

**Comment Summary and Responses for the June 22, 2007 Draft
Los Angeles River and Tributaries Metals TMDL
Comment Due Date: August 6, 2007**

No.	Commenter
1	City of Signal Hill
2	City of Signal Hill
3	City of Downey
4	City of Vernon
5	City of Whittier
6	City of Alhambra
7	City of Artesia
8	City of San Merino
9	City of Lynwood
10	City of Commerce
11	City of San Gabriel
12	Pico Rivera
13	Burhenn & Gest (cities of Bellflower, Carson, Cerritos, Downey, Paramount, Santa Fe Springs, Signal Hill and Whittier)
14	City of Carson
15	City of San Gabriel
16	City of Commerce
17	City of Duarte
18	City of Whittier
19	Heal the Bay and Santa Monica Baykeeper
	Comments Submitted after deadline
	City of Irwindale
	City of Irwindale
	City of Temple City
	City of Carson
	City of Duarte
	City of South Gate

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1.1		The meeting location should be changed from the City of Ventura to the Metropolitan Water District in Los Angeles.	The meeting location was changed to accommodate stakeholders.
2.1.a	City of Signal Hill	<p>Notwithstanding the fact that certain cities challenged the TMDL originally adopted in 2005, many cities have also led in implementation of the TMDL, by pioneering effective structural best management practices (BMPs) and participating in a watershed-wide educational and organizational effort. The cities undertook extensive efforts to establish, from scratch, an organizational structure with Steering and Technical Committees, to develop special studies proposals, to educate 40 watershed cities about the TMDL, to survey their willingness to participate, to identify and secure a fiduciary agent and to send out agreements for approval by 40 city councils. All of these efforts are required before funding can be secured for the special studies and the Coordinated Monitoring Plan.</p> <p>The cities are developing support for two special studies, one to develop site specific objectives (SSO) and one to estimate the atmospheric deposition of metals and assess the impacts of open areas. Despite the efforts made by the cities, the special studies have not yet commenced. Funding agreements still need to</p>	<p>Regional Board staff appreciate the cities' efforts to organize and submit a draft coordinated monitoring plan on time and to require implementation of BMPs for developments under their jurisdiction.</p> <p>While the commenter is free to request that the Board reconsider the times specified in the TMDL, and may present evidence supporting why such reconsideration should occur, whether to do so is not before the Board in this proceeding. Consistent with the writ of mandate, the only matter publicly noticed and presently intended to be under consideration is the effect of the litigation in the <i>Bellflower</i> case (<i>Cities of Bellflower et al v. LARWQCB</i>, Los Angeles Superior Court # BS101732), and whether compliance with the writ of mandate requires a reconsideration of the TMDL or creates a need to reevaluate the times for compliance specified in the TMDL. Staff are nonetheless evaluating the extension request and if appropriate, will consider presenting the matter for possible consideration at a subsequent board meeting.</p>

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		be executed by the cities and adopted. In addition, because the special studies will need to sample stormwater, they are dependent on an adequate number of unpredictable storm events. As noted in Dr. Paulsen's declaration, the 2006-07 storm season produced an insufficient number of storm events.	
2.1-12.1	Cities of Signal Hill, Downey, Vernon, Whittier, Alhambra, Artesia, San Merino, Lynwood, Commerce, San Gabriel, and Pico Rivera	It is respectfully requested that the deadline for presentation of the special studies be either set at January 11, 2011 or four years from the effective date of the TMDL.	See response to comment 2.1.a.
2.2-12.2	Cities of Signal Hill, Downey, Vernon, Whittier, Alhambra, Artesia, San Merino, Lynwood, Commerce, San Gabriel, and Pico Rivera	It is respectfully requested that the deadline for reopening the TMDL be set at November 11, 2011 to allow the Regional Board sufficient time to review the special studies prior to the reopening and to allow responsible jurisdictions enough lead time to adjust implementation plans.	See response to comment 2.1.a.
2.3-12.3	Cities of Signal Hill, Downey, Vernon, Whittier, Alhambra, Artesia, San Merino, Lynwood, Commerce, San Gabriel, and Pico Rivera	It is respectfully requested that the deadline for submitting draft implementation plans be six months after the conclusion of the reopener process and the deadline for submitting final implementation plans be six months after that date. This will allow sufficient time to incorporate findings of special studies and any changes in waste load allocations and compliance dates.	See response to comment 2.1.a.

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2.4-12.4	Cities of Signal Hill, Downey, Vernon, Whittier, Alhambra, Artesia, San Merino, Lynwood, Commerce, San Gabriel, and Pico Rivera	It is respectfully requested that the deadline for the first jurisdictional group compliance demonstration be moved to January 11, 2013 or six years from the effective date in order to conform to the other requested moved deadlines.	See response to comment 2.1.a.
13.1	Burhenn and Gest	Proposed Finding 8(a) recites that "the first compliance date in the TMDL applicable to the petitioners is still not until January 11, 2012, and no showing has been made by any responsible jurisdiction that this timeframe is inappropriate as a result of the litigation or the alternatives analysis." This finding is incorrect. The first compliance date in the TMDL applicable to all of the cities is January 11, 2010, the date on which each jurisdictional group must provide a draft written report to the regional Board outlining how the subwatersheds within each jurisdictional group will achieve compliance with the waste load allocations. The final written report is due to be submitted on July 11, 2010. January 11, 2010 is also the deadline for the responsible jurisdictions and agencies to provide to the Regional Board the results of special studies.	This finding refers to the date on which responsible jurisdictions must first demonstrate attainment of waste load allocations. The tentative resolution has been changed to read, "The petitioners and other responsible jurisdictions are not required to demonstrate attainment of waste load allocations until January 11, 2012, and no showing has been made by any responsible jurisdiction that this timeframe is inappropriate as a result of the litigation or the alternatives analysis."
13.2	Burhenn and Gest	Finding 8(c) states that most of the 42 cities in the Los Angeles River watershed "have proceeded to implement the TMDL in reliance on the existing schedule." This fact, however, does not support	See response to comment 2.1.a. The commenter has failed to explain how the litigation and compliance with the writ necessitate a different compliance period.

