA to handle approximately 11 MGD of treated effluent from Tapia without discharging to Malibu Creek. However, large winter storm events result in substantially higher flows to Tapia and would temporarily require discharges to Malibu Creek. The simple concentration-based average proposed in the Plan would not recognize the larger in-stream assimilative capacity during these limited storm-related discharge events. Further, the concentration-based average would not recognize the major load reductions associated with eliminating discharges for the majority of the winter season because the methodology does not consider flow. The Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments TMDL recognized the potential value of mass-based discharge specific WLAs on page 10-16, stating that <i>“the concentration-based discharge specific 3 of 7 WLAs could be translated into a mass-based discharge specific WLA in the winter season to be: an average 35% of the TN (kg/mo) from the total watershed existing load; and an average of 62% of TP (kg/mo) from the total watershed existing load; this total watershed load would be measured at MC-1 or an appropriate downstream site representative of the accumulated watershed nutrient load.”</i>	appropriate compliance limits, it may be helpful to determine both concentration and mass-based load reductions.” Regional Board staff met with the JPA staff several times during the development of the proposed implementation plan to discuss potential mass-based compliance options, but could not determine an appropriate approach. Thus, only a concentration-based seasonal average compliance approach was included in the public draft of the Implementation Plan. At this time, there is insufficient information to evaluate the new approach proposed in this comment. The approach proposed in this comment as well as other approaches can be evaluated over the next several years and considered when the Implementation Plan is reconsidered. This will allow the Regional Board and the JPA time to determine a protective compliance option that meets the assumptions and requirements of the 2013 TMDL, while recognizing the load reductions that will be achieved by eliminating the majority of discharges to the creek during the winter season, prior to the final winter compliance deadline.

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		Following this methodology, the total watershed load for winter season could be calculated using actual flow data from the F-130 gauge multiplied by the allowable winter in-stream concentration-based loading capacities of 1.0 mg/L for TN and 0.2 mg/L for TP as shown in TMDL Table 10-3. The winter mass-based discharge specific WLAs for Tapia would then be calculated by multiplying the total watershed load by 35% for TN and 62% for TP. Compliance would be determined by comparing the actual mass of TN and TP discharged by Tapia. The JPA requests the language in Table 7-42.1 of Attachment A be revised as follows: <i>“The nutrient WLAs in the 2013 TMDL will be incorporated into the Tapia WRF NPDES permit and translated into effluent limitations expressed as summer concentration-based seasonal averages and winter mass-based discharge specific WLAs. Compliance with the summer seasonal averages shall be determined by calculating the sum of all nutrient concentration samples collected during the season divided by the number of samples collected during that season. Winter mass-based discharge specific WLAs will be calculated by multiplying the allowable winter in-stream concentration-based loading capacities of 1.0 mg/L for TN and 0.2 mg/L for TP by actual F-130 gauge flow data, then allocating 35% of the TN load and 62% of the TP load to Tapia. Compliance with winter mass-based WLAs shall be determined by comparing the total mass of TN and TP discharged from Tapia during the season with mass-based discharge specific WLAs.</i>	

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1.2	JPA	Incorporate a longer implementation schedule for compliance with winter season WLAs. Table 7-42.1 states that the JPA shall attain final 2013 TMDL nutrient winter WLAs “10 years from the effective date of this Implementation Plan.” The JPA requests a 15-year compliance schedule for compliance with Tapia’s final winter WLAs. In 2015, the JPA estimated the best case for program completion was 10 years; however, there was substantial uncertainty regarding the timeframes required for important program aspects addressing issues such as brine disposal, public outreach, state regulations on indirect potable reuse through surface water augmentation, land acquisition and intra-agency agreements. Attached is an updated schedule of the tasks to be completed for successful accomplishment of the program. Many of the tasks are very complex, subject to regulatory actions and outside the control of the JPA. We believe the following items warrant additional time for implementation: • Regulatory Compliance: The State Water Resources Control Board has not yet promulgated regulations for indirect potable reuse through surface water augmentation. Although the recommendations of the National Water Research Institute’s expert panel are known, substantial uncertainty remains on the criteria, modeling, testing and studies that will be required for a surface water augmentation project. The JPA will likely be one of the first agencies to implement a surface water augmentation project in California.	The Regional Board understands the need for a longer time schedule due to dependence on other projects and the uncertainty of State Board regulations, land acquisition processes, public acceptance of water reuse, and the construction of the Calleguas Creek salinity pipeline. These factors provide an adequate justification for an extended time schedule of 13.5 years to attain the final winter WLAs. The Regional Board intends to reconsider the Implementation Plan in 5 years. If more time is needed beyond 13.5 years, then the Regional Board will consider the progress that the JPA has made in their water repurpose project and may extend the timeline up to 15 years during the reconsideration. See response to comment 1.5 for further details about the reconsideration.

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		• Land Acquisition: The JPA will need to acquire additional property to construct the proposed AWT plant. Property acquisition can be a lengthy, complex process involving delays related to site investigations, due diligence, negotiations and acquisition. • Funding and Financing: The JPA needs to develop and implement a funding and financing strategy for a \$95 million project, which would be the largest capital project in the JPA's history. The strategy would include consideration of rate revenue, grants and loans available to support funding of the program. Execution of the strategy would consist of preparing state and federal grant and loan applications, many of which have long lead times. For example, obtaining funds from the SWRCB Clean Water State Revolving Fund takes at least a year to accomplish after completion of the application. Further, revenue bonds may need to be issued and would require a lengthy process. • Salinity Management Pipeline: The AWT plant will generate brine that will need to be disposed of appropriately. The closest disposal option for the JPA is the Calleguas Municipal Water District's Salinity Management Pipeline (SMP). The nearest connection point to the SMP is approximately 10 miles west of the JPA's service area. Further, the segment of the SMP along which the JPA would connect has not yet been constructed by Calleguas. Although the estimated completion date for the segment of the SMP is 2020, the project is independent of the JPA's and could be	

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		delayed or postponed for a variety of reasons, impacting project completion. • Environmental Documentation: The JPA will need to prepare a thorough environmental document for the project to comply with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). During the environmental process, it common to discover the need for special studies to address potential environmental concerns and for the public to voice objections and/or opposition to a project. Addressing these concerns could delay the adoption of the environmental document, which would also delay other tasks such as permitting, land acquisition, final design and funding agreements. • Public Outreach and Acceptance: The JPA intends to conduct an extensive public outreach and education program geared toward community acceptance that will span the life of the program and beyond. It will include construction of a demonstration project and education facility. Other agencies' experience with similar programs shows that these programs can span multiple years. • Treatment Performance Demonstration: The proposed indirect potable reuse surface water augmentation regulations rely on treatment performance measured as "log removal" for the various treatment trains. Log removal relates to the percentage of microorganisms physically removed or inactivated by a given process. For reference, current regulations for a conventional surface water filtration plant	

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		require 4-log (99.99%) removal and/or inactivation of enteric viruses and 3-log (99.9%) removal and/or inactivation of Giardia lamblia cysts. The proposed surface water augmentation regulations require 9-log (99.9999999%) enteric virus reduction, 8-log (99.999999%) Giardia cyst reduction and 9-log (99.999999%) cryptosporidium oocyst reduction. The treatment trains involved include microfiltration, reverse osmosis and ultraviolet light with hydrogen peroxide disinfection. The treatment trains used to achieve these reductions must be demonstrated to meet the log reduction standards using Division of Drinking Water approved performance testing procedures. The proposed AWT facility will be a seasonal plant treating only the excess recycled water produced in the winter season, so it may take up to two seasons to complete the required testing to demonstrate plant performance. The updated schedule shows program completion 13.5 years after the effective date of the Plan; however, the JPA requests inclusion of 1.5 years of contingency for those tasks that are dependent on activities outside the control of the JPA. Accordingly, a total of 15 years would be required from the effective date of the Plan for the JPA to comply with the winter season WLAs. Also attached is a list of potential interim milestones that could be used to ensure progress toward completion. It should be noted that during the first five years, the JPA will also be focused on compliance with summer season WLAs. The JPA requests that Table 7-42.1 be revised to	

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		reflect that compliance with the final 2013 nutrient winter WLAs will be attained “15 years from the effective date of the Implementation Plan”.	
1.3	JPA	Clarify that monitoring requirements apply only when discharging. The JPA proposes that the Plan clarify that receiving water and discharge (effluent) monitoring is required only when discharging, consistent with the current NPDES permit for Tapia. The JPA is one of several responsible entities required to develop and implement a receiving water monitoring plan by December 28, 2021. The receiving water monitoring plan is the appropriate means to determine the effectiveness of the Plan’s action to meet the in-stream TMDL targets. Whereas, the NPDES permit monitoring requirement is the appropriate means to determine the JPA’s compliance with WLAs, which are only applicable <i>when discharging</i>. The JPA requests that the first bullet on page 15 of Attachment A be revised as follows: <i>“To comply with the WLAs for the Tapia WRF, nutrient monitoring shall be conducted monthly at the Tapia WRF discharge points when discharging.”</i>	The Regional Board has changed the “Receiving Water Monitoring” and the “Discharge Monitoring” sections in the proposed Implementation Plan to “TMDL Effectiveness Monitoring” and “Compliance Monitoring”, respectively. The purpose of the TMDL Effectiveness Monitoring section is to assess implementation progress for the whole watershed and attainment of numeric targets. The purpose of the Compliance Monitoring section is to determine compliance with the WLA and LAs, which will be translated into discharge-specific regulatory mechanisms. The Regional Board agrees that to comply with the WLAs for the Tapia WRF, compliance monitoring shall occur only when the Tapia WRF is discharging. This change has been made under the Compliance Monitoring section.
1.4	JPA	Clarify actions requested as a result of monitoring. The language on page 14 of the Plan implies that additional monitoring and implementation actions must be taken in response to any exceedance of a target. The JPA believes that additional actions and monitoring should not be required during	The cited language from the proposed Implementation Plan refers to the recommendations for biological threshold monitoring in the 2013 TMDL. For example, Page 10-20 of the 2013 TMDL states, “This biological threshold is an action level. Excursions

