

**Responsiveness Summary – TMDL for Debris in the Near-Shore and Offshore of Santa Monica Bay**  
**Comment Due Date: September 13, 2010**

1. Heal the Bay
2. Santa Monica Baykeeper
3. United States Environmental Protection Agency Region 9 (USEPA)
4. State of California Department of Transportation(Caltrans)
5. Los Angeles County Department of Public Works (LACDPW)
6. Los Angeles County Flood Control District (LACFCD)
7. Los Angeles County Department of Beaches and Harbors (LACDBH)
8. Ventura County Watershed Protection District (VCWPD)
9. City of Agoura Hills
10. City of Westlake Village
11. City of Thousand Oaks
12. City of Hermosa Beach
13. City of Manhattan Beach
14. City of Rolling Hills
15. City of Rolling Hills Estates
16. City of Rancho Palos Verdes
17. City of Beverly Hills
18. City of Hidden Hills
19. City of Palos Verdes Estates
20. City of Los Angeles

<b>No.</b>	<b>Author</b>	<b>Date</b>	<b>Comment</b>	<b>Response</b>
1.1	Heal the Bay	Sept. 9	We strongly support the Regional Board's requirement of zero trash discharge in the Draft TMDL. The Regional Board acknowledged that a zero trash discharge requirement was an appropriate regulation with the adoption of the LA River Trash TMDL in 2001 and 2007, five lake and estuary trash TMDLs in 2007 and the Malibu Creek Trash TMDL in 2008, and subsequent legal decisions regarding this Trash TMDL by the judicial system further validates this limit. A zero trash limit in the Draft Trash TMDL meets the threshold of	Comment noted.

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			attaining and maintaining water quality standards as set forth in the Clean Water Act.	
1.2	Heal the Bay	Sept. 9	In the same vein, we are very supportive of the inclusion of a numeric target and waste load allocation of zero for plastic pellets.	Comment noted.
1.3	Heal the Bay	Sept. 9	However, we see no reason why dischargers would receive 8 years to meet the zero requirements when BMPs for the purpose of meeting zero discharge are already required under AB 258 (California Water Code §13367) which was signed into law in 2007 (Heal the Bay sponsored that legislation). Instead, the Regional Board should require that compliance is attained upon issuance of an industrial stormwater permit.	Staff agrees. On October 14, 2007 Governor Schwarzenegger signed into law Assembly Bill (AB) 258, which became effective January 1, 2008, adding Chapter 5.2 to Division 7 of the California Water Code, section 13367. Chapter 5.2 is entitled “Preproduction Plastic Debris Program,” and applies to facilities in California that manufacture, handle, or transport preproduction plastics. Cal. Water Code section 13367 specifically identifies the minimum best management practice (BMP) requirements to be included in all NPDES permits that regulate plastic manufacturing, handling or transportation facilities. Given that the requirements of section 13367 have been in place nearly 3 years, since early 2008, and given their nature (i.e. installation of containment, capture and cleanup systems), Regional Board staff find that it is appropriate to limit the implementation schedule for compliance with the plastic pellets wasteload allocation (WLA) to no more than 5 years from the effective date of the TMDL. The staff report and TMDL implementation schedule have been revised to reflect this change.
1.4	Heal the Bay	Sept. 9	Also we urge the Regional Board to develop a creative approach for dischargers to implement “institutional controls” such as local trash ordinances. Local trash	Municipalities permitted under a Municipal Separate Storm Sewer System (MS4) NPDES Permit may choose to employ a

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			ordinances for the “worst offending” items of trash will go a long way to water quality standards attainment. These issues and others are discussed in further detail below.	variety of implementation strategies, including institutional controls such as local trash ordinances. Regional Board staff agrees that local trash ordinances that target the most common types of trash could be a valuable long-term implementation approach to achieving the TMDL. As such, the BPA and supporting Staff Report have been revised to provide for a reconsideration of the final implementation deadline during the scheduled 5-year reconsideration for municipalities that have local ordinances in effect that address the most common types of trash. See additional responses below.
1.5	Heal the Bay	Sept. 9	<p><b>Staff correctly assigns a TMDL of zero trash and plastic pellets.</b></p> <p>The Draft Trash TMDL establishes a numeric target of zero trash and plastic pellets, a final Waste Load Allocation (“WLA”) of zero trash and plastic pellets and a final Load Allocation (“LA”) of zero trash. We strongly support these requirements, as zero is the only appropriate TMDL for trash and plastic pellets given the water quality standards for these waterbodies set forth in the Basin Plan and Clean Water Act requirements and California Water Code §13367 (“Preproduction Plastic Debris Program”).</p> <p>The federal Clean Water Act requires states to establish TMDLs “...at levels necessary to obtain and maintain the applicable narrative and numerical WQS [water quality standards] with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water</p>	Comment noted.