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		<p>paragraph 8's conclusion that re-adoption of the TMDL with the existing compliance schedule is warranted. In fact, there is no evidence that the cities in the watershed can meet the deadlines set in the proposed Basin Plan Amendment.</p> <p>The schedule set forth in the original TMDL cannot be met given the many organizational, funding and governmental approval steps required to be completed and given the time for sufficient sampling to be undertaken.</p>	
13.3	Burhenn and Gest	<p>Finding 8(d) recites that only "4 of the 42 jurisdictions subject to this TMDL are parties to the litigation, and it would be unfair to put them on unequal footing with each other." This finding is both unnecessary and incorrect. There has been no request that these four cities be treated any differently from any other city. There is a need, however, for all cities to be put on the same reasonable footing so that special studies can be completed and the results of the studies be considered by the Regional Board when it reopens the TMDL, which was the Board's intent when it adopted the original TMDL.</p>	<p>See response to comment 13.2. This finding was based on the fact that 38 of the 42 cities were not party to the litigation, and thus presumably accepted the implementation schedule set forth in the originally adopted TMDL. Regional Board staff does not recommend extending the implementation schedule for cities and jurisdictions that are moving forward with the original implementation schedule. The effect of the time needed to complete special studies was considered when the TMDL was originally adopted, but is not a subject of the writ of mandate, and is not before the Regional Board in this proceeding.</p>
13.4	Burhenn and Gest	<p>Were the original TMDL to simply be readopted, as the resolution purports to do, the original compliance deadlines (triggered by numbers of years after the effective date of the TMDL) would also be readopted. However, the</p>	<p>Staff agrees that including specific dates in the basin plan modifies the originally adopted TMDL. However, maintaining the same compliance dates and schedule as the original TMDL is not a substantive change. Rather, the question before</p>

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		<p>proposed Basin Plan Amendment sets fixed compliance dates corresponding with the now vacated effective date of the original TMDL, thus representing a modification and effective acceleration of those vacated compliance dates.</p> <p>Finding 8(e) recites that the "lapse in time between the issuance of the writ and the Regional Board's readoption is less than 90 days, which is insignificant in comparison to the 22-year compliance schedule." This statement is incorrect, since the State Board and U.S. EPA must, of course, approve the Basin Plan Amendment incorporating the TMDL before it will take effect. That process, based on the experience with other TMDLs, will likely take several months at a minimum. The City letter does not ask for an extension of the final compliance date (now less than 21 years from now).</p>	<p>the Board is whether a substantive change that would extend the schedule is warranted as a result of the litigation.</p> <p>The statement that the lapse of time between issuance of the writ and Regional Board adoption is correct – it says nothing about the effective date of the TMDL. The Regional Board will work with State Board and U.S. EPA to ensure that the approval process is completed and the TMDL becomes effective as soon as possible. Nevertheless, nothing requires responsible jurisdictions to await State Board, OAL, and EPA approval before they start to undertake efforts to ensure they will be able to comply with the regulation. Furthermore, the California Toxics Rule, on which the TMDL is based, has been effective since 2000, and the MS4 permit has required compliance with the CTR constituents in the receiving waters since 2001.</p>
13.5	Burhenn and Gest	<p>We submit that the schedule that is proposed would, as to certain key interim compliance dates, not be consistent with the project purpose. The Metals TMDL specifically called for the completion of special studies to "refine the estimate of loading capacity, waste load and/or load allocations, and other studies that may serve to optimize implementation efforts." June 2, 2005 Basin Plan Amendment, p. 17.</p>	<p>The TMDL did not call for the completion of special studies. The studies are voluntary. They are not part of the project purpose.</p> <p>Even if the studies could not be completed by the deadline, implementation would be driven by a scientifically valid, peer-reviewed, TMDL which is based on years of data and study, and numerous technical references. Some</p>

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		<p>If the special studies cannot be completed by the deadline set in the new TMDL, this important purpose of the TMDL will not be fulfilled. Assumptions made during the development of the TMDL, not the results of scientific studies in the affected waters, will drive implementation. It is not in the "public interest" to require non-optimal implementation of the TMDL, especially if that implementation will increase environmental impacts and costs for jurisdictions and agencies without resulting in any corresponding benefit to water quality.</p>	<p>assumptions were made in the development of the TMDL, but they were valid assumptions. In fact, most of the conservative assumptions were made as part of the margin of safety, which is a required element of the TMDL.</p> <p>It is in the public interest to restore water quality in the Los Angeles River as expeditiously as possible. There is no evidence that implementation of the TMDL absent the results of special studies would increase environmental impacts. The continued exceedance of water quality standards is itself an adverse environmental impact, as the receiving water will remain toxic to aquatic life during the implementation period for the TMDL. The adverse impacts of non-compliance with water quality standards are mitigated through a progressive reduction in the loading of metals to the Los Angeles River and its tributaries and through a schedule that is reasonable and as short as practicable. It is therefore important that the implementation period be as short as practicable.</p>
13.6	Burhenn and Gest	<p>Section 1 the Addendum indicates that the purpose of the TMDL (the "project") is in part to adopt a TMDL "in a manner timely enough to avoid federal intervention in state water quality planning, which would occur as a result of</p>	<p>The project purpose described in the Addendum is not a change from the project purpose of the original TMDL. The Addendum merely defines the project purpose in one location. The project purpose was previously defined in</p>

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		<p>United States Environmental Protection Agency's obligations under section 303(d) [of the Clean Water Act] and under a federal consent decree that would require USEPA to establish these TMDLs if the State does not do so."</p> <p>This is a change from the description of the original TMDL. That project description did not identify the need to adopt a TMDL before U.S. EPA as a project requirement. This is apparent from a review of the "Description of the Proposed Activity" section of the CEQA Checklist for the TMDL, dated March 25, 2005, as also from the Regional Board's June 2, 2005 resolution, which states that the "project itself is the establishment of a TMDL for toxic metals in the Los Angeles River and its tributaries." Resolution No. R05-006, paragraph 19. If this is the same project as the original TMDL, then the purpose should be the same. If the purpose is now different, then it should be recognized that project is also different.</p>	<p>several of the CEQA substitute documents.</p> <p>For example, the response to comment No. 3.12 on the March 28, 2005 draft TMDL states, "With respect to the consent decree, USEPA is obligated to establish the metals TMDL if the Regional Board does not. Consistent with Chapter 5.5 of Division 7 of the Water Code, it is important that the State retain control of its water quality planning, rather than cede it to the federal government."</p> <p>In addition, the staff report, page 9 states, "The Consent Decree schedule requires that this TMDL be completed by March 22, 2004. If the Regional Board fails to develop the TMDL, EPA must promulgate the TMDL by March 22, 2005. EPA and the consent decree plaintiffs recently agreed to extend the completion deadline to December 22, 2005, in order to enable the State to complete its adoption process and EPA to approve the State-adopted TMDLs for this water body."</p> <p>Thus, the project purpose was clearly stated in the substitute documents for the previously adopted TMDL. It should be noted that if the project purpose were different from the one stated in the previously adopted TMDL, which it is not, it would not change, in substance, the</p>