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		the implementation period, as exceedances of targets are anticipated during that period. Additionally, the use of the words, “any exceedance” does not recognize the use of averaging as defined throughout the Plan. Finally, while additional monitoring to investigate the sources of an exceedance after the implementation period may be appropriate, additional preventative actions should not automatically be required, particularly if all dischargers are meeting their allocations. Additional actions should only be required if there are demonstrated exceedances of allocations and persistent receiving water exceedances that are linked to sediment or nutrient impacts. If all allocations are being achieved and the receiving water is still not meeting targets, the TMDL needs to be revised prior to requiring further preventative actions by dischargers and additional time must be provided to come into compliance. Also, exceedances of the nutrient targets may not be indicative of receiving water impairments, if all other targets are being met. For these reasons, we request that this sentence be removed or revised. The JPA requests that the following sentence from page 14 of Appendix A be deleted and that corresponding changes be made to the staff report: “Any exceedances of the biological response numeric targets (percent algae cover, benthic community diversity, or biological scores) will trigger additional receiving water monitoring and additional preventative activities to reduce nutrient pollutant loads to the watershed and nutrient and sediment loads to Malibu Lagoon.”	of this threshold action level will trigger Malibu Lagoon monitoring and additional activities to reduce sediment and nutrient pollutant loads to the Lagoon. These biological threshold action levels are not WLAs, but action levels to inform the monitoring program requirements, assist with the assessment of performance towards meeting the TMDLs and water quality objectives, and ensure protection of beneficial uses in Malibu Lagoon.” Malibu Lagoon was recently restored, and the intent of this language in the 2013 TMDL is to prevent further degradation of Malibu Lagoon. Therefore, the proposed Implementation Plan requires that the benthic community be monitored (a) in the near term to detect any decline in benthic community health until the WLAs and LA are met and (b) over the long term to ensure that the WLAs and LAs and the implementation schedule are adequate to attain benthic community numeric targets. The proposed Implementation Plan has been revised to clarify that additional monitoring and actions will only be triggered if thresholds are exceeded according to averaging periods stated within the Numeric Target Section (seasonal mean for algal cover, annual average for benthic community diversity,

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			and the median over four years for benthic scoring tools). Also, the proposed Implementation Plan has been revised to clarify that additional preventive activities will be required through existing adaptive management processes in Regional Board orders such as the LA County MS4 Permit and/or a reconsideration of the Implementation Plan.
1.5	JPA	Strengthen the process for reconsideration of the Implementation Plan Table 7-41.2 states that “[the] Regional Board will reconsider this Implementation Plan within three years of its effective date based on the results of any new information or data, including the impact of lakes on the nutrient loading and sedimentation downstream.” The JPA agrees with the provision for reconsideration of the Plan within three years but suggests that additional milestones for reconsideration be added. The Plan includes a requirement that responsible entities within the watershed commence a comprehensive receiving water monitoring plan to assess numeric target attainment and determine the effectiveness of implementation actions. The sampling required by this Plan is to commence by December 28, 2021, which may be as many as four years after the effective date of the Plan. The comprehensive receiving water monitoring plan is just one of	The reconsideration of the Implementation Plan was set at three years with the intent to base the reconsideration on the results from monitoring conducted to determine the loading of nutrients from the overflow of the lakes, the sediment loading from the upstream area of Malibou Lake, and the unincorporated area along Las Virgenes Creek, and any other new information or data. However, the Regional Board agrees that if the monitoring within the “Receiving Water Monitoring Section,” now termed “TMDL Effectiveness Monitoring” section, shows significant results, these results should be taken into account when reconsidering the Implementation Plan. Therefore, to accommodate consideration of these data, the date of the reconsideration has been revised from three years to five years. Any further need for a reconsideration of the Implementation Plan can

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		many possible sources of new information that should be taken into account when reconsidering the Plan. The JPA requests that the language in Table 7-41.2 be revised as follows: “[the] Regional Board will reconsider this Implementation Plan within three years of its effective date, and every five years thereafter, based on the results of any new information or data, including the impact of lakes on the nutrient loading and sedimentation downstream.”	be made at the time of this scheduled reconsideration or at any time, at the Regional Board’s discretion.
2.1	LACDPW LACFCD	<u>The Final Compliance Timeline For The 2013 TMDL Should Be Consistent With The Regional Board-Approved Malibu Creek Watershed EWMP Plan</u> For Los Angeles County MS4 Permittees in Malibu Creek Watershed, which includes the County of Los Angeles (County) and the Los Angeles Flood Control District (LACFCD) and the Cities therein, the proposed implementation plan sets the final compliance deadline for the 2013 TMDL waste load allocations (WLAs) to 2021 (BPA pages 5 and 17). This timeline is inconsistent with the timeline in the Malibu Creek Watershed EWMP Plan, which was approved by the Regional Board in April 2016. The Malibu Creek EWMP final compliance deadline for the 2013 Nutrients and Sedimentation TMDL of 2032 considers various factors, including the priority to first address the bacteria TMDL and the 2003 Nutrients TMDL. Per page 18 of the Staff Report, the compliance date of 2021 for	During the EWMP development, the Regional Board commented that the EWMP Group could not base the final compliance deadline of 2032 on the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL. The comment stated that when assessing a timeline proposed in other TMDLs, the differences in waterbodies and impairments must be kept in mind. In response to this comment, the permittees revised the EWMP to add the Los Penisquitos Lagoon TMDL in San Diego as an example of a sedimentation TMDL with a 20-year compliance schedule. The schedule for the Los Penisquitos TMDL is based on the implementation projects anticipated for that TMDL, which are different than the implementation projects included in the Malibu Creek EWMP. According to the Malibu Creek

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		the 2013 TMDL was proposed due to the fact that 98% of the Malibu EWMP structural BMPs will be installed by 2021. This figure appears to have been calculated from a chart on page 94 of the EWMP. This figure does not apply equally and is not the same for all waterbodies throughout the EWMP watershed. For example, for Cold Creek, as presented on page 101 of the EWMP, only 68% of the BMPs would be completed by 2021, with the remaining 32% to be completed by 2032. For the Malibu EWMP area, total phosphorous and E.coli bacteria were identified as "limiting pollutants." Significantly, phosphorus is a limiting pollutant because of the stringent standard adopted in the 2013 TMDL. The prioritization and strategy adopted by the Malibu EWMP Group is to first address areas where bacteria is a limiting pollutant followed by areas where phosphorous is a limiting pollutant. This strategy was adopted by taking into consideration the bacteria TMDL compliance deadline of 2021. For areas where phosphorous is a limiting pollutant, additional time beyond 2021 will be needed as described in various sections of the EWMP plan, and the compliance timeline is set to 2032 (e.g., see Section 7 of the Malibu EWMP). Further, for areas where bacteria is a limiting pollutant, and addressing bacteria is expected to also address phosphorous, technical challenges, such as infiltration infeasibility at a site, may require additional BMPs for phosphorous beyond what is needed for bacteria. It should be noted that when the U.S. EPA established the 2013	EWMP, BMPs that will address 98% of the required treatment capacity will be implemented by 2021 in order to attain the Bacteria TMDL. Only an additional 0.6 acre-feet of BMP capacity beyond what is needed to attain the Bacteria TMDL must be implemented in order to attain the 2013 TMDL. This additional 0.6 acre-feet does not justify an additional 11 years as requested by the comment. Furthermore, Cold Creek is the only waterbody not addressed by the middle column on the bar graph on page 94 of the EWMP, meaning that 100% of the required BMPs will be installed everywhere except Cold Creek by 2021. An additional 11 years is not justified to implement the final set of BMPs in the relatively small Cold Creek watershed. As required, the Malibu EWMP Group included a plan to address the nutrient and sedimentation impairments, which are addressed by the 2013 TMDL, in their EWMP (page 14). However, the 2013 TMDL is not included in the current Los Angeles County MS4 Permit (Order No. R4-2012-0175). Furthermore, during development and approval of the EWMP, a Malibu TMDL Implementation Plan was not in place to provide MS4 permit writers direction on the most appropriate timeframe for WLA achievement. In

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		TMDL, it recommended that the TMDL's WLAs be implemented in two phases; with each phase spanning 1-2 permit cycles (EPA Staff Report page 11-1). In other words, U.S. EPA recommended an implementation timeline of at least 10-20 years for the 2013 TMDL. This was in recognition of the stringency of the TMDL and the need for longer time to develop and evaluate control strategies through an adaptive management approach. Except for Los Angeles MS4 Permittees, which were given a compliance timeline of less than five years (2021), other dischargers were given a compliance timeline consistent with the U.S. EPA recommended timeline for compliance for the 2013 TMDL WLAs. For example, the Tapia Water Reclamation Facility is given 10 years and Caltrans is given over 15 years (2032). This means, the Los Angeles MS4 permittees are required to comply with the 2013 TMDL by 2021 while other dischargers in the watershed may have not yet addressed the TMDL requirements. This effectively precludes the Los Angeles MS4s from utilizing one of the compliance options that the TMDL provides. As described on page 5 of the TMDLs BPA, there are three mechanisms by which MS4 Permittees can demonstrate compliance with the nutrients TMDL, including attaining numeric targets in the receiving water. With the current draft TMDL, compliance in the receiving water prior to 2032 is practically impossible. Therefore, the County and the LACFCD request that the final	this case and others similar to it, the Regional Board made it clear that upon adoption of a TMDL and its incorporation into the MS4 permit, schedules in WMPs and EWMPs may need to be altered to align with the TMDL Implementation Plan. While the 2013 U.S. EPA-established TMDL recommended that the WLAs be implemented in two phases, with each phase spanning 1-2 permit cycles, this recommendation was before a EWMP was developed stating that 98% of the Malibu EWMP structural BMPs will be installed by 2021. In addition, EPA anticipated that each phase of the implementation process “could take up to between 1-2 permit cycles” in the 2013 TMDL (page 11-1). An NPDES permit cycle is five years. Thus, EPA anticipated a schedule of up to 10-20 years, not at least 10-20 years as stated in this comment. The compliance schedules in the proposed Implementation Plan are specific to each discharger and are based on the time needed to meet each allocation. The final compliance date for MS4 permittees of December 2021 is based on the fact that 98% of all structural BMPs will be installed by July 2021 as proposed by the

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		compliance timeline for the 2013 TMDL for Los Angeles MS4 Permittees be extended to 2032 consistent with the Malibu Creek EWMP timeline as well as the U.S. EPA recommendations and timelines given to other dischargers.	Malibu EWMP Group and the fact that no new BMPs are proposed by the NSMBCW EWMP Group. The compliance schedule for the Tapia WRF is based on JPA's preliminary plans to design, permit, and construct the advanced water treatment facilities needed for indirect potable reuse of its effluent, which will support attainment of its assigned WLAs. The compliance schedule for Caltrans is based on the existing implementation approach under the Caltrans Statewide MS4 permit, which establishes a reach prioritization for TMDL implementation (Malibu Creek Watershed reaches have already been approved as high priority reaches). The approach for setting compliance schedules does not preclude MS4 permittees from demonstrating compliance in the receiving water. MS4 permittees can determine their own monitoring locations in such a way as to minimize nutrient contributions from other sources. Furthermore, MS4 permittees have other options beyond meeting nutrient numeric targets in the receiving water downstream of the permittees outfall. MS4 permittees can meet the WQBELs at the applicable MS4 outfall or have no direct or indirect discharge to the receiving water.