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			<p>quality.”<sup>1</sup> The Basin Plan calls for no floatables or settleables that will cause a nuisance or adversely affect beneficial uses. Even small quantities of trash and plastic pellets violate the Clean Water Act and Basin Plan. For instance, small amounts of trash can maim or kill wildlife that becomes entangled in or ingests the debris. Plastic pellets are commonly mistaken for food by marine life and can contribute to organism starvation through stomachs filled with marine debris. Also, pellets can be a source of contaminants as the pellets act as a pollution “sponge” that sorbs organic contaminants on the pellet surface. Plainly, zero is the only fair interpretation of the Basin Plan water quality standards that will guarantee protection of the beneficial uses of these waterbodies with an appropriate margin of safety. Also after numerous legal challenges by the regulated community, the courts upheld the LA River Trash TMDL zero trash limit as an appropriate regulation. Thus, the Regional Board staff’s proposal of zero trash and plastic pellet discharge is, clearly, appropriate.</p>	
1.6	Heal the Bay	Sept. 9	<p><b>The Regional Board should consider a compliance deadline “bonus” if responsible parties develop local trash ordinances.</b></p> <p>The Draft TMDL allows for the responsible parties to achieve compliance by using a combination of full capture devices, partial capture devices and institutional controls. Institutional controls such as local trash ordinances are a large component to reducing trash impairment in the Santa Monica Bay. Many jurisdictions in the state have already moved forward with local ordinances banning the “worst offending” types of trash such as plastic bags, Styrofoam and cigarette butts (cigarette butts, polystyrene pieces and plastic bags are some of the most commonly found items at Heal the</p>	<p>Responsible parties may propose to develop such ordinances as institutional controls to work toward achieving the final WLAs.</p> <p>See response to comment 1.4.</p>

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			<p>Bay's approximately 400 beach clean ups a year, including Coastal Cleanup Day), in order to reduce the amount of trash impacting their communities and waterways. In order to recognize the achievement of these local trash ordinances, we suggest that the Regional Board include a provision in the Draft TMDL that allows for two additional years for final compliance if local ordinances targeting plastic bags, Styrofoam and cigarette butts are adopted within two years from the effective date of the TMDL. In other words, point sources who adopt all three of these ordinances would be allowed to achieve 100% reduction of trash from Baseline WLAs <i>ten years from the effective date of the TMDL</i> instead of eight years. The cigarette butt ordinance would ban smoking on the beach and in public places (LA City and Santa Monica are examples). Perhaps a one cent per cigarette tax could be instituted like the city of San Francisco (20 cents a pack). Single use polystyrene food packaging bans (including cups and clamshells – Santa Monica, Malibu and West Hollywood are examples) should be the second ordinance requirement. And finally, single use plastic bags should be banned (Malibu is a local example) as the third requirement to earn the extra compliance time. This provision would appropriately recognize these critical institutional efforts made by local governments.</p>	
1.7	Heal the Bay	Sept. 9	<p><b>Compliance with the plastic pellet WLA should be achieved in concurrence with the issuance of the Industrial Stormwater Permit.</b></p> <p>The Draft TMDL requires compliance with the plastic pellet WLA eight years from the effective date of the TMDL, or five years from placement in the general industrial stormwater permit, whichever is sooner. Instead, we believe</p>	<p>Because of uncertainty regarding the timing of reissuance of the Statewide Industrial General Permit, staff finds it is most appropriate to link the compliance date for the plastic pellets WLA to the effective date of the TMDL. See also, response to comment 1.3.</p>

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			that full compliance should be linked to the date of permit issuance, as California Water Code § 13367 has been in place since 2007 (AB 258). CWC § 13367 requires implementation of BMPs to eliminate the threat of discharge from an industrial site. At a minimum, another compliance deadline should be included that requires that BMPs as described in CWC § 13367 should be in place upon the issuance of the industrial stormwater permit.	
1.8	Heal the Bay	Sept. 9	<p><b>The Regional Board should require that the Trash Monitoring and Reporting Program and Pellet Monitoring and Reporting Program begin within one year of TMDL adoption.</b></p> <p>The Draft TMDL requires that a Trash Monitoring and Reporting Plan (“Monitoring Plan”) be submitted within 6 months of adoption, and the Executive Officer has 9 months to approve the Monitoring Plan. Further after EO approval, the discharger has 6 months to begin monitoring. Thus, the discharger may not begin monitoring for 21 months, nearly two years after TMDL adoption. In addition, the discharger is given another 6 months to report on recommended baselines and prioritization of full capture installation. This lengthy timeframe is unacceptable, especially given that the first 20% reduction is at year four. Instead, the Regional Board should halve the time allowed for all of the implementations steps outlined above.</p>	This is a misunderstanding of the Implementation Schedule. If the TMRP and PMRP proposed by the responsible jurisdiction cannot be approved by the Executive Officer within 9 months after the effective date of the TMDL, the Executive Officer will establish a TMRP and PMRP for the responsible jurisdiction at that point. Another 6 months from EO approval is provided for responsible jurisdictions to prepare to implement the approved TMRP/PMRP. Therefore, at most, responsible jurisdictions will begin monitoring and reporting 15 months after the effective date of the TMDL. A minimum of 6 months of monitoring is necessary to adequately inform recommendations regarding site-specific baselines and prioritization of BMP installation.
1.9	Heal the Bay	Sept. 9	<b>The Regional Board should require the responsible parties to monitor trash in the Santa Monica Bay Watershed Management Area in order to develop an appropriate baseline.</b>	Responsible parties may develop a site specific baseline for their own jurisdictional area. However, regardless of the baseline, responsible parties must achieve progressive