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			<p>action before the Regional Board, which is to consider the alternatives analysis and consider adoption of the proposed TMDL.</p> <p>The commenter is well aware through its and its counsel's participation in many Regional Board TMDL proceedings that meeting the consent decree deadlines is extremely important to the Regional Board because of the Regional Board's desire to maintain regional control over water quality. In any event, the writ of mandate ordered the Regional Board to adopt and consider an alternatives analysis, and the Regional Board is not bound by the expression of the project purpose from the previous documents. Nothing in the writ of mandate bars the Regional Board from clarifying, or even modifying, the project purpose (it has not been modified), which of course is the benchmark against which feasibility of alternatives must be measured. The commenter has cited no authority for the proposition that a previous statement of the project purpose is binding on an agency when reconsidering a regulation in light of writ ruling that there has been a CEQA infirmity.</p>
13.7	Burhenn and Gest	With respect to Alternative 1, the Addendum indicates, on page 8, that the original Staff Report, CEQA documentation and tentative	In the <i>Bellflower</i> case, the Court has already ruled that Alternative 1 was an acceptable alternative by ruling that the TMDL was lawful.

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		<p>Basin Plan Amendment "included extensive discussion" of the methods of compliance "and their foreseeable environmental impacts." This is incorrect. The Superior Court found in its Statement of Decision that the environmental discussion was barely adequate in many aspects. There were some portions of the CEQA discussion that the court did not address that were neither adequate nor extensive. (We note that the CEQA checklist for this TMDL consisted of only 15 pages, as compared to the approximately 300-page CEQA substitute environmental document recently prepared for the Los Angeles River Trash TMDL. That Trash TMDL did not contemplate the need for as many structural BMPs as might be needed to comply with this Metals TMDL.)</p>	<p>The Court ruled that the analysis of implementation alternatives, potential impacts and mitigation measures was adequate and supported by substantial evidence.</p> <p>Nonetheless, it is worthwhile to affirm the statement in the Addendum that the CEQA substitute documents include an extensive discussion of the methods of compliance and their foreseeable impacts. Staff shall reiterate the fact that the CEQA substitute documents do not merely consist of a 15-page checklist, but also the Staff Report, Resolution, Basin Plan Amendment, and responses to comments. The Staff report contains extensive discussion of the reasonably foreseeable methods of compliance (pages 64-67, 70-75, Appendix III) and this discussion is based on several references (Caltrans, US EPA, FHWA, Devinnery et al, etc.). The responses to comments contain additional discussion of potential compliance measures as well as potential impacts and mitigation measures, which are also discussed in the CEQA Checklist and the Resolution.</p> <p>The commenter's suggestion that the Metals CEQA analysis is deficient, notwithstanding the judgment upholding that analysis, merely because a subsequent TMDL's environmental documents had more pages, is unsupported by</p>

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13.8	Burhenn and Gest	We formally request that the entire record of comments on the LA River TMDL, to the extent that it has not already done so, be incorporated into the administrative record for the adoption of this TMDL.	<p>The Regional Board has adopted three TMDLs for the Los Angeles River; therefore, staff is unable to decipher the request.</p> <p>If the comment is referring to the comments submitted on the LA River Trash or Nutrients TMDLs these comments will not be incorporated since those comments are not relevant to the proceeding currently before the Board.</p> <p>If the comment is referring to the comments submitted on the LA River Metals TMDL, the entire administrative record for Resolution No. 2005-006 will be included as part of this proceeding; however, most of those comments and responses are irrelevant to the substance of the issues under consideration in this proceeding.</p>
13.9	Burhenn and Gest	Additionally, the discussion of potential adverse impacts in the Addendum does not reflect the previous CEQA analysis. For example the Addendum indicates that structural BMPs may include installation of such devices as infiltration trenches and sand filters "at critical points" in the storm water conveyance system. There was no analysis in the CEQA documentation for the LA River Metals TMDL that identified such "critical	Staff disagrees, but cannot decipher the point of the comment. This comment is not relevant to the action before the Board. It addresses the adequacy of the implementation alternatives analysis, on which the Court has already ruled. The court ruled that the Board's program-level analysis was adequate. These storm water conveyance systems belong to the County and Cities who best know where the "critical points" are located.

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13.10	Burhenn and Gest	<p>With respect to the adoption of a U.S. EPA TMDL, Alternative 5, the Addendum concludes that the adverse impacts would be more severe because EPA would simply require compliance with the TMDL at the time of NPDES permit renewals. Addendum, p. 14. There is no evidence in the record to suggest that EPA would adopt such a compliance schedule. In fact, U.S. EPA has stated that TMDLs may be reflected in municipal stormwater permits through BMPs and monitoring. See EPA Memorandum from Robert H. Wayland and James A. Hanlon to Water Division Directors, November 22, 2002, p. 2.</p>	<p>On pages 38-39 of the transcript from the June 2, 2005 Regional Board meeting, Dave Smith, U.S. EPA Region 9 stated, “If we -- if EPA does have to establish these TMDLs, I anticipate that - - that the TMDL numbers, the allocation numbers, would be identical or virtually identical to those that are before you today; but they would not have the benefit of the reasonable implementation schedule that has been proposed.”</p> <p>EPA’s guidance memo does not state that an EPA-established TMDL would have to include an implementation schedule.</p> <p>In response to a comment from the Coalition for Practical Regulation in the recent adoption of the Los Angeles River Trash TMDL, staff reconfirmed with USEPA that it would not establish a compliance schedule for a TMDL. A copy of the email from EPA counsel Suzette Leith is included in the administrative record for this TMDL.</p> <p>The effect of requiring incorporation at the next permit cycle is not based on a presumed EPA compliance schedule, but as the commenter’s counsel is well aware from participating in</p>