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2.2	LACDPW LACFCD	<u>The County of Los Angeles Should Be Removed From The Cooperative Parties for Lake Lindero</u> Table 12 of the Staff Report (p. 24-25) provides a list of entities, also known as "cooperative parties" that are responsible for the grouped load allocations assigned to overflow from the lakes under the 2013 TMDL. It is our understanding that these parties are identified as those having land jurisdiction over the subwatershed draining to the lakes and/or those owning or operating the lakes. The County of Los Angeles is listed as one of the cooperative parties for three of the lakes (Malibou, Lindero, and Westlake) due to the County's jurisdiction in the subwatersheds of the lakes. While there are some County Unincorporated Areas within the subwatersheds of Malibou and Westlake lakes, there are none within the subwatershed of Lake Lindero. Therefore, we believe that the County is mistakenly included into the cooperative parties for Lake Lindero and should be removed.	The Regional Board reviewed the information provided and the County of Los Angeles will be removed from the cooperative parties list for Lindero Lake. However, during the Regional Board's review, it was determined that the infrastructure that conveys both storm and non-storm water throughout Los Angeles County and Ventura County to the lakes within the Malibu Creek Watershed are owned by the Los Angeles Flood Control District (LAFCD) and the Ventura County Watershed Protection District (VCWPD). Therefore, LAFCD will be added to the cooperative parties list for Malibou Lake, Lindero Lake, and Westlake Lake, and VCWPD will be added to the cooperative parties list for Sherwood Lake and Westlake Lake.
2.3	LACDPW LACFCD	<u>MS4 Permittees Should Be Provided Alternative Compliance Points for The Sedimentation TMDL</u> As currently proposed, the TMDL requires compliance with the sedimentation WLA to be determined based on an annual sediment load measured at the F-130 gage site. This site, as you may know, is the Malibu Creek Mass Emission Station, which is a receiving water site. The County and the LACFCD have	The requested change would be inconsistent with the requirements and assumptions of the sedimentation WLAs in the 2013 TMDL (40 CFR §122.44(d)(1)(vii)(B)). The 2013 TMDL is for sedimentation, which is the excess movement and deposition of sediment in the watershed. The 2013 TMDL establishes an allowable sedimentation rate based on the change in

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		serious concerns with using this site as the only site for assessing compliance with the sedimentation WLAs for MS4s. First, the F-130 site is located downstream of the watershed far away from most of the developed lands to which the WLAs are assigned. Most of the developed lands that are required to comply with the WLAs are located in the upper regions of the watershed, along the 101-freeway, making the reliance on F-130 for compliance assessment with WLAs impractical for MS4s. Second, unlike other pollutants, the major sources of sediments to streams are undeveloped lands. Due to the imperviousness and compactness, developed lands often contribute little sediment. In particular, for watersheds like Malibu Creek where wildfires are persistent and much of the watershed is undeveloped, sediments in the streams are often the result of erosion and/or mudslides from the undeveloped natural landscapes. MS4 Permittees have no control over these natural sedimentation processes. As a result, sediment that is measured at the F-130 station is not reflective of developed lands and, potentially over predicts the contribution from MS4s. Because of these issues, if compliance is to be assessed based on sediment measured at F-130, it is highly likely that the MS4s could be deemed out of compliance even when there is little or no discharge of sediment from developed areas or MS4s. Therefore, it is imperative that alternative compliance points be	sediment transport capacity (effective work) instream caused by development in the MCW. To determine the change in sediment transport capacity within the watershed, the 2013 TMDL calculated the change in effective work between pre- and post- development conditions at F-130 (a gaging station near the bottom of the watershed). The 2013 TMDL determined that a 38 percent reduction in effective work was needed to restore the natural sedimentation regime in the Malibu Creek Watershed. The 2013 TMDL assumed that the 38 percent reduction in effective work was equivalent to a 38 percent reduction in channel sediment transport, which was converted to a loading capacity using sediment data from F-130. The 2013 TMDL then expressed the sedimentation WLAs and LAs in terms of the sediment mass moving past the F-130 gaging station. Therefore, changing the compliance point from F-130 to an outfall monitoring location would be inconsistent with the 2013 TMDL. The 2013 TMDL accounts for the contribution of sedimentation from undeveloped land by allocating the loading capacity among the sources in the Malibu Creek Watershed based on the amount of impervious land within their jurisdiction. Therefore, the allowable

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		provided for MS4s associated with the Sedimentation TMDL. Accordingly, the County and the LACFCD requests that MS4 Permittees be also deemed in compliance with the sedimentation TMDL upon demonstration that the WLAs are attained at the Permittee's applicable outfall(s).	sedimentation that is measured at the F-130 station is reflective of all land uses in the watershed, including developed lands.
2.4	LACDPW LACFCD	<u>The State and National Parks Should Be Subjected To The Same Standard and Requirement as Local Agencies</u> More than one-third of the Malibu Creek Watershed is under the jurisdiction of the State and Federal government. These State and Federal lands are among the major sources of many of the pollutants in Malibu Creek Watershed as documented in the U.S. EPA staff reports. This means, if compliance with the Malibu Creek TMDLs is to be achieved in the receiving water, the State and National Parks should be required to do their part. In other words, the ability to meet TMDL allocations in the receiving water is dependent on the efforts of the State and National Parks in the watershed. Despite this, they are not subject to the same level of requirements as local agencies. For example, the proposed implementation plan does not require the State and National Parks to address nutrients for Malibu Creek and its tributaries below Malibou Lake. They are also not required to conduct monitoring, with the exception of when they are listed as cooperative parties for the lakes.	The request to revise the WLAs and LAs is outside of the scope of the action before the Regional Board. The action before the Regional Board is consideration of an Implementation Plan for two previously established TMDLs. Any changes to the technical portions of the previously established TMDLs would be outside of the scope of this action. The Nonpoint Source Policy provides the Regional Board flexibility in determining implementation requirements for load allocations assigned to nonpoint sources. In the case of the sedimentation load allocations, the proposed Implementation Plan before the Regional Board includes the same types of requirements for State and National Parks as for local agencies. For the sedimentation load allocations, it is reasonable to require implementation actions because State and National Parks can implement stream restoration projects and other management practices to

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		Further, there are State-associated agencies, including the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority, which own and/or manage significant amount of land in the Malibu Creek Watershed and should be subject to the TMDL requirements. These agencies have indicated in the past that they are not part of the State or National Parks and, thus, are not subjected to the TMDLs. We request that these concerns be addressed by assigning wasteload or load allocations to these State and National Agencies and requiring them implementation actions as appropriate.	reduce sedimentation in the watershed caused by eroding and incised stream banks under their jurisdiction. In the case of the nutrient load allocations, the proposed Implementation Plan does not include the same types of requirements for State and National Parks in order to implement the nutrient load allocations. Instead, the proposed Implementation Plan includes monitoring requirements for State and National Parks to implement the nutrient allocations. This degree of implementation is adequate to address the controllable sources of nutrients from undeveloped land, such as littering, as recommended in the 2003 TMDL. In response the portion of the comment about monitoring requirements, State and National Parks have been added as responsible entities for the TMDL effectiveness monitoring. It is expected that they will cooperate with other responsible entities to implement a coordinated TMDL effectiveness monitoring program. Regarding the comment that additional agencies such as the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority be identified in the Implementation Plan, the lands owned by these

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			agencies are located mainly above Malibou Lake and along the upper portion of Las Virgenes Creek. The proposed Implementation Plan takes a phased approach to implementation of the load allocations for these areas. The first phase is monitoring, and if the monitoring shows an impact on nutrient or sedimentation from these areas, then the Regional Board will revise the Implementation Plan to assign waste load and load allocations for specific jurisdictions in these areas.
2.5	LACDPW LACFCD	<u>Clarification Should Be Provided Regarding OWTS That Are Subjected To Advanced Protection Management Program</u> The U.S. EPA established TMDLs assign load allocations generally to all septic systems or onsite wastewater treatment systems (OWTS) in the watershed without specifying which, if any must meet the TMDL requirements. The Water Board allows for a special study to be completed by local permitting agencies to refine the area affected by the TMDL. The State Water Resources Control Board's water quality control policy for siting, design, operation, and maintenance of onsite wastewater treatment systems (OWTS policy) requires an Advanced Protection Management Program for OWTS near impaired water bodies. The State Water Resources Control Board provides a map tool on their website at http://gispublic.waterboards.ca.gov/webmap/owts/owtsmap.html that indicates:	According to the proposed Implementation Plan, if a local agency chooses not to complete a special study, then all OWTS in the watershed must be included in an Advanced Protection Management Program. Note that the language on the State Water Board's mapping website is intended as general guidance only. There is a disclaimer above the language in this comment that states, "This map tool is provided for general reference only and is not intended to provide a final determination whether a specific property may be subject to Tier 3 of the draft On-Site Wastewater Treatment System policy. Additional site-specific information may be required."