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			<p>The Draft TMDL allows the discharger to use current baseline data or perform monitoring in the actual impaired areas to develop a baseline. A baseline based on current data is critical, and the Regional Board should require that this approach be taken. Actual monitoring data is a preferred approach as it represents actual conditions. We are also somewhat concerned that the baselines are based on a linear mile, whereas Santa Monica Bay beaches are often over a hundred yards wide. At a minimum, the Regional Board should ensure that the discharger does not choose one approach over the other, in order to find the lower trash baseline. Of note, the Regional Board should keep in mind that the baseline developed from beach clean-up data may be skewed as some beaches are cleaned up more frequently than others.</p>	<p>reductions in trash discharge from the baseline every year, and ultimately meet the final WLA and LA of zero discharge of trash.</p>
1.10	Heal the Bay	Sept. 9	<p><b>Plastic Pellets should be monitored on the beach as well as the outfalls.</b>  The Draft TMDL requires that pellets be monitored twice per year as they are discharged from the MS4 at critical locations and times. We are concerned that this type of monitoring may be somewhat like finding a needle in a haystack and may require some creative thinking and trial and error. Although we think it is prudent to pursue this proposed monitoring, it would also be useful to better understand the amount of pellets found on the beach over time. This is especially important in understanding the amount of pellets that may be entering Santa Monica Bay. The State Board has collaborated with SCCWRP to develop such a monitoring program and we suggest that this monitoring effort get initiated under the TMDL.</p>	<p>While it would be useful to have plastic pellet monitoring conducted at the beaches as well as the outfalls, Regional Board staff believes it is most appropriate for identifying the geographical source of the plastic pellets to directly monitor the discharges to the beaches and Santa Monica Bay. General monitoring of plastic pellets on the beach does not provide the information the Regional Board or MS4 Permittees need to track sources in order to better focus implementation efforts.</p>
1.11	Heal the Bay	Sept. 9	<p><b>Operation and Maintenance is a key component of final compliance using full capture devices.</b></p>	<p>Regional Board staff agrees that proper installation and maintenance of structural</p>

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			<p>The responsible parties may achieve full compliance with the TMDL by installing full capture devices. Installation must be followed by proper operation and maintenance to continue compliance with the TMDL. We assume that this is the intent, as the Draft TMDL states that "...compliance with percent reductions from the Baseline WLA will be assumed whenever properly-sized full capture systems are installed and properly operated and maintained..." (Footnote 6, page 16). However this important element needs to be discussed throughout the Draft TMDL. For example, we suggest the following modification to the Basin Plan Amendment: "Zero will be deemed to have been met if full capture systems have been installed <i>and properly operated and maintained</i> on all conveyances discharging to the waterbodies within the Santa Monica Bay WMA and the Santa Monica Bay." (Pg 7)</p> <p>All too frequently, we've seen poorly maintained trash screens and inserts with blocked mesh. The end result is increased flood risk and ineffective BMPs. TMDL reporting requirements should include an operation and maintenance schedule and annual reporting that demonstrates that the BMPs are functioning as designed.</p>	<p>BMPs is an important factor in determining compliance with this TMDL. To obtain certification for a full capture system, municipalities are required to provide design specifications and to ensure adequate maintenance so that the system will perform to design specifications. Municipalities are required to adequately maintain full capture systems to meet the threshold for presumptive compliance, and must keep maintenance records up-to-date and available for inspection by the Regional Board. Pursuant to Cal. Water Code section 13383, monitoring and reporting requirements will also be included in the MS4 permit(s) concurrent with the addition of provisions based on the WLAs.</p>
1.12	Heal the Bay	Sept. 9	<p><b>The Regional Board should develop a definition for a major rain event.</b></p> <p>As part of the MFAC monitoring program, the Draft TMDL requires that the discharger develop a definition for a major rain event. This is an inappropriate task for a discharger and would facilitate varied definitions throughout the Region. Instead, the Regional Board should develop a definition. We propose that a major rain event for monitoring purposes be defined as 0.25" or more predicted rainfall based one the National Weather Service forecast. If the actual rain event is</p>	<p>As part of the TMRP, responsible agencies must propose a definition of a "major rain event" (see Table 7-34.2). The TMRP is subject to Executive Officer approval, which will ensure that the final approved definition(s) of a "major rain event" is appropriate for subwatersheds within the Santa Monica Bay Watershed Management Area, and where appropriate, consistent across responsible jurisdictions.</p>