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			<p>numerous TMDL proceedings, from federal regulations that require permits to be consistent with the assumptions of available waste load allocations.</p>
13.11	Burhenn and Gest	<p>The Regional Board is not compelled to adopt the particular TMDL that has been proposed. We submit that there are a number of additional alternatives that should have been discussed in the Addendum and presented to the Regional Board for consideration.</p>	<p>The environmental documents analyze a reasonable range of alternatives as required by CEQA guidelines. According to CEQA Guidelines section 15126.6, "An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation." The alternatives considered include all those suggested by the commenter during several rounds of post trial briefings in the <i>Bellflower</i> litigation, in addition to others suggested for other TMDLs. It is a reasonable range. The commenter's statement that the Regional Board "should have" discussed these new ideas conceived of by the commenters is unsupported by an explanation or evidence of how the alternative would be feasible, meet the project purpose, and would result in substantially less significant impacts than the project as proposed, or other already analyzed alternatives. Absent such information, there is simply no basis to contend that the alternatives analysis that was performed is inadequate.</p>

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			<p>Nevertheless, each of these new potential alternatives are analyzed below, based on their feasibility, whether or not they accomplish most of the basic objectives of the project, and whether or not they avoid or substantially decrease any of the significant effects of the project (14 Cal. Code Regs. §15364). None of the alternatives meet the three requirements of being feasible, meeting the project's purposes, and resulting in substantial environmental advantages over the project as proposed.</p> <p>In fact, it appears that most of these proposals are not directed toward an environmentally superior project, but to a project that is less burdensome on the commenters from a regulatory perspective. Alleviating economic and other non-environmental burdens of a proposed regulation is not within the purview of CEQA's requirements.</p>
13.12	Burhenn and Gest	An alternative to the TMDL that would involve a modification of certain interim compliance dates to allow additional time for the completion of special studies called for in the TMDL and the incorporation of the results of the studies into implementation of the TMDL. Under this alternative, deadlines for the submission of the special studies, for the reopening of the TMDL, for the submission of	<p>The proposed alternative was not considered because it is not an independent alternative and it would not result in substantial environmental advantages over the project as proposed.</p> <p>The proposal to extend certain interim compliance dates by one year does not constitute an independent alternative to the TMDL. For projects involving the use of land,</p>

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		<p>implementation plans and for the first jurisdictional group compliance demonstration all would be extended a short period beyond the dates proposed. All other compliance dates would remain as proposed.</p> <p>We believe that this alternative would provide significant environmental benefits. If the results of the special studies (which could indicate that higher waste load allocations and thus less rigorous implementation efforts are indicated) are incorporated into the TMDL, the environmental impacts associated with the construction and maintenance of structural and non-structural BMPs, including with respect to infiltration of contaminated water, air impacts, traffic impacts, recreational impacts, etc. could potentially be avoided or at the least substantially mitigated.</p> <p>At the same time, this alternative would still allow implementation of the TMDL without ultimate delay, since no extension of other compliance dates, including the final compliance date, is proposed. Thus, this alternative meets the requirement of a "reasonable alternative" that "feasibly attains" the goals of the project but also "substantially lessens" significant environmental effects.</p>	<p>alternatives either consist of different uses of land, or uses at different locations (<i>Citizens of Goleta Valley v. Board of Supervisors</i>). A modification of the TMDL implementation schedule does not fall into either of these categories. Furthermore, in the <i>Bellflower</i> case, the Court ruled that the Regional Board is only required to consider alternatives to the project as a whole. The Regional Board is not required to consider parts of its implementation plan. The proposed one-year extension to the front end of the implementation schedule does not alter the final compliance date or affect the spacing of implementation projects which might reduce environmental impacts. It is not a significant difference from the TMDL as proposed.</p> <p>Furthermore, it is not apparent that the results of special studies would significantly modify waste load allocations. There is no evidence that implementation of the TMDL based on the results of special studies would reduce environmental impacts, and generally speaking, marginally increasing waste load allocations translates into decreasing the environmental protection that is the purpose of the regulation. In any event, there is no evidence that waste load allocations would be increased based on the results of special studies. Even if the waste load allocations were increased, it would not</p>

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13.13	Burhenn and Gest	<p>This alternative would assign nonpoint source load allocations based on atmospheric depositions and work in control strategies designed to reduce metals loadings. This would result in a reduction of the waste load allocations assigned to dischargers, including the cities, the County and Caltrans, and would result in fewer environmental impacts from the installation and maintenance of structural and non-structural BMPs. In addition, a reduction in the metals emitted to the atmosphere would be a net benefit to the residents of the watershed. This alternative could still be designed to attain the water quality standards set in the proposed TMDL and on a similar time frame. It would thus qualify as a feasible and reasonable</p>	<p>This proposed alternative presumably refers to indirect atmospheric deposition, as the contribution of metals loading from direct air deposition is negligible, as documented in the staff report on page 39.</p> <p>An alternative which assigns load allocations to indirect atmospheric deposition sources was not considered because it is not an independent alternative, it is not feasible, and it would not result in substantial environmental advantages over the project as proposed.</p> <p>First, this alternative is not an alternative to the project as a whole – it is an alternative to the allocation scheme under the TMDL. In the</p>

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		<p>alternative and, we believe, should have been considered by Regional Board staff.</p>	<p><i>Bellflower</i> case, the Court ruled that the Regional Board is only required to consider alternatives to the project as a whole. The Regional Board is not required to consider alternatives to the load allocations that are part of its implementation plan.</p> <p>Second, this alternative is not feasible. It is not possible to parse out the contribution of indirect air deposition from the pollution emanating from storm drains. The legality of assigning load allocations to indirect air deposition sources is also uncertain. Specifically, waste load allocations must be assigned to point sources and load allocations must be assigned to nonpoint sources. Indirect air deposition (air pollutants deposited onto land within a city, which is washed into the storm drains) is a component of a point source discharge, as it is discharged to waters of the US from a point source. In fact, the commenters already lost this claim. In the <i>Bellflower</i> case, the Court ruled that “metals that once were air-borne, but have landed on the ground and are carried to the LA River or Ballona Creek through a pipe, are properly treated as a point source. There is nothing irrational or arbitrary about such treatment, which is consistent with the Clean Water Act. See 33 U.S.C. §1362(14).” Municipalities are responsible for what is</p>