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		"If no nitrogen- or pathogen-impaired waters listed in Attachment 2 of the draft policy are identified within 2000 feet of an address, it is likely that a property owner will only need consult their local permitting agency for what requirements they have to meet if their system fails, or they plan to upgrade or replace their system. If nitrogen- or pathogen-impaired waters listed in Attachment 2 of the draft policy are identified within 2,000 feet of an address, there is a possibility that any existing, new or replaced onsite system falls in the Tier 3 category. However, due to data limitations, property owners are strongly advised to conduct further investigation with the help of their local agencies and/or Regional Water Quality Control Board and/or State Water Resources Control Board to determine whether they fall into the Tier 3 category before making any changes to their onsite system." The County requests clarification on whether the EPA's boundary of all OWTS in the watershed or the State Water Board's guidance of OWTS within 2,000 feet of the impaired water body will be used to determine which OWTS are required to be included in the Advanced Protection Management Program if a local agency opts not to complete a special study as proposed by the TMDL.	

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2.6	LACDPW LACFCD	The Regional Board Should Make Efforts To Reach Out To OWTS Owners and Hold Community Meetings Well In Advance Of The Public Comment Deadline The County believes that the Regional Board's publication of notices of hearings in newspapers, while meeting the legal requirements, is an outdated and insufficient method of informing the public about the potential adoption of a TMDL or an associated Implementation Plan. Specifically, this is true when it comes to OWTS owners. The currently proposed TMDL Implementation Plan for the Malibu Creek Watershed may pose significant financial impacts to 900 to 2,100 homes with OWTS. Due to the lack of proper notification and community outreach, many of the homeowners may not be aware of the regulations and are potentially unable to provide written comments prior to the deadline. The County strongly requests that the Regional Board staff hold community meetings in advance of the comment deadline to fully inform the public regarding the potential impacts of the adoption of any TMDL or associated Implementation Plan in the future. The Departments of Public Works and Public Health would willingly work with the Regional Board staff to organize such a meeting, provide advanced notification of the meeting to the public, and participate in the meeting to inform the public of the potential effects of the regulation. With the understanding that the opportunity to reach out to the	At a meeting with staff from the County Departments of Public Works and Public Health on September 29, 2016, Regional Board staff committed to holding community meetings in advance of the comment deadline and to extend the comment deadline for this particular issue to allow OWTS owners time to provide written comments prior to the November Regional Board meeting. The Departments of Public Works and Public Health indicated that they would work with Regional Board staff to organize these meetings. However, on October 5, 2016 County staff notified Regional Board staff that they had decided there was not enough time for community outreach before the November Regional Board meeting. The Regional Board appreciates the County's offer to help organize such meetings in the future. The Regional Board disagrees that the opportunity to reach out to the community has been missed for this TMDL. The requirements for OWTS have been in place since the TMDLs were adopted in 2003 and 2013. There have been numerous occasions where the Regional Board and EPA have provided outreach to the community during and since the development of the TMDLs. Notably, EPA held two workshops

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		community has already been missed for this particular TMDL, we urge that the Regional Board conduct multiple meetings during the Local Agency Management Program (LAMP) adoption process in spring 2017. These meetings should be conducted at least several months in advance of the LAMP adoption date to provide sufficient time for septic owners to review and comment.	on draft versions of the 2013 TMDL, including one in Agoura Hills, prior to promulgating the TMDL. The Regional Board has also conducted extensive OWTS outreach over more than 10 years related to the Malibu Bacteria TMDL and specifically in the Malibu Lagoon area regarding the OWTS prohibition. When developing the proposed implementation plan, in addition to publishing notice of the Regional Board meeting in the Los Angeles Times and Ventura County Star, the Regional Board posted the draft implementation plan on our website, sent mail and e-mail notices to interested persons, and submitted the notice of filing of CEQA documents to the State Clearinghouse. Prior to public notice of the draft documents, staff also attended Santa Monica Mountains Watersheds TAC meetings, held a CEQA scoping meeting, and met with homeowners associations as well as public agencies about the proposed implementation plan, including requirements for OWTS. The proposed implementation plan places no new requirements on OWTS owners that are not already included in the previously established TMDLs. It simply provides a schedule to attain the load allocations already included in the

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			TMDLs and provides local agencies with the option to conduct studies to refine the OWTS that would be subject to upgrades to comply with the TMDL. Through the LAMP approval process, OWTS owners will have additional opportunities to comment on potential requirements. Local agencies implement their permitting authority for OWTS within their jurisdiction consistent with memoranda of understanding with the Regional Board. In light of this, it is not unreasonable to rely on the assistance of local agencies to communicate draft OWTS requirements to their residents. The Regional Board believes it is important to continue this cooperative approach to regulating OWTS and communicating regulations to OWTS owners.
3.1	VCWPD	<u>Revise the proposed Tentative Basin Plan Amendment to ensure consistency with the 2003 total nitrogen wasteload allocations (WLAs) for the Ventura County Municipal Stormwater Separate Sewer System (MS4) Permittees by including all land use categories used to calculate the allocations in the 2010 Ventura MS4 permit, namely runoff from developed areas, dry weather urban runoff, and “other”.</u> The 2003 TMDL included load allocations (LA) for runoff from	As stated in the staff report, the Ventura County MS4 Permit incorrectly interprets the 2003 TMDL LAs into MS4 WLAs. To be consistent with the manner in which LAs are incorporated as WLAs into the Los Angeles County MS4 Permit, the proposed Implementation Plan uses the same approach to set the nutrient WLAs for Ventura County (sum of the “runoff from developed areas” and “dry weather urban

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		various land uses, rather than WLAs assigned to responsible parties. In the 2010 Ventura MS4 permit, the land uses used to assign the WLAs to the Ventura County MS4s were developed areas, dry weather urban runoff, golf courses, and “other”. The Implementation Plan assigns allocations to golf courses separately, but the “other” category is not assigned to any discharger. This category includes elements such as atmospheric deposition and sediment release that could contribute loads to discharges through the MS4. Additionally, because the 2003 TMDL was developed based on land uses, the analysis did not take into account all types of discharges that could be entering an MS4 system. For instance, the 2003 TMDL only notes runoff from residential and commercial land uses as part of the assessment. The concern is that the LA for runoff for other urban land uses and open areas entering the MS4, either parks within the urban area or open space bordering urban area, is not included in the reinterpreted WLA calculated for the Implementation Plan. As a result, to account for other land uses that could be discharging through the MS4s in the Malibu Creek Watershed and to be consistent with the 2010 Ventura MS4 permit interpretation of the WLAs, we request that the WLAs be modified to include the Ventura County portion of the “other” land use category from the 2003 TMDL.	runoff”). The nutrient WLAs are apportioned between the Los Angeles County MS4 permittees, Ventura County MS4 permittees, and Caltrans based on the relative areas of Los Angeles County, Ventura County, and Caltrans in the watershed. It would not be possible to include the 2003 TMDL category of “other” in the newly interpreted WLAs because the category of “other” consists of indirect and direct atmospheric deposition, lagoon drains, birds, tidal inflow, groundwater, and sediment release sources, some of which are distributed throughout the watershed, and some of which only occur in portions of the watershed and do not apply to Ventura County.

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		<i>Request: Revise the WLAs for Ventura County MS4 Permittees in the Tentative Basin Plan Amendment Table on page 5 to 6.2 lbs/day for Total Nitrogen Summer and 0.55 lbs/day for Total Phosphorus Summer and make corresponding changes in the Staff Report.</i>	
3.2	VCWPD	<u>Revise the implementation schedule in the Tentative Basin Plan Amendment to be consistent with the text of the amendment and provide sufficient time to implement the required actions. The primary requested changes are to require the monitoring plans associated with the 2013 load allocations for Ventura County (sediment and nutrients upstream of the Lakes and in Las Virgenes Creek) to be due one year after the Regional Water Quality Control Board (Regional Water Board) issues the investigative order and to extend the time frame for the reconsideration.</u>	The text within the Basin Plan Amendment (BPA) is consistent with the implementation schedule in Table 7-41.2. See response to specific comments 3.2.a through 3.2.e.
3.2.a		The schedule for the Monitoring plans in Table 7-41.2 is not fully consistent with text in the Tentative Basin Plan Amendment, and a number of monitoring plans are included in the schedule that are not in the text. Additionally, the schedule for reconsideration of the Implementation Plan is not sufficient to gain the additional information required to provide valuable insights into the proper course of action for the future. Following are specific requested modifications to the schedule to address these inconsistencies.	There do not appear to be any monitoring plans included in the schedule in Table 7-41.2 that are not included in the text in Table 7-41.1. The Regional Board agrees to give additional time for the reconsideration to incorporate additional data. The reconsideration date in the proposed Implementation Plan has been revised from three years to five years.

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3.2b	VCWPD	The monitoring plan for lakes is scheduled for one year after the effective date of the Implementation Plan. The deadline should be modified to be one year after issuance of an Investigative Order, to ensure there is a mechanism to require all responsible parties to participate in the monitoring plan development. Without the investigative order outlining the requirements, it will be challenging to prepare a monitoring plan within a year. Additionally, further actions should only occur if deemed appropriate from study findings.	The Regional Board will modify the deadline for the cooperative parties to submit a monitoring plan to determine the impact of lake overflows on nutrient loading downstream to be one year from the effective date of the investigative order. The proposed Implementation Plan currently states that additional actions are dependent on the findings of the monitoring/study. The proposed BPA and Staff Report state that the Regional Water Board will revise the Implementation Plan to include implementation methods to reduce nutrient loading only if monitoring results show an impact on nutrient loading downstream.
3.2.c	VCWPD	The schedule for the monitoring plan to determine the annual sediment load from the area above Malibou Lake should be contingent on the determination that the overflow from the lake exceeds 3,950 tons/year. We request eliminating the requirement from the schedule presented in Table 7-41.2 in favor of describing in the section “Lakes”, Combined Area Upstream Malibou Lake the monitoring would be required if found necessary. In addition to removing from the schedule the sediment load monitoring into Malibou Lake, we request replacing all text in the section “2013 TMDL Sedimentation Implementation” and under the heading “Combined Area Upstream Malibou Lake” for consistency with the nutrient monitoring requirements, as follows:	The comment appears to misinterpret the proposed Implementation Plan. The proposed Implementation Plan does not require monitoring for sediment loading to the lake, but only requires monitoring at a gaging station that will be installed below the outflow of Malibou Lake. The requested language change is therefore not needed. The BPA has been clarified to state that the monitoring is intended to determine the sediment load from Malibou Lake, not to Malibou Lake.