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			0.1” or greater, the data would be kept. This is also consistent with the definition of a critical event included in the Los Angeles River Trash TMDL (Resolution No. 2007-012).	
2.1	Santa Monica Baykeeper	Sept. 13	The Regional Board proposes the Marine Debris TMDL amendment to the Basin Plan to protect water contact recreation, non-contact recreation, navigation, commercial and sport fishing, marine habitat, and rare, threatened or endangered species in addition to several other beneficial uses. Baykeeper supports this action to protect the public health of southern California residents and visitors and the viability of marine organisms. This Basin Plan amendment follows several other important TMDLs including the Santa Monica Bay Beaches Bacteria TMDL (“SMBBB TMDL”), the Ballona Creek Trash TMDL, and the Malibu Creek Trash TMDL. Because debris has proven a serious threat to water quality and ecological integrity at our beaches and in our rivers, these are all extremely critical actions taken by the Regional Board.	Comment noted.
2.2	Santa Monica Baykeeper	Sept. 13	Specifically, Baykeeper supports the Regional Board’s strategy to reduce trash and plastic pellets in the marine environment through further regulation and monitoring of the storm drain system. Several studies have concluded that urban runoff conveyed through the storm drain system is a dominant source of trash. It is imperative that responsible jurisdictions prevent trash from reaching our beaches and ocean and that industrial facilities cease all discharges of plastic pellets into the storm drain system.	Comment noted.
2.3	Santa Monica Baykeeper	Sept. 13	However, Baykeeper has a few concerns with the proposed Marine Debris TMDL. First, one gap identified by Baykeeper in the Marine Debris TMDL includes the lack of attention to discharges of plastic pellets during transport, loading, and	Responsible jurisdictions with plastic manufacturing, handling or transportation facilities within their boundaries and/or with industrial or commercial land uses are required

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			unloading at railway stations and from ships. This gap may interfere with the projected reduction of marine debris in the Bay.	<p>to prepare a Plastic Pellet Monitoring and Reporting Plan (PMRP). The PMRP submitted by responsible agencies, including municipalities, county agencies, and Caltrans, must include a response plan for possible plastic pellet spills. In addition, all responsible industrial facilities that manufacture, handle or transport plastic pellets are required to have a spill response plan that would be implemented in the event of a plastic pellet spill. The owner of the plastic pellets is fully responsible to cleanup, monitor and confirm the removal of plastic pellets at the area where spill occurs. Water Code section 13367 requires the state and regional boards to implement a program to control discharges of plastics, such as these pellets, including minimum best management practices to be used at transportation facilities to prevent discharges of plastic pellets. This TMDL sets forth a program consistent with Water Code section 13367.</p> <p>If a transportation company causes a spill, generally it would be required to clean up the spill based on laws relating to littering and health and safety. A TMDL is not the appropriate mechanism for addressing spills that enter or threaten waters of the state. The Regional Board uses its spill response/enforcement authority in these unpredictable circumstances. For example, if the spill enters or threatens a water of the state, the Regional Board has the authority to issue a cleanup and abatement order to the company and/or require the MS4 Permittee to address it</p>

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				if within the MS4 Permittee's jurisdiction.
2.4	Santa Monica Baykeeper	Sept. 13	Second, the Benchmark for Load Allocations at Beaches and Harbors is not an accurate measurement since it is merely a linear measurement and does not consider the width of the beach. The Regional Board should consider applying a "lbs/square foot/per day" metric or another mechanism that would more accurately reflect the actual trash density. This would provide a better means of measuring trash reduction at each specific beach location.	The Benchmark for Load Allocations at beaches is based on data from trash collected at Coastal Cleanup Day events. The commenter is correct in noting that these data do not include the width of the beaches where trash was collected. However, through the MFAC Program, responsible jurisdictions must provide a monitoring plan in their respective TMRPs, and propose appropriate areas to monitor, taking into consideration factors such as beach width.
2.5	Santa Monica Baykeeper	Sept. 13	However, once implemented, the health of thousands of people visiting the area beaches will be better protected as a result of the Marine Debris TMDL. In addition, this Basin Plan amendment will significantly reduce the impact that trash and plastic pellets have on marine organisms in the Bay. Baykeeper commends the Regional Board Staff for proposing this Basin Plan amendment to address the problem with marine debris in the region.	Comment noted.
2.6	Santa Monica Baykeeper	Sept. 13	Santa Monica Baykeeper thanks the Regional Board Staff for its hard work in preparation of this amendment and urges that the comments and concerns included above are considered and incorporated into the final amendment. This is an important step in improving the water quality of Santa Monica Bay.	Comment noted.
3.1	USEPA	Sept.13	EPA reviewed the proposed draft basin plan amendment (BPA) and technical report and finds two issues warranting clarification. First, the load allocation discussion includes benchmarks for various jurisdictions. Are the benchmarks the same as the baseline load allocations and will these benchmarks be set as triggers for further actions beyond	For jurisdictions that have been conducting daily trash removal from the nonpoint source areas, the benchmark is used to monitor the effectiveness of existing BMPs, and is a tool to determine whether additional BMPs need to be implemented within the nonpoint