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			<p>In short, there is no evidence that this proposal is lawful, feasible, and that it would achieve the project's purposes with substantially less significant impacts than the project as proposed.</p> <p>This alternative, and alternatives in comments 13.14 and 13.15, are essentially a request that the Regional Board absolve the municipalities whom Congress in the Clean Water Act deemed responsible for municipal storm water pollution, of that obligation by assigning responsibility up the waste stream to the individual contributors of the pollution that the municipalities discharge from their storm sewers. Presumably, Congress vested this responsibility in municipal point source operators because municipalities were determined to be in the best position to control the pollution emanating from within their jurisdictions (they have regulatory authority over their citizens, land uses, and businesses), and of deference to local municipal governance. Whatever the policies may have been, that is the structure of the Clean Water Act, and in examining alternatives to the TMDL that is required by the Clean Water Act, the Regional Board need not engage in a reinterpretation of the Clean Water Act's fundamental principles, including that point source dischargers are responsible for the pollutants that are discharged from their facilities.</p>

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13.14	Burhenn and Gest	<p>Another alternative project would be a TMDL that focused greater Regional Board enforcement of discharges from industrial properties with general industrial stormwater permits. The staff report for the original TMDL noted that there were 1,307 discharged enrolled under the general industrial stormwater permit program in the LA River watershed, including metal plating, recycling and manufacturing, transit, trucking and warehousing and wholesale trade, with the potential for metals loadings from those facilities. Staff Report, p. 32.</p> <p>A TMDL that would require enhanced monitoring for the metals loadings from these facilities, and require those facilities to control those loadings, would reduce the efforts required of other dischargers, and reduce the environmental impact from installation of structural BMPs contemplated under the proposed TMDL. The emphasis on numeric effluent limits on such industrial dischargers is appropriate, as noted by the State Water Board's expert panel on TMDL implementation. By focusing the efforts upstream, and thus away from larger structural BMPs on public property, the significant environmental impacts would be less.</p>	<p>See response to comment 13.13. The proposed alternative is not an independent alternative and it would not result in substantial environmental advantages over the project as proposed. The commenters submitted no evidence to support their conclusion to the contrary.</p> <p>This is not an alternative to TMDL as proposed. The proposed TMDL already assigns waste load allocations and monitoring requirements to general industrial storm water permits and the impacts of compliance with those waste load allocations were analyzed in the substitute environmental documents.</p> <p>If the proposed alternative were in fact an independent alternative, it would not result in substantial environmental advantages over the project as proposed. This is because industrial dischargers will implement similar compliance strategies as municipal dischargers, which will have similar potential impacts. This was discussed in the previously adopted CEQA substitute documents. On pages 2-3 of the CEQA checklist, it states, "Many of the BMPs and potential compliance approaches evaluated apply to the general industrial and construction storm water permittees as well."</p>

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			<p>The commenter has submitted no evidence quantify or qualify what level of impacts would allegedly be averted on balance with increased emphasis on industrial dischargers to the exclusion of municipal storm water.</p> <p>Notably, whether limits are expressed numerically or via an iterative approach, the means to comply is the same. Specifically, standards must be met under either approach, and the objection of the commenter to numeric limits, assuming they are ultimately employed in the permit, is neither ripe in this proceeding, nor relevant to CEQA.</p>
13.15	Burhenn and Gest	Another alternative would be to require a reopening of the TMDL to consider the effects of advances in brake pad technology. As the Regional Board knows, current brake pads are a significant source of copper in urban waters and efforts are underway to reduce the amount of copper in brake pads.	See response to comment 13.13. The proposed alternative is not an alternative to TMDL as proposed. Staff agrees that the use of alternative materials for brake pads would help to reduce the discharge of copper in all watersheds. The TMDL as proposed already contains a mandatory reconsideration in 2011. At that time, the Regional Board may consider the effects of advances in brake pad technology, and nothing prohibits the Regional Board from reconsidering the TMDL to accommodate future technological advances at any other time warranted for that matter. The question is not however, whether brake pads are a source of copper, but whether there are feasible alternatives to the TMDL with substantially less

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			<p>impacts. Copper is but one of the metals regulated by this TMDL. Further, to the extent that advances in brake pad technology reduce copper loadings, or other technological advances reduce loading of other levels, the TMDL as proposed would result in less impacts due to less required compliance, just as reopening the TMDL would.</p> <p>To the extent the suggestion is a request to delay regulation in hopes future technological advances will make regulation unnecessary, forestalling regulation is contrary to the purpose of restoring standards as soon as practicable, and complying with the consent decree. Further, it is anticipated that the requirement to comply with regulations like this TMDL will stimulate the development of such technological advances, not forestall them.</p>
13.16	Burhenn and Gest	<p>Another alternative would focus on a water quality objective modification alternative. Such an alternative to the proposed TMDL review the water quality objectives in the Basin Plan and to revise those objectives considering their application to storm water, consistent with the requirements of Water Code §§ 13000, 13240 and 13241. If it was the case that water quality objectives were improperly developed, their removal would result in a TMDL that addressed only objectives that were validly developed and</p>	<p>This proposed alternative would not achieve the project purpose of establishing a TMDL to attain the CTR standards and comply with the consent decree.</p> <p>The project's purpose is to comply with the requirements of section 303(d) and to resolve the impairments and maintain compliance with applicable water quality standards. The applicable water quality standards consist of beneficial uses, narrative and/or numeric water</p>

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		<p>whose implementation would cause far fewer environmental impacts. (A more complete discussion of concerns with the development of water quality objectives is contained in Section IV, below.)</p>	<p>quality objectives, and an antidegradation policy. The criteria in CTR are the applicable water quality objectives for the Los Angeles River. Revising the objectives is not a feasible alternative because the existing objectives are set to protect the aquatic life beneficial uses of the Los Angeles River. Revising the objectives to be less stringent would not protect these beneficial uses and would thus not maintain compliance with water quality standards.</p> <p>The commenters' suggestion that the standards may have been improperly developed is pure conjecture, devoid of any evidentiary support, as is the suggestion that any revised standard would be less stringent, and that implementation of a less stringent standard would result in substantially less impacts over the project as proposed.</p>
13.17	Burhenn and Gest	<p>Finally, the various alternatives discussed in this letter could be "mixed and matched" to create additional alternative TMDLs. Thus, an atmospheric deposition component could be included in Alternatives 7 and 9 and revised compliance dates could be included in Alternatives 8 and 9. Unfortunately, the limited array of alternatives discussed in the Addendum does not meet the requirement of CEQA - that alternatives which would eliminate or significantly lessen significant environmental</p>	<p>The alternatives suggested by the petitioners are either not independent alternatives to the TMDL, do not meet the project purposes, are contrary to the Clean Water Act, are otherwise infeasible, or would not result in substantially less significant impacts than the proposed TMDL. Therefore, any combination of the proposed alternatives would not represent an alternative that needs to be analyzed.</p>