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		“The sediment LAs in the 2013 TMDL for lake overflow from Malibou Lake applies at a point below Malibou Lake and will be implemented through WDRs, conditional waivers of WDRs, or other regulatory mechanisms in accordance with the Nonpoint Source Implementation and Enforcement Policy. The LAs will apply at the outlet of the lake and are shared among the cities, counties, state, and federal lands in the subwatershed draining to the lake, and the owners/operators of the lake. Cooperative parties for the lake sediment LAs are identified, not as responsible parties or as dischargers, but as landowners and lake operators who have an interest in source identification of sediment loading entering and exiting the lake. The LAs will be implemented in stages. First, the Regional Water Board will issue investigative orders to the cooperative parties that will require them to submit a monitoring plan to the Regional Water Board within one year of receiving the order. The monitoring plan shall be designed to determine the impact of lake overflows on downstream sediment loading. The monitoring plan shall include sufficient samples to characterize overflows from the lake during both dry- and wet-weather conditions. Then, if monitoring results show sediment loading is greater than 3,950 tons/year, the Regional Water Board will revise this Implementation Plan within five years of its effective date. The revised	

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		Implementation Plan will include implementation methods to reduce the external loading to the lake and/or internal loading within the lake and a schedule to meet the LAs. Cooperative parties may propose their own approaches for the revised Implementation Plan that the Regional Water Board may consider.” Note that the time frame for the Implementation Plan revision is proposed to be revised to five years in this language to be consistent with the length of monitoring necessary allow calculation of a three-year average sediment load. Additionally, while the Staff Report lists the cooperative parties, they are not included in the Tentative Basin Plan Amendment. We request the parties be explicitly named in the amendment.	The reconsideration date in the BPA and the Staff Report has been revised from three years to five years. The BPA has been revised to include the cooperative parties that are listed in the Staff Report.
3.2.d	VCWPD	The requirements for Ventura County in the Implementation Plan include a development of a monitoring plan, but no regulatory mechanism to clarify the requirements or responsibilities for conducting the work. The Ventura MS4 Permittees are not listed as a responsible party to the 2013 TMDL for Sedimentation and therefore the requirements will not be included in the MS4 permit. The mechanism to perform monitoring in Las Virgenes Creek should be the same used to monitor the outflows from the four lakes. We request the requirement for the Las Virgenes Creek	The Regional Board will use its authority, including that established in Cal. Water Code sections 13225 and/or 13267 or other appropriate authorization, to issue an investigative order to require monitoring at the County line or at an appropriate downstream site in order to determine the annual sediment load and implement the sediment LAs for the unincorporated area along Las Virgenes Creek. The cooperative parties for the nutrient LA for the lakes are different than the responsible entity for the sediment LA for the

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		sediment load monitoring be moved to the provision specifying lake discharge monitoring and incorporated into the investigative order with a monitoring plan due one year after the investigative order is issued.	unincorporated area along Las Virgenes Creek. The requested change to include both the sediment and the nutrient monitoring requirements in one investigative order is therefore infeasible. The monitoring plan will be due one year from the date of investigative order issuance.
3.2.e	VCWPD	The text regarding the 2013 Sediment TMDL notes that due to annual variability of sediment transport, which is linked to wet-weather events, leads to compliance assessed over a three-year period. Including the time necessary to identify and install an appropriate monitoring site, collect three-years of data, and analyze the information to determine the proper course of action exceeds the three-year reassessment of the Implementation Plan. We request the Implementation Plan be reevaluated after at least five years to allow for the installation of monitoring facilities and collection of the minimal data set to evaluate compliance with the LA.	The language in the BPA and the Staff Report has been revised to reflect the Regional Board's intent to reconsider the Implementation Plan in five years rather than three years.
3.3	VCWPD	<u>Revise the schedule for the implementation plan and monitoring plan development for the 2003 WLAs to be consistent with the anticipated schedule for the Watershed Management Plan/Enhanced Watershed Management Plan (WMP/EWMP) schedule for the Ventura MS4 permit to avoid duplicative planning efforts.</u>	It is not the intent of the Regional Board to require duplicative work. The schedule for Ventura County MS4 permittees has been modified to state, "Ventura County MS4 permittees shall submit an MS4 nutrient implementation plan or WMP or EWMP one year

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		The Implementation Plan includes language noting that a WMP/EWMP can be used to satisfy the requirement to develop an implementation plan. Currently, there is no WMP/EWMP for the Ventura County MS4 Permittees, but a requirement to develop a WMP/EWMP is anticipated in the next permit revision, scheduled for early 2017. However, the schedule listed in Table 7-41.2 requires the implementation plan to be developed within one year of the Implementation Plan effective date. We request modifying Table 7-41.2, to reflect the WMP/EWMP for Ventura County MS4s will be submitted per the schedule in the reissued MS4 permit to avoid the need to conduct duplicative planning requirements. The County and the District prepared the Malibu Creek Bacteria and Nutrient TMDLs Implementation Plan Addendum for Unincorporated Ventura County and Ventura County Watershed Protection District, detailing how the 2003 TMDL will be addressed. This Implementation Plan Addendum was submitted to the Regional Water Board in May 2013. The County and the District have been implementing actions identified in this Addendum including a successful Proposition 84 Stormwater Implementation Grant application for bacteria and nutrient treatment of the urban runoff in unincorporated community of Oak Park scheduled for construction in summer of 2017. The grant included funding for currently on-going Watershed Friendly Garden seminars and workshops organized by the County of Ventura for free to public at the Oak Park	from the effective date of this implementation Plan <u>or as per the schedule for the WMP/EWMP under the MS4 permit if appropriate.</u>”

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		High School in cooperation with Surfrider Foundation, Green Garden Group, and Oak Park Unified School District. Requiring the development of an additional implementation plan would be duplicative and would not result in additional progress towards achieving the allocations. Request: Modify the schedule for development of the implementation plan in Table 7-41.2 for the Ventura County MS4 to be equal to the schedule for Ventura County MS4 WMP/EWMP development as prescribed in the upcoming Ventura MS4 permit.	
3.4	VCWPD	<u>The Final Compliance Timeline for the 2013 TMDL Should Be Extended to 2032 for All Responsible Parties Consistent With the Regional Water Board-Approved Malibu Creek Watershed EWMP Plan for the Los Angeles County MS4 Permittees.</u> The County supports request from County of Los Angeles and Los Angeles Flood Control District to extend the final compliance timeline for the 2013 TMDL till 2032 consistent with the Regional Water Board-approved Malibu Creek EWMP timeline as well as the USEPA recommendations and request to consider this extension for all 2013 TMDL responsible parties.	See response to comment 2.1.
3.5	VCWPD	<u>Additional Actions Required in Response to Exceedances of Numeric Targets</u> Text describing the comprehensive receiving water monitoring plan on page 14 of the Tentative Basin Plan Amendment notes	See response to comment 1.4.

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		that any exceedances of the biological response numeric targets (percent algae cover, benthic community diversity, or biological scores) will trigger additional receiving water monitoring and additional preventative activities to reduce nutrient pollutant loads to the watershed and nutrient and sediment loads to Malibu Lagoon. Considering there is a compliance schedule included in the implementation plan, it is not necessarily possible to initially have 100% compliance with biological response targets, and specifying additional actions in response to exceedances during the compliance period is not appropriate. We request the statement be revised to reflect the adaptive management process embedded in the WMP/EWMP structure. The adaptive management process can specify what actions are needed if progress towards achieving the targets is not being made and include responses if targets are exceeded after the implementation period. Additionally, under the monitoring section we suggest not specifying what will occur at this time if exceedances are observed as riparian restoration or shade may provide a more beneficial response than further reductions in nutrients or sediments. <i>Request: We suggest replacing the following text:</i> <i>“Any exceedances of the biological response numeric targets (percent algae cover, benthic community diversity, or biological scores) will trigger additional receiving water monitoring and additional preventative activities to reduce</i>	

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		<i>nutrient pollutant loads to the watershed and nutrient and sediment loads to Malibu Lagoon”</i> <i>with text such as the following:</i> <i>“Responses to exceedances of the biological response numeric targets (percent algae cover, benthic community diversity, or biological scores) should be incorporated into the applicable implementation or WMP/EMWPs as part of the Adaptive Management Process and appropriate additional actions proposed.”</i>	
3.6	VCWPD	<u>State Biointegrity and Biostimulatory Process Reconsideration</u> We request the Regional Water Board include a statement regarding the State Water Resource Control Board (State Board) process currently underway to address biointegrity and biostimulatory substances, and when effective, provide a reopener to incorporate the state-wide approach into the Implementation Plan. Central to the State Board process is the formation of watershed solutions to provide protection for benthic organisms which may include a wider range of solutions beyond nutrient control, including: increasing streambed shade, riparian habitat restoration, etc.	The proposed implementation plan includes a scheduled reconsideration, which has been extended to year 5. In addition, the Regional Board can reconsider the implementation plan at any time to incorporate new information.