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			those described in the implementation plan (p. 38-39 of the TMDL Staff Report)? The proposed implementation plan describes the completion of a Trash Monitoring and Reporting Plan by responsible jurisdictions and a regulatory structure that will ensure continued monitoring and iterative implementation of BMPs to attain zero trash. Please clarify if the benchmarks are used as triggers for more rigorous requirements to provide greater removal of trash at the beaches.	source areas.  If the trash collected from the waterbody and its shoreline exceeds the LA, responsible jurisdictions are required to increase the frequency of cleanup, or implement additional BMPs.
3.2	USEPA	Sept.13	In addressing nearshore debris along Santa Monica Bay, this proposed draft TMDL identified trash and plastic pellets as primary causes of impairment. The TMDL assigned a zero discharge wasteload allocation for plastic pellets to the industrial facilities engaged in the manufacture, transport, or handling of the plastic pellets. Regional Board's proposed strategy to achieve the water quality standards for point sources of plastic pellets is to direct the enforcement efforts towards the industrial permittees. And thus, the MS4 permittees are not assigned a WLA for plastic pellets, and instead, required to provide a Plastic Pellet Monitoring and Reporting Plan to monitor the amount of plastic pellets being discharged from the municipal separate storm sewer permittees (MS4). Because the proposed strategy is to eliminate the loading of plastic pellets at the source (i.e., Industrial Facilities) by ensuring pellets are not released from the premises, we believe this is a reasonable approach to directly tackle the impairment. However, since MS4 discharges can lead to the transport of plastic pellets from upstream areas to Santa Monica Bay via storm drains, it is critically important to show that storm drains are not leading to a consistent loading of plastic pellets into the Bay. As such, we recommend additional language expressing clear;	Regional Board staff notes US EPA's support for the proposed approach of assigning WLAs to industrial facilities engaged in the manufacture, transport or handling of plastic pellets in order to address loading of plastic pellets to Santa Monica Bay at the source. The Plastic Pellet Monitoring and Reporting Plan (PMRP) will provide data on the amount of plastic pellets that are discharged from the MS4, and will describe follow-up actions (e.g. increased industrial inspections, implementation of illicit discharge program) to be taken by MS4 Permittees to address such discharges of plastic pellets. It is anticipated that the additional actions taken by MS4 Permittees will control any discharge of plastic pellets from the MS4. The monitoring data collected by the municipalities through the PMRP will be evaluated during the reconsideration of this TMDL to determine the need for additional requirements.

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			specific triggers, where consistent and significant levels of plastic pellets monitored in storm drains, would result in the Regional Board to include a WLA for plastic pellets to the MS4 permittees.	
3.3	USEPA	Sept.13	To further address plastic pellets, we recommend the Implementation Plan to include a task for the Regional Board to coordinate with the State Board Industrial General Permit Program to target, prioritize, and conduct their inspections at those standard industrial classification facilities in the Santa Monica Bay watershed that import, manufacture, process, transport, store, recycle or otherwise handle plastic pellets.	Regional Board staff has been coordinating with the State Board Industrial General Permit Program to target, prioritize, and conduct inspections at facilities that manufacture, handle or transport plastic pellets within Regional Board's jurisdictional area, including the Santa Monica Bay Watershed. In the fiscal year 2009-2010, Regional Board staff conducted 222 inspections to industrial facilities within the Los Angeles Region.
3.4	USEPA	Sept.13	Overall, EPA finds the proposed TMDLs provide a reasonable technical analysis of addressing trash impairments included on California's Section 303(d) List. We believe setting zero discharge for trash and plastic pellets as WLAs and LAs is an appropriate approach to critically reduce the trash impairment. These TMDLs also clearly assigned allocations to all sources and appropriately defined TMDLs for existing permits, where applicable.	Comment noted.
3.5	USEPA	Sept.13	This proposed draft includes reasonable compliance monitoring, however we would appreciate more clarity on the timeframe for when monitoring must begin. Currently, the proposed Implementation Plan shows monitoring beginning approximately two years after the TMDL establishment; to ensure that appropriate actions and compliance are implemented, it would be critical to have monitoring start within a year after the TMDL is established.	Responsible Jurisdictions must submit their respective TMRPs and PMRPs for approval within six months from the effective date of the TMDL. In addition, after the approval by the Regional Board Executive Officer, Responsible Jurisdictions have six months to implement their plans. Therefore, the implementation of the TMRP/PMRP to monitor the reduction of trash and plastic