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		<p>impacts, yet still achieve most project requirements, be considered and analyzed.</p>	<p>The alternatives proposed by the commenters are not the types of alternatives that are contemplated by CEQA's requirement that an agency consider project-level alternatives to a proposed project. The universe of alternatives essentially consists of the no-TMDL alternative, the somebody-else's-TMDL alternative, and the different TMDL alternative. None of these alternatives are appropriate. Given the requirement that TMDLs must be established for all impaired waters (and unimpaired waters), that the TMDLs must be established to attain existing water quality standards, that EPA must establish TMDLs if the state fails to do so, and that the Regional Board may not specify how any regulated entity complies with Regional Board regulations and thus broad compliance discretion is left to those regulated entities, as has been shown, there are no alternatives that are lawful and otherwise feasible, that would achieve the basic project purposes, and that would achieve substantial environmental benefits over the project as proposed.</p> <p>Given enough time, clearly the commenters could propose an infinite variety of permutations about how much time is authorized to comply, how many times the standards should be reanalyzed beforehand, which sources could ostensibly be regulated so municipal storm water</p>

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			<p>agencies need not be held responsible, whether new technologies might obviate municipal expenditures, etc., are not really quarrels with the environmental impacts of the project or the Board's analysis thereof, but thinly veiled quarrels with the manner in which the Regional Board has chosen to exercise its regulatory discretion on a variety technical, policy, and legal considerations. While such decisions may not be arbitrary (and the <i>Bellflower</i> court has already sustained the substance of the regulation), characterizing them as CEQA "alternatives" does not render them true feasible alternatives unless supported by the requisite elements described in 15126.6.</p>
13.18	Burhenn and Gest	<p>As a 'separate and independent matter, Regional Board is required to consider the impacts of the project on global warming. In 2006, the California Legislature adopted AB 32, the California Global Warming Solutions Act of 2006. As a general matter, AB 32 requires CARB to adopt rules and regulations that would, by 2020, achieve greenhouse gas emissions equivalent to statewide levels in 1990.</p> <p>A number of courts have overturned CEQA documents that did not analyze their project's impacts on greenhouse gas emissions. The Regional is required to evaluate the project's</p>	<p>The CEQA substitute documents analyze the reasonably foreseeable impacts to air quality, which include increased air emissions. Increased air emissions include greenhouse gas emissions. The Court ruled that the Water Boards analysis of air impacts was adequate and supported by substantial evidence.</p> <p>The writ of mandate was expressly limited to performing a project-level alternatives analysis, and to the extent that any alleged inadequacy in the analysis of any impact may be argued to exist, or that the CEQA documentation or the regulation itself suffers any other infirmity, the issue has either been waived by the commenters</p>

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		<p>contribution of those emissions (in such ways as emissions from street sweepers (increased street sweeping being an identified BMP), from construction of BMPs, from increased traffic and other air emissions). The Regional Board has not done so.</p>	<p>as it was not raised in the litigation, or specifically adjudicated against them in the <i>Bellflower</i> case.</p>
13.19	Burhenn and Gest	<p>We also wish to bring to the Regional Board's attention that the TMDL cannot lawfully be adopted at this time, since, as proposed, it would be an attempt to apply to storm water and urban runoff water quality objectives and beneficial use designations that were not developed and adopted in accordance with the requirements of California law.</p> <p>To date there is no evidence that the Regional or State Boards have ever considered the requisite factors under Water Code §§ 13241 or 13000 when developing the water quality objectives in the Basin Plan, as such objectives are to be applied to stormwater.</p> <p>In fact, a comprehensive review of various documents within the Board's files conducted by Dr. Susan Paulson has shown that at no time since the adoption of the Basin Plan, and at no time in the course of any of the triennial reviews, have the requisite factors and policies required to be considered under state law ever been considered with respect to the</p>	<p>See response to comment 13.18. This comment does not relate to the Alternatives Analysis or how that Analysis should affect the Regional Board's decision to approve the TMDL. However, the comment will be addressed here.</p> <p>This comment is similar to arguments raised and rejected in the <i>Bellflower</i> case and arguments raised in a contemporaneous challenge by these petitioners in Orange County to the Basin Plan for this region, which a court will consider later this year.</p> <p>It seems that the commenter is challenging the application of water quality objectives for metals because the TMDL is applied through the MS4 permit. These same parties have previously challenged the MS4 permit as well, in which they argued that the Board was required to consider the economic and housing effects of the permit's requirement to comply with water quality objectives of the Basin Plan. That decision, and its collateral effects, is binding upon the commenters. The Court of Appeal rejected their</p>

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		application of said objectives to stormwater. Dr. Paulson's declaration and report are submitted herewith as Exhibit 1.	argument and found substantial evidence in the record for the MS4 permit that the Board had considered the economic and housing factors of 13241. (County of Los Angeles v. State Water Resources Control Bd. (2006) 143 Cal.App.4th 985.) Similarly, substantial evidence exists to support a finding that the Board considered the remaining 13241 factors when deciding to apply the relevant water quality objectives. In any event, those claims are beyond the scope of this proceeding, and the writ of mandate.
13.20	Burhenn and Gest	Neither federal nor state law supports the Board's position that either an objective or a TMDL may be established based upon a mere "potential," theoretical use of the water body. Nor does the Porter-Cologne Act or the CWA allow an objective to be adopted to avoid an adverse impact of any kind, regardless of the past, present or probable future "uses to be made" of the water body or the definable impact on such uses. Accordingly, the development of a TMDL that relies on "potential beneficial uses," rather than the "uses to be made" of the River contravenes federal law.	See response to comment 13.18. None of the authorities cited by this commenter define beneficial use as being limited to an "actual" use and there is no authority within either the Porter-Cologne Water Quality Control Act or the federal Clean Water Act supporting the assertion. Moreover, this argument has already been rehearsed by the commenters in a number of other TMDL and permit proceedings, and recently rejected by the trial court in the case that precipitated this action. The court determined that "probable future" is included within the definition of "potential." <i>Cities of Bellflower v. LARWQCB</i> . Notably, the "potential uses" designated in the basin plan have been approved by USEPA and are therefore the "applicable standards" to which the 303(d) TMDL requirement applies. No uses have been established that are designated "probable future