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3.7	VCWPD	<u>Ventura County MS4s should not have to monitor benthic organisms in Los Angeles County</u> All responsible parties for both 2003 TMDL and 2013 TMDL are listed in the receiving water monitoring section. All responsible parties for both TMDLs are subject to the nutrient receiving water monitoring, as is appropriate. However, only responsible parties to the 2013 TMDL that discharge to the reaches where benthic monitoring is required to be conducted should have the benthic receiving water monitoring requirements. As the Ventura County MS4s were not listed as a responsible party in the 2013 TMDL because all discharges are upstream of a lake or impoundment, the County would not have authority to collect samples or provide funding for monitoring in the lower watershed where the 2013 TMDL is applicable. Request: Move responsible parties for both 2003 TMDL and 2013 TMDL to the Nutrient Receiving Water Monitoring section and the 2013 TMDL responsible parties be added to the Benthic Receiving Water Monitoring section.	The Regional Board has changed the “Receiving Water Monitoring” and the “Discharge Monitoring” sections to “TMDL Effectiveness Monitoring” and “Compliance Monitoring”, respectively. The intent of the TMDL Effectiveness Monitoring section is to assess implementation progress for the whole watershed and attainment of numeric targets. The intent of the Compliance Monitoring section is to determine compliance with the WLAs and LAs that will be translated into discharge-specific regulatory mechanisms. The proposed implementation plan has been revised to clarify the responsible entities for nutrients and benthic monitoring under the “TMDL Effectiveness Monitoring” section to reflect the 2003 TMDL and the 2013 TMDL responsible entities.
3.8	VCWPD	<u>Reduce Dry Weather Discharge Monitoring to Two Events Per Year</u> The Implementation Plan currently specifies four dry-weather monitoring events. However, the most recent MS4 Permits for LA County and Long Beach require two dry weather monitoring events per year. We request the Implementation Plan specify two dry weather events per year to maintain consistency with the MS4 permits.	The comment is unclear if Ventura County is concerned with the monitoring frequency to comply with the TMDL through outfall monitoring or receiving water monitoring. The response to comment 3.7, in which the “Receiving Water Monitoring” and the “Discharge Monitoring” sections have been renamed “TMDL Effectiveness Monitoring” and

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			“Compliance Monitoring” should address this comment as well. The Implementation Plan requires compliance monitoring of four monitoring events during non-stormwater events, with a minimum of two non-stormwater samples within the summer season in order to calculate a seasonal average. These monitoring events can be used to demonstrate compliance according to any of the compliance options. The non-stormwater monitoring requirements are consistent with the current Los Angeles and Long Beach MS4 Permits. The MS4 Permits state that a higher frequency of monitoring can be required as per a TMDL. For example, page E-16 of the Los Angeles MS4 Permit states, “The receiving water shall be monitored a minimum of two times per year for all parameters, or more frequently if required by applicable TMDL Monitoring Plans.” Page E-28 states, “For outfalls subject to a dry weather TMDL, monitoring frequency shall be per the approved TMDL Monitoring Plan or as otherwise specified in the TMDL, or as specified in an IMP or CIMP approved by the Executive Officer of the Regional Water Board.” In addition, the required monitoring in the proposed Implementation Plan is consistent with the outfall monitoring requirements for outfalls not subject

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			to a dry-weather TMDL. For example, Page E-28 of the Los Angeles MS4 Permit states, “For outfalls not subject to dry weather TMDLs, monitoring frequency shall be four times during the first year following source identification, distributed approximately quarterly, during dry weather conditions or as specified in an IMP or CIMP approved by the Executive Officer of the Regional Water Board.”
3.9	VCWPD	<u>The State and National Parks Should Be Subjected To the Same Requirement as Local Agencies</u> More than one-third of the Malibu Creek Watershed area is under the jurisdiction of the State and National Park agencies such as Santa Monica Mountains Conservancy, Mountains Recreation and Conservation Authority, Santa Monica Mountains National Recreation Area, California State Parks, and others. In addition to participating in lake monitoring efforts, it seems critical for those agencies to participate in other TMDL requirements towards improving water quality in the watershed area. As proposed in the proposed Tentative Basin Plan Amendment, State and National Parks are not subject to the same level of monitoring and implementation requirements as the local agencies. For example, the proposed implementation plan does not require the State and National Parks to address nutrients or	See response comment 2.4.

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		conduct monitoring, except their inclusion into cooperative parts for the lakes. Request: Include the State and National Parks as responsible parties in the proposed Basin Plan Amendment for monitoring and implementation plan development efforts within their jurisdictional areas.	
4.1	City of Thousand Oaks	Revise the required submission date for a nutrient implementation plan from the Ventura County MS4 permittees to be concurrent with the Ventura County MS4 permit adoption date (page 18). This will avoid the possibility that two EWMPS/WMPs could be required: one for the nutrient implementation plan and one for the MS4 permit. Provide adequate time for development of a subwatershed-level implementation plan. More than one year is needed in order to gain an understanding of the actual total nitrogen (TN) and total phosphorous (TP) loading (page 18). Consideration should be given to the detail that it will take six months of sampling each for winter and summer to adequately characterize loading of these substances. Accordingly, one year should be allotted for sampling alone. Once the degree of loading is known, a realistic approach to mitigation can be planned. A minimum of 18 months is requested for preparing an implementation plan given the present level of data.	See response comment 3.3

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4.2	City of Thousand Oaks	Include a reopener so that the TMDLs can be updated by improvements in watershed understanding that come during development of the statewide bioassessment and Nutrient Objective programs. If not, there could be a burden on agencies with regulations that are at odds with information that is state-of-the-science.	See response comment 3.6
4.3	City of Thousand Oaks	State and National Parks should be responsible for their loading contribution in same manner as other agencies. More than one-third of the Malibu Creek Watershed is under the jurisdiction of the state and federal government. Failure to include monitoring and mitigation for potential loading at this scale could result in sediment exceedances despite compliance on the part of other agencies.	See response comment 2.4
5.1	City of Malibu	<u>The final compliance timeline for the 2013 TMDL should be extended to 2032 for consistency</u> For Los Angeles County MS4 Permittees in Malibu Creek Watershed, the proposed implementation plan sets the final compliance deadline for the 2013 TMDL waste load allocations (WLAs) to 2021 (BPA pages 5 and 17). This timeline is inconsistent with the timeline in the Malibu Creek Watershed EWMP Plan, which was approved by the Regional Board in April 2016. The Malibu Creek EWMP sets the final compliance deadline for the 2013 Nutrients and Sedimentation TMDL to 2032 by taking into consideration various factors, including the priority to first address the bacteria TMDL and the 2003	See response comment 2.1.

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		Nutrients TMDL. While Legacy Park provides necessary retention and treatment for runoff from Malibu to Malibu Creek and Lagoon, and the approved North Santa Monica Bay Coastal Watersheds EWMP does not include a compliance schedule for nutrients because the Reasonable Assurance Analysis demonstrates that dry and wet weather compliance for nutrients are met, the City supports having a consistent compliance timeline for this watershed as a whole. It should be noted that when the U.S. EPA established the 2013 TMDL, it recommended the TMDL's WLAs to be implemented in two phases; with each phase spanning 1-2 permit cycles (EPA Staff Report page 11-1). In other words, U.S. EPA recommended an implementation timeline of at least 10-20 years for the 2013 TMDL. This was in recognition by U.S. EPA of the stringency of the TMDL and the need for longer time to develop and evaluate control strategies through adaptive management approach. Except for Los Angeles MS4 Permittees, which were given a compliance timeline of less than five years (2021), other dischargers were given a compliance timeline within the U.S. EPA recommended timeline for compliance with the 2013 TMDL WLAs. For example, Tapia is given 10 years and Caltrans is given over 15 years (2032). This means the Los Angeles MS4 permittees are required to comply with the 2013 TMDL by 2021 while other discharges in the watershed are still ongoing. This effectively precludes the Los Angeles MS4s from	

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		utilizing one of the compliance options that the very TMDL provides. As described on page 5 of the TMDLs BPA, there are three mechanisms by which MS4 Permittees can demonstrate compliance with the nutrients TMDL, one of which is attaining the numeric targets in the receiving water. With the current proposed timeline, compliance in the receiving water prior to 2032 is may not be achievable for our watershed partners. The City has no objection on the longer compliance timeline provided to Tapia and Caltrans, but we believe Los Angeles MS4s should be given similar timeline. Therefore, the City requests that the final compliance timeline for the 2013 TMDL for Los Angeles MS4 Permittees be extended 2032 consistent with the Malibu Creek EWMP timeline and the U.S. EPA recommendations.	
5.2	City of Malibu	<u>MS4 permittees should be provided alternative compliance approaches for the Sedimentation TMDL</u> As currently proposed, the TMDL requires compliance with the sedimentation WLA to be determined based on an annual sediment load measured at the F-130 gage site. This site, as you may know, is the Malibu Creek Mass Emission Station, which is a receiving water site. The City has serious concerns in using this site as the only site for assessing compliance with the sedimentation WLAs for MS4s. First, the F-130 site is located at the downstream of the watershed far away from most of the	The proposed Implementation Plan has been revised to clarify that the sedimentation allocations apply to the portion of the watershed below Malibou Lake and above F-130.

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		developed lands to which the WLAs are assigned, and is upstream of the City of Malibu. Most of the developed lands that are required to comply with the WLAs are located in the upper regions of the watershed, along the 101-freeway, making the reliance on F-130 for compliance assessment with WLAs impractical for MS4s and not representative of any discharges from the City to Malibu Creek and Lagoon (i.e., in the unlikely event Malibu if Legacy Park were to discharge). Second, unlike other pollutants, the major sources of sediments to streams are undeveloped lands, much more than the developed lands. Developed lands often contribute little sediment due to their inherent compaction and imperviousness. Further, the City has for many years implemented strict development standards that require extensive use of site design and low impact development features that minimize runoff. In particular, for watersheds like Malibu Creek where wildfires are persistent and much of the watershed is undeveloped, sediments in the streams are often the result of erosion and/or mudslides from the undeveloped natural landscapes following the fire seasons. MS4 Permittees have no control over these natural sedimentation processes. This means that the sediment that is measured at the F-130 station is not reflective of developed lands, and potentially over-predicts the contribution from MS4s. Accordingly, the City requests that MS4 Permittees be deemed in compliance with the Sedimentation TMDL if one of the following is met:	

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		1. The sediment WLA is attained at the F-130 gage site (this is the existing approach); 2. The sediment WLA is attained in the receiving water at the immediate downstream of the Permittee's outfall; 3. The sediment WLA is attained at the Permittee's outfall; or 4. There is no direct discharge of sediment from the Permittee's MS4 to the receiving water.	
5.3	City of Malibu	<u>State and National Parks & other land management agencies should be subject to the same requirements as local agencies</u> More than one-third of the Malibu Creek Watershed is under the jurisdiction of the State and Federal government. These State and Federal lands generate runoff that may contribute many of the pollutants in Malibu Creek Watershed. This means, if compliance with the Malibu Creek TMDLs is to be achieved in the receiving water, the State and National Agencies should also be required to do their part. In other words, local agencies' ability to meet TMDL allocations in the receiving water is dependent on all agencies in the watershed working together to protect water quality. Despite this, they are not subject to the same level of requirements as the local agencies. For example, the proposed implementation plan does not require the State and National Parks to address nutrients for Malibu Creek and its tributaries below the Malibou Lake. They are also not required to conduct	See response comment 2.4.