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				pellet discharge from source areas may be initiated as early as one year after the TMDL goes into effect, and no more than 15 months after the TMDL effective date.
3.6	USEPA	Sept.13	Finally, we appreciate an implementation plan and schedule with clear interim targets and milestones established to show progress and meet compliance. We believe the specificity of BMP triggers and actions will better ensure the success of the implementation plan.	Comment noted.
3.7	USEPA	Sept.13	We commend your hard work on these TMDLs and strongly recommend adoption by the Regional Board.	Comment noted.
4.1	Caltrans	Sept.13	<p><b>Impaired Region Covered by the TMDL</b></p> <p>In the Draft Staff Report dated July 30, 2010, the exact boundaries of the areas that are addressed by this TMDL are not clearly evident. For example, Figure 5 on page 13 highlights sub watersheds that appear to have waste load allocations for trash; however, this is not clearly indicated in the figure or accompanying text. In addition, in the same figure, the coastal area between Point Dame and the Ventura County Line is part of the larger Santa Monica Bay watershed but is not shaded. This suggests that the area is not included in the TMDL, although no clarification exists in the report. To clarify which pollutant types are included in each subwatershed, please include a table listing all of the subwatersheds that are covered specifically for trash and for plastic pellets. This information should also be clearly presented and noted in figures.</p>	Comment noted. The staff report will be reviewed and revised to provide clarification of subwatersheds that are included in this SMB Debris TMDL, if necessary.
4.2	Caltrans	Sept.13	<p><b>Caltrans' Area Estimate</b></p> <p>Table 9 on page 36 of the Draft Staff Report dated July 30, 2010 includes an estimate of Caltrans point source area of</p>	Based on further consultation with Caltrans' staff and review of documentation regarding

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			<p>4.05 square miles. It appears that this number includes only the subwatersheds that are part of the TMDL for trash impairments as illustrated in Figure 5 of the Draft Staff Report. Appendix II includes a table listing the estimates of tributary drainage area for the different land use types throughout the watershed. The transportation land use includes different types of roadways and is not limited to those under Caltrans' jurisdiction. However, these areas were included in the estimate of total drainage area under Caltrans jurisdiction in Table 9. Our estimates show that Caltrans facilities comprise 1.08 square miles of area in the watershed, only about 0.5% of the total watershed area. We request that the Regional Water Board please make a correction for Caltrans facilities area and revise the table.</p>	<p>Caltrans' jurisdictional area within the watershed management area, the staff report has been revised accordingly.</p>
4.3	Caltrans	Sept.13	<p><b>Caltrans' Waste Load Allocation</b>  The baseline load assigned to Caltrans is based on the Caltrans Phase I Gross Solids Removal Devices (GSRD) Pilot Study conducted for years 2000 to 2002. This loading rate was estimated at locations within the Los Angeles River watershed that have much different characteristics from roadways within the Santa Monica Bay watershed and is not appropriate.  Within the Santa Monica Bay Watershed (excluding Ballona Creek and portions of the Malibu Creek watershed covered in other TMDLs), there are 50 miles of conventional highways and 5 miles of freeways that Caltrans owns and operates. Applying the values from the Phase I GSRD study to the 55 miles of freeways/highways is inappropriate because the Phase I GSRD study collected gross solids from heavily trafficked freeways in highly urbanized areas. In addition, the trash generation rates at the locations monitored are highly variable even at the same location from year to year. The</p>	<p>Many of the Caltrans highways and roads in the Santa Monica Bay Watershed Management Area are in areas that are urbanized and heavily traveled. As such, the baseline waste load allocation was based on the GSRD data. In addition, the GSRD study is more recent. Caltrans may propose in its TMRP a method to develop site-specific baseline WLAs for Regional Board Executive Officer approval. Regardless of the baseline WLA, Caltrans will ultimately have to achieve the waste load allocation of zero trash discharged.</p>

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			majority of Caltrans-owned freeways and conventional highways in the Santa Monica Bay watershed are less frequently traveled, carry significantly lower volume, and have vastly different characteristics. The loading rates of the conventional highways within the Santa Monica Bay watershed are expected to be consistent with those of the surrounding land uses. As a result, for conventional highways it is more appropriate to use the same loading rate as applied to adjacent land uses. Caltrans freeways within the Santa Monica Bay watershed are expected to have loading rates consistent with those estimated from the Litter Management Pilot Study (LMPS) values, referenced in Table 7 of the Draft Staff Report.	
4.4	Caltrans	Sept.13	<p><b>Final Numeric Target</b></p> <p>The final numeric target of zero trash in Santa Monica Bay is both unrealistic and unachievable. In particular, the potential for littering will always be present in areas where people are present. Caltrans has no enforcement ability to stop illegal littering and cannot levee fines to individuals that litter. Deposition of litter onto highways or adjacent areas is prohibited by Vehicle Code Sections 23111, and 23112, which are enforceable by the California Highway Patrol. In addition, construction of full capture devices may not be feasible at every drainage inlet within the watershed. For example, not all drainage inlets have sufficient space to allow for retrofitting with full capture devices.</p>	<p>The Regional Board staff disagrees that the numeric target of zero trash set forth in the TMDL is unachievable. Zero trash can be achieved through a variety of implementation strategies, including installation and maintenance of full and/or partial capture devices, and/or implementation of institutional controls. Eight other Trash TMDLs have been adopted in the LA Region with a numeric target of “zero trash” and corresponding WLAs, and are being successfully implemented. In <i>City of Arcadia v. State Water Resources Control Board</i>, 135 Cal. App. 4<sup>th</sup> 1392 (2006), the court ruled that a zero-trash TMDL was consistent with federal and state law. Caltrans is subject to an individual stormwater permit and is required to control discharges of pollutants, including trash, in areas within its jurisdiction.</p>
4.5	Caltrans	Sept.13	<p><b>Funding:</b></p> <p>Caltrans does not have the authority to impose user or utility</p>	<p>The TMDL provides a lengthy implementation schedule, which does not</p>