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			to be made” and no such uses have been approved by USEPA. Accordingly, this argument is without substance.
14.1.a	City of Carson	Alternative 1 fails to address the repercussions associated with decreases in municipal services should it become necessary to reallocate existing limited funds to implement the TMDLs.	In the <i>Bellflower</i> case, the Court already ruled that Alternative 1 was an acceptable alternative by ruling that the TMDL was lawful and the environmental analysis was adequate and supported by substantial evidence. No evidence supports the claim that “existing limited funds” must be reallocated to comply with the TMDL, nor that any such reallocation would present a significant budgetary issue. Reallocation of existing funds is not an environmental impact which is CEQA’s purview. Examining claimed economic impacts of the project as proposed is outside of the scope of the writ of mandate. See response to comment 14.5-18.5.
14.1-18.1	Cities of Carson, San Gabriel, Commerce, Duarte, and Whittier	The alternatives discussed by the Regional Board do not provide a reasonable range of alternatives for the proposed project. Instead, in essence the Regional Board is taking the position that no feasible alternatives exist. The alternatives analysis still prefers the implementation plan contained in the Los Angeles River Metals TMDL (Alternative 1). Alternative 1 is too general and open ended. It does not fully evaluate the potential adverse impacts associated with implementation of	<p>The Addendum analyzes a reasonable range of alternatives to the project; however, none of the alternatives were feasible, would meet the project’s purposes, or result in substantial environmental advantages over the project as proposed.</p> <p>This is an analysis of alternatives to the TMDL itself, i.e. program-level alternatives. It is not an analysis of implementation alternatives. The court has already ruled that the Water Board’s</p>

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		structural and nonstructural controls. It does not evaluate the efficacy of non-structural controls nor does it discuss the potential adverse impacts associated with each nonstructural control.	previous analysis of implementation alternatives was adequate and supported by substantial evidence. In that manner, the Court also ruled that Alternative 1 was an acceptable alternative. See response to comment 13.17.
14.2-18.2	Cities of Carson, San Gabriel, Commerce, Duarte, and Whittier	The Regional Board needs to explain three things in order to determine the feasibility of street sweeping as a non-structural BMP: (1) to what extent does street sweeping remove metals, (2) what constitutes best available street sweeping technology, and (3) why street sweeping is not allowed in meeting SUSMP requirements. If its feasibility cannot be proven, street sweeping needs to be removed from consideration and, therewith, the alternative that references it.	The feasibility of Alternative 1 does not hinge on the efficacy of each or any individual implementation alternative, although the staff report and cited references have shown that the implementation alternatives are effective. Furthermore, the Court has already ruled that the environmental analysis for the proposed alternative was adequate and supported by substantial evidence.
14.3-18.3	Cities of Carson, San Gabriel, Commerce, Duarte, and Whittier	As part of Alternative 1, the Regional Board needs to provide explanation of the following non-structural controls in order to determine the feasibility of this alternative: (1) how the reduction of illicit discharges and illicit connections would reduce metals concentrations, (2) what extent the reduction of illicit discharges is expected to reduce metals concentrations and at what cost, (3) what dry-weather diversion is, (4) how the diversion of dry weather nuisance flows would reduce metals concentrations and at what cost, (5) how inspections of industrial facilities would reduce metals concentrations and at what cost, and (6)	See response to comment No. 14.2 - 18.2.

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		how enforcement of BMPs at construction sites would reduce metals concentrations and to what extent and at what cost.	
14.4-18.4	Cities of Carson, San Gabriel, Commerce, Duarte, and Whittier	No source controls are identified to address atmospheric deposition. Given that the South Coast Air Quality Management District (SCAQMD) has some control over emissions from stationary and mobile sources that generate metals, the Regional Board should have included it as a non-structural control. For example, it could encourage Permittees to discuss with the SCAQMD strategies for requiring metals-generating facilities to reduce the amount of metals particulates that are capable of being release into the atmosphere by resorting to improved control technologies.	The proposed alternative encourages source reduction efforts, including strategies to address sources of indirect air deposition.
14.5-18.5	Cities of Carson, San Gabriel, Commerce, Duarte, and Whittier	The Regional Board has not taken the time to determine the cost impact of non-structural controls. These costs, together with costs associated with the implementation of structural controls must be evaluated in terms of their effect on reducing municipal programs and services, which can potentially result in certain adverse environmental impacts. These impacts could be even more severe than the adverse impacts associated with not implementing a metals TMDL. For example, the TMDL does not state how metals are impairing municipal and groundwater recharge beneficial uses, and none of the water agencies in the watershed has	<p>The diversion of fiscal resources is an economic impact, which does not contribute to and is not caused by physical impacts on the environment that are the purview of CEQA.</p> <p>Further, no evidence has ever been offered to support the claim that any resources would need to be “diverted”, much less, how much, why such alleged “diversions” of resources are significant, and why no other funding sources are available to pay for the needed services, considering possible tax assessments, user fees, grants, loans, etc. Notably, CPR city Signal Hill applied and obtained a 100% grant from the State Water</p>

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		<p>reported metals as a cause of groundwater contamination. Compare this with the adverse impacts associated with diversion of general funding to pay for TMDL compliance. These impacts include a reduction in police, fire, medical response services, infrastructure maintenance and expansion, social and recreational services for youth and senior citizens, and health services.</p>	<p>Resources Control Board for its Hamilton Bowl project, to comply with the Trash TMDL. Thus TMDL compliance cost Signal Hill virtually nothing. Other such grants, favorable loans, and other funding mechanisms are plainly available.</p> <p>In fact, no specific showing of any sort, much less evidence of any kind, has ever been offered to support the claim that the cost of the TMDL will feasibly prevent any municipality or other jurisdiction from providing basic health and safety services to its constituents.</p> <p>Even if implementation of the TMDL were to result in reduced municipal services, it would be impossible to compare this potential effect with the adverse impacts caused by the continued exceedance of water quality standards in a receiving water that remains toxic to aquatic life. This is because the potential effect on municipal services is not an impact to the physical environment while the discharge of toxic pollutants in toxic amounts is.</p>
14.6-18.6	<p>Cities of Carson, San Gabriel, Commerce, Duarte, and Whittier</p>	<p>The Regional Board seems to ignore the adverse impacts associated with structural controls (infiltration and treatment). Infiltration is not always feasible and its potential adverse impacts cannot always be prevented or cured by proper design, siting, and maintenance. The Regional Board should include and analysis of</p>	<p>In the <i>Bellflower</i> case, the Court already ruled that Alternative 1 was an acceptable alternative by ruling that the TMDL was lawful. The Court ruled that the environmental analysis for the proposed alternative was adequate and supported by substantial evidence, and that the analysis of the means of compliance was</p>