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		monitoring, except their inclusion into cooperative parts for the lakes. The staff report recognizes that Bureau of Land Management (BLM), National Parks Service, and County and City parks are the primary owners of these undeveloped, or protected, lands. However, other responsible agencies should be clearly identified in both the staff report and Basin Plan Amendment. The additional agencies include: ☐ Santa Monica Mountains Conservancy ☐ Mountains Recreation and Conservation Authority ☐ Santa Monica Mountains National Recreation Area ☐ California Department of Parks and Recreation (State Parks) We request that these concerns be addressed by including specific agency names in the final documents and requiring all responsible agencies to do their part.	
5.4	City of Malibu	<u>Clarification should be provided regarding OWTS that are subject to advanced protection management program</u> The U.S. EPA established TMDLs assign load allocations generally to all OWTS in the watershed without specifying which, if any specific OWTS must reduce discharges. The State Water Resources Control Board's water quality control policy for siting, design, operation, and maintenance of onsite wastewater treatment systems (OWTS policy) requires an Advanced Protection Management Program for OWTS near	See response to comment 2.5.

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		impaired water bodies. OWTS located in the City of Malibu portion of the watershed have been addressed by Los Angeles Water Board Resolution No. R4-2009-007, which prohibits on-site discharge from OWTS within the Civic Center area of the City of Malibu. Those properties are required to connect to a central wastewater treatment system. The schedule for the connections was detailed in Los Angeles Water Board Resolution No. R4-2009-007 and supplemented by Resolution No. R14-012. The City requests clarification on whether, for purposes of the TMDL implementation plan (and notwithstanding requirements of the existing Malibu Civic Center Area OWDS Prohibition), all OWTS in a local agency's jurisdictional area for OWTS within the Malibu Creek Watershed are required to be included in the Advanced Protection Management Program if sewer connections are not achieved and if a local agency opts not to complete a special study as proposed by the TMDL.	
5.5	City of Malibu	<u>Regional Board should use effective communication strategies to reach out to the public and hold community meetings well in advance of public comment deadlines</u> The City believes that the publication of notices of hearings in newspapers, while meeting the legal requirements, is an outdated and insufficient method of informing the public about the potential adoption of a TMDL or an associated Implementation Plan. The City requests that the Regional Board staff hold community meetings in advance of the written	See response comment 2.6.

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		comments deadline to fully inform the public regarding the potential impacts of the adoption of any TMDL or Implementation Plan in the future. The City would willingly work with the Regional Board staff to organize such a meeting, provide advanced notification of the meeting to the public, and participate in the meeting to inform the public the potential effects of the regulation. This Implementation Plan could potentially affect dozens of property owners in the Malibu Creek Watershed, particularly if sewer connections are not achieved. Many of these property owners have very strong opinions regarding the regulation of OWTS and, due to the lack of proper notification and community outreach, these individuals are unable to provide written comments prior to the deadline. Effective public noticing should be considered for all potential future regulations that affect this region.	
5.6	City of Malibu	<u>Include a reconsideration of the TMDL to account for the State Water Resources Control Board's pending Biointegrity and Biostimulatory Substances Plans</u> The City requests the proposed basin plan amendment include a reopener to consider the Biointegrity and Biostimulatory Substances plans under development by the State Water Resources Control Board (i.e., create an opportunity to reconsider the water quality targets after these plans have been adopted).	See response comment 3.6

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6.1	City of Calabasas	On page 21 of the staff report, it's noted that the City of Calabasas has 54 septic tanks in the Malibu Creek watershed. Based on city's data, there are only 6 septic tanks within the City of Calabasas boundaries in the Malibu Creek Watershed. It's possible that the other septic tanks are within the LA County unincorporated area. In that case, the City has no jurisdiction over those septic tanks. Please correct the information in your documents or provide data and location address for our review and verification. By the way, there are a total of 42 septic tanks within the city limits. The other 36 are located in the Los Angeles River watershed.	The OWTS list on page 21 of the Staff Report was obtained from inventories provided by Los Angeles and Ventura County. The comment about the number of OWTS is noted, and the number of OWTS within the City of Calabasas will be investigated and refined as the Regional Board works with local agencies to implement the TMDLs and the OWTS Policy within Malibu Creek Watershed.
7.1	HTB	Heal the Bay has been actively working in the Malibu Creek Watershed since 1998. During this period we have collected extensive data showing that Malibu Creek and many of its tributaries are impaired for numerous parameters, including benthic macroinvertebrates, and greatly in need of protection and improvement. Heal the Bay's Stream Team has collected high quality water quality data since 1998 and continues in this effort today. Our data show trends of high levels of nutrients as well as extensive algal cover, creating a poor environment for aquatic life. Further, we find that benthic macroinvertebrate communities are impaired, particularly in areas impacted by development. Given the degradation in Malibu Creek, Lagoon, and tributaries, it is imperative that nutrient levels and sedimentation are lowered in order to improve the biological	The EPA established TMDLs and the proposed Implementation Plan have been developed to address the impairments observed by the Heal the Bay Stream Team.

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		communities and maintain a healthy watershed. We are supportive of this TMDL and the Implementation Plan in its efforts to reduce nutrient levels and sedimentation to improve the biological community.	
7.2	HTB	<u>We support the proposed timeline for Tapia Water Reclamation Facility (WRF) to attain summer and winter nutrient waste load allocations (WLAs); the proposed timelines of 5 and 10 years (for summer and winter, respectively) from the effective date of the Implementation Plan should be considered maximum numbers and the timelines cannot be lengthened.</u> There has been a clear understanding for many years that nutrient levels need to be lowered in Malibu Creek and tributaries. Many lakes, streams, and reaches in the Malibu Creek Watershed have been listed as impaired for algae and nutrients since the late 1990s (see Table 2 in the Staff Report for the Implementation Plan). A nutrient TMDL for the Malibu Creek Watershed was developed in 2003 and set standards for nutrients, including nitrate + nitrite and total phosphorus. The limits for nitrogen set in the 2003 EPA nutrient TMDL for Malibu Creek Watershed have not been met consistently and do not represent background levels as claimed in the 2003 TMDL. Even in areas where the limits are being met, we continue to see algal impairment. Further, the lack of an Implementation Plan for the 2003 nutrient TMDL has not helped efforts in nutrient reduction.	The timeline for the Tapia WRF to comply with the WLAs in the proposed Implementation Plan is based on JPA's preliminary plans to design, permit, and construct the advanced water treatment facilities for indirect potable reuse of its effluent, which will lead to attainment of its WLAs through a significant reduction in Tapia's discharges. Since development of the draft Implementation Plan issued for public notice, elements of JPA's project have changed. For instance, the brine disposal option has changed and the plan now includes public outreach with a demonstration site. Therefore, the Regional Board has agreed to extend the schedule for the Tapia WRF winter WLA compliance to 13.5 years. Please see JPA's comment 1.2 for further details and the Regional Board's response to comment 1.2.

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		The 2013 TMDL for Nutrient and Sediment to address benthic communities in Malibu Creek Watershed also made clear the need to reduce nutrient levels to an even further degree than the 2003 TMDL in order to protect and promote benthic community health. Since the adoption of the 2013 TMDL, it has been clear that the Los Angeles Regional Water Quality Control Board was crafting an Implementation Plan evidenced by Regional Board staff attendance and updates at the Santa Monica Mountains Watersheds TAC meetings since late 2014 and the public CEQA scoping meeting held in March of 2016. As evidenced by the past history of algal and nutrient impairments, the 2003 nutrient TMDL, and the 2013 nutrient and sediment TMDL, the proposed timeline for Tapia WRF should be adequate given that there have been many indications for many years that nutrient levels need to be further reduced. We do appreciate that Tapia WRF has made efforts to reduce their direct nutrient loads to Malibu Creek through additional use of recycled water as well as upgrades to the plant including a de-nitrification facility. However, it is clear that additional actions need to be taken to further reduce nutrient inputs to Malibu Creek Watershed and improve watershed health.	
7.3	HTB	<u>The nutrient implementation schedules for Onsite Wastewater Treatment Systems (OWTS) and Horse/Livestock and Grazing are too long at 15 years and 10 years from the effective date of the Implementation Plan, respectively. We suggest that the nutrient implementation schedule for OWTS be reduced to 10</u>	The Regional Board has reviewed the proposed changes to the schedule for OWTS and the horse/livestock and grazing load allocations. The Regional Board agrees that the load allocations have been established for many years and that

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		<u>years and that the schedule for Horse/Livestock Grazing be reduced to 5 years from the effective date of the Implementation Plan.</u> It is not clear how the implementation schedules were determined and the proposed timelines are not justified. For instance, why are golf course owners granted 5 years to achieve nutrient load allocations (LAs), while owners of OWTS and horse/livestock facilities are granted 15 and 10 years respectively? Further, this Implementation Plan sets a compliance date of 2022 for owners and/or operators of irrigated agricultural lands to attain nutrient LAs. Given that the best management practices to reduce nutrient inputs for agriculture would likely be somewhat similar to those employed by horse/livestock grazing, 5 years is an adequate time to attain nutrient LAs for horse/livestock and grazing. Delaying improvements for 10 more years is unreasonable; we have known about impairments in the watershed for decades and requiring horse and livestock facilities to comply with nutrient LAs within 5 years is not burdensome. Regional board staff indicated 5 that the 10 year timeline was to allow for a horse waiver for Ventura River Watershed to be developed which could then be implemented in other watersheds, namely the Malibu Creek Watershed. The Ventura River and tributaries TMDL for Algae, Eutrophic Conditions, and Nutrients (Resolution No. R12-011) was adopted in 2012 and allows horse facilities 10 years for compliance; given that we are 4 years in to that process, we feel that 5 years is again adequate	previous efforts in this and other watersheds will lead to efficiencies in implementation that allows for shorter implementation schedules. The requested schedule of 5 years to attain horse/livestock and grazing LAs and 10 years to attain OWTS LAs has been made.