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			fees to pay for the TMDL implementation. Caltrans requests that language be added to the TMDL to allow for flexibility in implementation during times of funding challenges.	require compliance within initial interim WLAs until four years after the effective date of the TMDL.
5.1	LACDPW	Sept.13	<p><b>Plastic pellets should be addressed by regulatory mechanisms other than TMDLs.</b></p> <p>Through the adoption of Assembly Bill 258 1 in 2007, the State Legislature amended the California Water Code and established a regulatory program specifically to address preproduction plastic debris. Plastic pellets should be addressed through the regulatory mechanisms adopted pursuant to that bill. Plastic pellets should not be addressed through TMDLs, at least not until the State Water Resources Control Board (State Board) determines that addressing plastic pellets through TMDLs such as this one is an appropriate regulatory method.</p> <p>The California Regional Water Quality Control Board — Los Angeles Region (Regional Board) currently does not have the authority to include plastic pellets in this TMDL. AB 258, as set forth in Water Code § 13367, provides that the State Board and the regional boards shall implement a program to control discharges of preproduction plastic from point and nonpoint sources [Water Code § 13367(b)(1)]. It further provides that State Board shall determine the appropriate regulatory methods to address the discharges from these point and nonpoint sources.</p> <p>To our knowledge, the State Board has not yet determined the appropriate regulatory methods to address these discharges. Specifically, the State Board has not yet determined that TMDLs that impose obligations on municipal stormwater permittees are an appropriate</p>	<p>Cal. Water Code section 13367 requires the state and regional water boards to develop a program to control discharges of preproduction plastics, including minimum best management practices. This provision does not preclude the regional boards from including a program within a TMDL to address plastics. Cal. Water Code section 13367(h) states, “[n]othing in this chapter limits the authority of the state board or the regional boards to establish requirements in addition to the best management practices for the elimination of discharges of preproduction plastic.” This TMDL is consistent with Section 13367.</p> <p>Plastic pellets are subject to regulation through a TMDL because they are “pollutants” as defined in Section 502(6) of the Clean Water Act, which includes “garbage,” “solid waste,” and “industrial waste,” among other materials. They are also “waste” as defined in Water Code section 13050. A TMDL establishes specific regulatory requirements to address a water quality impairment. These regulatory requirements, which if adopted as amendments to a region’s water quality control plan, are not generally self-executing but are implemented through regulatory mechanisms such as WDRs/NPDES permits.</p> <p>The Regional Board is obligated under the</p>

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			<p>regulatory method to address these discharges. Without this determination, the Regional Board has no authority to include plastic pellets in this TMDL. (Although Water Code § 13367(h) provides that nothing in Water Code § 13367 limits the authority of the State Board or the regional boards to establish requirements in addition to Best Management Practices for the elimination of these discharges, this provision only allows regional boards to establish requirements in addition to Best Management Practices in permits issued to facilities that handle or discharge preproduction plastic. Regional boards, however, cannot adopt a regulatory method, such as this TMDL, until the State Board has determined that such a method is appropriate.)</p> <p>The County of Los Angeles does support the reduction of these plastic pellets. Given that the sources of plastic pellets are solely industrial facilities, the best and most efficient way to address the impairment is through the Industrial General Permit (IGP) instead of TMDLs. Also, because plastic pellets observed in a given watershed are not necessarily limited to sources in that watershed as they can be transported from watershed-to-watershed or region-to-region, a watershed-based TMDL is not the appropriate regulatory tool to address the problem.</p> <p>In sum, Water Code § 13367 provides that the State Board shall determine the appropriate regulatory methods to address discharges of preproduction plastic from point and nonpoint sources. Until the State Board has determined that TMDLs are an appropriate regulatory method, the Regional Board does not have the authority to include these provisions in this</p>	<p>federal Clean Water Act section 303(d) to establish TMDLs to address water quality impairments. Additionally, while there are limited circumstances under which impairment may be addressed by a single regulatory action, in this case because there are multiple sources that may be causing and/or contributing to the impairment, a TMDL is the appropriate first step.</p> <p>Regional Board staff agrees that the TMDL regulatory requirements imposed on industrial facilities discharging stormwater should be implemented through the Statewide IGP, or its equivalent, and individual industrial stormwater permits. The TMDL, as proposed, emphasizes implementation of the plastic pellets WLAs through these permits, and does not assign plastic pellet WLAs to municipal stormwater permittees. The obligations imposed on MS4 Permittees are to monitor for potential discharge of plastic pellets from the MS4 and to actively implement elements of their MS4 permits to control discharge of plastic pellets from facilities and activities engaged in the manufacture, handling or transport of plastic pellets within their jurisdiction.</p>