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		<p>alternatives to infiltration. Sand filters are not feasible because they are installed in catch basins, which are not designed to allow both sand filters and the inserts used to comply with the Trash TMDL. The TMDL does not discuss reverse osmosis as a potential structural treatment device nor does it discuss impacts associated with this treatment technology, such as energy consumption and air emissions. The impacts to vegetation and animals caused by low flow diversions have not been discussed. The analysis should discuss impacts of TMDL compliance on municipal programs and services, which if reduced by compliance costs could result in environmental consequences.</p>	<p>likewise appropriate. The writ of mandate was expressly limited to performing a project-level alternatives analysis, and to the extent that any alleged inadequacy in the analysis of any impact may be argued to exist, or that the CEQA documentation or the regulation itself suffers any other infirmity, the issue has either been waived by the commenters as it was not raised in litigation, specifically adjudicated in favor of the Water Boards in the <i>Bellflower</i> case, and in any event, is outside of the scope of this proceeding.</p>
14.7-18.7	<p>Cities of Carson, San Gabriel, Commerce, Duarte, and Whittier</p>	<p>The alternatives analysis fails to include an alternative previously brought to the Board's attention in March of this year. This alternative proposes to enlarge the SUSMP to: (1) include any project category that adds a certain area of impervious service, including single-family homes to be subject to infiltration, if feasible, and (2) require infiltrating rooftop runoff from any existing industrial or commercial property also subject to feasibility. This alternative would be separate from the metals TMDL implementation plan (Alternative 1), which calls for off-site, in-line infiltration controls, catch basin residential controls. This alternative would also include non-structural controls that would be focused on</p>	<p>The alternative proposed by the commenter is not an alternative to the TMDL itself. It is an alternative means of compliance for Alternative 1, all of which can be performed by the municipalities under Alternative 1. In the <i>Bellflower</i> case, the Court ruled that the Regional Board is only required to consider alternatives to the project as a whole. The Regional Board is not required to consider alternatives to the load allocations that are part of its implementation plan.</p> <p>The TMDL implementation plan does not "call for" off-site, in-line infiltration controls or catch basin residential controls. The TMDL</p>

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		reducing specific metals through industrial/commercial inspections and elimination of illicit discharges and connections. This alternative would also require each Permittee to encourage its State elected and the SCAQMD Board to adopt new or modify existing rules to reduce metals from certain mobile and stationary sources. Once finalized, after discussions with the Regional Board, it could be evaluated as a feasible alternative that would essentially produce the same result with fewer environmental side effects.	implementation plan will be developed by responsible jurisdictions and is not due until 2010. The waste load allocations will be implemented through NPDES permits. Permit writers will have discretion in translating waste load allocations into permit requirements, if they can provide reasonable assurance that the requirements will be sufficient to implement waste load allocations. Such requirements could include an expansion of SUSMP requirements. In fact, the proposed TMDL encourages the infiltration of runoff and reduced pervious areas in the watershed under an integrated water resources approach. Therefore, the alternative means of compliance proposed by the commenter was considered as part of Alternative 1.
14.8-18.8	Cities of Carson, San Gabriel, Commerce, Duarte, and Whittier	The criteria that should be used to evaluate each alternative would include (1) effectiveness in reducing the target metals, (2) the cost of implementation, and (3) environmental impacts.	The criteria that were used to evaluate each alternative and which are required by CEQA (14 Cal. Code Regs. §§ 15126.6, 15364) are feasibility, accomplishment of most of the basic objectives of the project, and avoidance or substantial decrease in any of the significant effects of the project.
14.9-18.9	City of Carson City of San Gabriel	It is understood that reducing metals in stormwater runoff will benefit receiving water quality. But the question is at what cost to other aspects of the environment? This is a	The CEQA substitute documents, including the Addendum, have analyzed the environmental impacts of the reasonably foreseeable means of compliance with each program-level alternative.

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		<p>fundamental defect in the Regional Board's alternatives analysis that must be corrected. An analysis of such impacts must be incorporated into, for example, "a matrix displaying the major characteristics and significant environmental effects of each alternative," as suggested by the Court to "summarize the comparison." Without this matrix and the criteria that have been recommended herein, it would be impossible to conduct a meaningful review of the alternatives.</p>	<p>The commenter has offered no potential environmental effects for the alternatives that the Regional Board has not analyzed. The Addendum presents the analysis in a well organized document. See response to comment 14.5-18.5.</p>
19.1	Heal the Bay and Santa Monica Baykeeper	<p>Heal the Bay and Santa Monica Baykeeper strongly support Alternative 1, as recommended in the Alternatives Analysis. This alternative identifies TMDLs for metals and reaches on the 1998/2002 303(d) List, as well as for metals and reaches identified as impaired but not listed under section 303(d) of the Clean Water Act at the time the TMDL was originally adopted. It is important to note that since the Public Notice was issued by the Regional Board, the USEPA approved the 2006 303(d) List which now includes the metals that were covered by the previously adopted TMDLs but were not on the 1998/2002 303(d) List. Thus, there can be no dispute that the Draft TMDLs must include all of the metals and reaches that were in the previously adopted version.</p> <p>Alternative 1 is the only alternative that complies with state and federal law and the</p>	<p>Comment noted.</p>

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		consent decree by establishing a TMDL as required by section 303(d) and achieves the goal of removing metal impairments over a reasonable implementation timeframe. The Regional Board should approve the Alternatives Analysis for Ballona Creek and Los Angeles River Metals TMDLs and readopt the original version of the TMDLs.	
19.2	Heal the Bay and Santa Monica Baykeeper	Heal the Bay and Santa Monica Baykeeper strongly support Regional Board Staff's recommendation to maintain the timelines that were triggered by the January 11, 2006 effective date. The responsible parties have already had over a year and a half to make progress towards meeting the adopted waste load allocations. Adhering to the time schedule established in the previously-adopted TMDL is extremely important from the standpoint of protecting aquatic life.	Comment noted.