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		time for horse/livestock facilities to comply with nutrient LAs in the Malibu Creek Watershed. The Ventura River and tributaries Nutrient TMDL (Resolution No. R12-011) requires OWTS to achieve wet and dry weather LAs within 10 years after the effective date of the TMDL. There is no justification for the 15 year schedule that is proposed in the Implementation Plan for the Malibu Creek Watershed. Therefore, we recommend that the OWTS schedule to achieve nutrient LAs be reduced to 10 years after the effective date of the Implementation Plan and that the Implementation Plan is consistent with the State OWTS Policy.	
7.4	HTB	<u>Monitoring requirements need to be strengthened and further clarified with specific schedules for each responsible party in the Implementation Schedule.</u> The receiving water monitoring requirements should include additional sites to holistically understand the water quality and biological condition of the watershed. For instance, nutrient receiving water monitoring requires that “at a minimum...monitoring shall be conducted monthly in Malibu Lagoon, the Malibu Lagoon inlet, Malibu Creek, Las Virgenes Creek...” (Basin Plan Amendment for the Implementation Plan, p. 13). Malibu Creek and Las Virgenes Creek are long creeks at approximately 10 and 11 miles long, respectively. To understand the dynamics and health of the streams, multiple	The minimum sampling requirement of two samples within a 303(d) listed stream and one sample at the downstream ends of hydrologically-connected segments is sufficient. These sampling locations will adequately characterize the variability of hydrology and water quality within a segment for the purposes of assessing TMDL effectiveness. The TMDL effectiveness monitoring requirements are not intended to supersede existing monitoring programs in the watershed, such as the watershed wide sampling requirements in the Tapia WRF NPDES permit. Note that the “Receiving Water Monitoring”

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		monitoring sites would be required. We recommend that at a minimum, four monitoring sites be required for nutrient and benthic receiving water monitoring in Malibu Creek and Las Virgenes Creek specifically, in addition to the additional streams and reaches mentioned in the Implementation Plan. Further, we are concerned that the requirements for monitoring plans are not specifically addressed in the implementation schedule. For instance, there is no date for when receiving water monitoring plans are due. We recommend that for receiving water monitoring, dates should be added to the implementation schedule to indicate deadlines for responsible parties to develop plans and initiate monitoring. We recommend that, similar to the Ventura River Nutrient TMDL (Resolution No. R12-011), receiving water monitoring plans be due within 1 year of the effective date of the Implementation Plan and that monitoring be initiated 90 days after approval of the monitoring plan. In the proposed Implementation Plan, nutrient receiving monitoring “shall commence by December 28, 2021” and “responsible entities may request a reduction in the frequency of sampling after two years of sampling has been conducted” (Basin Plan Amendment for the Implementation Plan, p. 14). This timing is unclear and unjustified. Establishing a baseline understanding of nutrient levels and biological conditions is important before improvement projects are initiated, as they come online, and after completion. Further, some projects may come online before 2021 and it will be important and useful to capture the impacts of water quality improvement projects as scientifically	section has been renamed “TMDL Effectiveness Monitoring”. A due date for the renamed TMDL Effectiveness monitoring plan has been added to the schedule. The due date of December 2021 for this monitoring plan that was included in the publically noticed draft Implementation Plan was intended to occur after the first major compliance deadline in order to assess the effects of initial implementation actions on water quality. Upon review of this comment, the Regional Board agrees that monitoring of nutrient levels and biological conditions is important before implementation projects are initiated, as they come online, and after completion. Therefore, the due date for Effectiveness Monitoring has been revised. The monitoring plan shall be due within two years of the effective date of the proposed Implementation Plan (approximately April 2019) and monitoring shall commence within 6 months of monitoring plan approval (approximately December 2019). Language defining what would justify a reduction in nutrient TMDL Effectiveness monitoring has been added to the Implementation Plan. The amount of time before responsible entities can request a reduction has been extended to four years.

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		as possible with comprehensive monitoring data before and after project implementation. We recommend that monitoring start sooner as stated previously. Further, the Implementation Plan should define what would justify reductions in the frequency of monitoring, such as consistent improvements in water quality or certain amount of time without any exceedances of water quality objective. For discharge monitoring, we recommend that the specific requirements be added to the Implementation Schedule for each entity with specific information about the regulatory mechanism through which that monitoring will take place and what that timeline is, again following the method used in the Ventura River Nutrient TMDL (Resolution No. R12-011).	Please note that the “Discharge Monitoring” section has been renamed “Compliance Monitoring”. Specific information about the regulatory mechanisms that will implement the Discharge monitoring requirements is included in Table 7-42.1 of the BPA.
7.5	HTB	<u>We are supportive of the watershed-wide approach for reducing sediment impacts to the watershed through restoration.</u> However, we recommend that individual compliance information (entities, regulatory mechanisms, and specific dates) be added to the Implementation Schedule in addition to the information for the watershed-wide approach. We appreciate and support that “bioengineered solutions rather than hard structures such as concrete and or riprap should be used for streambank stabilization” (Staff Report for Implementation Plan, p. 49).	Compliance information such as entity, regulatory mechanism, and specific dates are included within Table 7-42.1 of the BPA.

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8.1	Pepperdine University	We utilize recycled water for irrigation within the 280 acre developed portion of campus, and no irrigation with recycled water takes place outside of this area. We have long understood that the areas where we apply recycled water are outside of the Malibu Creek watershed. However, the Malibu Creek watershed boundary in the Implementation Plan appears to include a small portion of developed campus east of Winter Canyon. This appears inconsistent with the United States Geological Survey National Hydrography Dataset, which appropriately shows the physical watershed boundary coincident with the adjacent ridgeline to the east. We would appreciate a clarification of whether or not the Malibu Creek watershed that is the subject of this Implementation Plan in fact includes this portion of the developed campus. If it does, we would like to further discuss with the Regional Board why we feel this designation may be in error given our understanding of the physiographic watershed boundary of higher topographic elevation further east.	According to the 2003 and 2013 TMDLs and Chapter 2 of the Basin Plan, the Malibu Creek watershed that is the subject of this Implementation Plan does not include the developed portion of the Pepperdine campus.
8.2	Pepperdine University	To the extent Pepperdine's application of recycled water is within the Malibu Creek watershed, and it is determined that the Tapia WRF Water Reclamation Requirements (Order No. 94-055) must be updated pursuant to the Implementation Plan, we request that that the Regional Board work closely with the University and Las Virgenes-Triunfo Joint Powers Authority to ensure that any updates specifically take into account the University's existing HMP and the importance of recycled water use on Campus. The University recognizes the need to strike a balance between the environmental goals associated recycled	The Regional Board will work closely with the University and the JPA to ensure that any updates to the Water Reclamation Requirements take into account the University's existing HMP and the dual goals of supporting recycled water use on Campus and water quality protection.

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		water use and protecting Waters of the State, and we look forward to continuing to work with the Regional Board in this regard.	
9.1	Joyce Dillard	The community was upset over implementation of prior TMDLs as the natural setting was destroyed. We question if the public has been notified properly in the surrounding community to be engaged at this level of decision.	The public has been properly notified. The Regional Board notified the public of a CEQA scoping meeting held on March 17, 2016 and the Board Meeting that will be held on November 10, 2016 through the Regional Board's e-mail list and mailing list. The proposed Implementation Plan and supporting documents are available on the Regional Board's website. The Regional Board also notified the public by posting notice of the November 10, 2016 Board Meeting in the Los Angeles Times and the Ventura County Star on August 29, 2016. During the development of the proposed Implementation Plan, Regional Board staff held multiple meetings with interested stakeholders, including municipalities, water and wastewater agencies, land conservation agencies, and homeowners associations. Specific projects to implement the Implementation Plan will be subject to further project-level environmental review. See also response to comment 2.6.

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9.2	Joyce Dillard	SUBSTITUTE ENVIRONMENTAL DOCUMENT The Los Angeles County MS4 permit or the Ventura County MS4 permit cannot be used for TMDL implementation. Impaired water bodies on the 303(d) list should not be confused with the MS4 permitting process under 402(p).	TMDLs are not self-implementing and are typically implemented through permits or other regulatory mechanisms. Federal regulations require NPDES permits, such as the Los Angeles County and Ventura County MS4 permits, to include provisions consistent with any available TMDLs. (40 C.F.R. 122.44(d)(1)(vii)(B).) The TMDL, which establishes the plan for addressing the impaired waterbodies on the 303(d) list, must be implemented through the Los Angeles County and Ventura County MS4 permits. The Implementation Plan does not confuse the 303(d) list with the MS4 permitting process under 402(p). Section 303(d) of the Clean Water Act requires that the states establish priority rankings for waters not meeting water quality standards and develop TMDLs for these impaired waterbodies. Within the TMDL point sources are assigned wasteload allocations (WLA) and nonpoint sources are assigned load allocations (LA). States must develop water quality management plans to implement the TMDL (40 CFR section 130.6). The proposed Implementation Plan describes the plans, regulatory tools, or other mechanisms by which the WLAs and LAs may be achieved. Point sources are subject to regulation under NPDES permits, including the MS4 permit.

Comment Summary and Responses
Implementation Plan for the U.S. EPA-Established
Malibu Creek Nutrients TMDL and Malibu Creek and Lagoon Sedimentation and Nutrients TMDL
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9.3	Joyce Dillard	TENTATIVE RESOLUTION Should be revised to the language of current law and court case decisions	The Tentative Resolution reflects current law and court rulings.
9.4	Joyce Dillard	We are not clear about the funding.	Funding options can be found within chapter 4 of the BPA. The BPA has been revised to include funding information for agriculture as required by Water Code section 13141.