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			TMDL. Additionally, addressing the plastic pellet impairment is best achieved through Statewide or regionwide action through the IGP. Therefore, we request that plastic pellets be removed from the subject TMDL and instead be addressed via modifications and enforcement of applicable industrial permits such as the IGP.	
5.2	LACDPW	Sept.13	<p><b>Municipal Separate Storm Sewer System (MS4) permittees should not be responsible for plastic pellets.</b>  As set forth above, plastic pellets cannot be included in this TMDL. If the Regional Board should nevertheless go forward and include them in this TMDL, then responsibility for monitoring and inspections should be placed on industrial facilities that manufacture or use these plastic pellets and State and Regional Board staff. No responsibility for monitoring, inspections, or cleanup should be imposed on municipal stormwater permittees.</p> <p>While the proposed TMDL clearly identifies industrial facilities as the source of plastic pellets and assigns associated waste-load allocations (WLAs) to those facilities, the TMDL, nevertheless, requires MS4 permittees to conduct monitoring, inspections, and clean up of spills for plastic pellets. The following language is taken from the implementation and monitoring sections of the proposed Basin Plan Amendment (BPA):</p> <p><i>"MS4 permittees identified as responsible jurisdictions and agencies for point sources of trash in this Santa Monica Bay Debris TMDL and in the existing Malibu Creek and Ballona Creek Trash TMDLs shall prepare a Plastic Pellet Monitoring and Reporting Plan (PMRP) to (i) monitor plastic pellet discharges from MS4...; (ii) establish trigger</i></p>	<p>See response to comment 5.1. MS4 Permittees have jurisdiction over the MS4 and are responsible for discharges of pollutants, including trash and plastic pellets, from the MS4 to Santa Monica Bay. However, Regional Board staff recognizes that the TMDL requirements, particularly achieving the plastic pellets WLA, to eliminate discharge of plastic pellets to Santa Monica Bay should be the primary (though not exclusive, as discussed below) responsibility of the industrial facilities and activities that manufacture, transport and handle plastic pellets. Therefore, the SMB Debris TMDL only assigns a plastic pellet WLA to industrial sources – not to MS4 Permittees.</p> <p>However, MS4 permittees must conduct monitoring if there are facilities or activities, including transportation, that handle plastic pellets within their jurisdiction to determine the extent to which plastic pellets are being discharged from the MS4 to Santa Monica Bay.</p>

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			<p><i>for increased industrial facility inspections...; and (iii) address possible plastic pellet spills. The PMRP shall include protocols for a timely and appropriate response to possible plastic pellet spills within a Permittee's jurisdictional area, and a comprehensive plan to ensure that plastic pellets are contained."</i></p> <p>It is not appropriate to place monitoring, inspection, and cleanup responsibilities on MS4 permittees when the plastics industry has already been identified as the source of impairment and the State already possesses regulatory authority to require compliance through the IGP. The State and regional water quality control boards already receive a fee from holders of the IGP for the purpose of stormwater inspection and regulatory compliance [Water Code § 13260(d)(2)(B)(iii)]. Monitoring and cleanup of plastic pellet releases should be required of the plastics industry, and facility inspections should be conducted by Regional Board and/or State Board staff.</p>	<p>Upon further consideration based on this comment and that of other MS4 Permittees, Regional Board staff finds that it is reasonable to modify some monitoring requirements related to plastic pellets that are assigned to MS4 Permittees under certain circumstances that have been described in both the BPA and staff report, as follows:</p> <p>A MS4 Permittee may demonstrate to the Regional Board that it has only residential areas within its jurisdictional boundary, and that it has limited commercial/industrial transportation corridors (rail and roadway), such that it is not considered a potential source of plastic pellets to Santa Monica Bay. Such demonstration must be provided when the MS4 Permittee submits its proposed TMRP/PMRP and must include the municipal zoning plan and other appropriate documentation. The Executive Officer may approve an exemption from the requirement to prepare a PMRP for the MS4 Permittee on the basis of this demonstration, if appropriate. Responsible jurisdictions which have no industrial facilities or activities related to the manufacturing, handling, or transportation of plastic pellets as identified in the TMDL, may not be required to conduct monitoring at MS4 outfalls, but will be required to include a response plan in the PMRP. In order to be absolved of the</p>

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				<p>requirement to conduct monitoring at MS4 outfalls, documentation of the absence of industrial facilities and activities within the jurisdiction that are related to the manufacture, handling and transportation of plastic pellets must be provided in the proposed PMRP.</p> <p>MS4 Permittees that have industrial facilities and activities related to the manufacture, handling and transportation of plastic pellets within their boundaries must submit a PMRP that includes a response plan, plan to monitor discharge of plastic pellets at representative outfalls, and the necessary inspection and enforcement measures.</p>
5.3	LACDPW	Sept.13	<p><b>The proposed TMDL should clearly state the responsibility of the parties in the Malibu Creek and Ballona Creek Watersheds.</b></p> <p>The proposed BPA states that responsible agencies and jurisdictions covered by the Ballona Creek and Malibu Creek Trash TMDLs are also responsible for discharges of trash in the Santa Monica Bay Debris TMDL. At the same time, the proposed BPA also states that allocations and requirements for these parties can be addressed through the existing Ballona Creek and Malibu Creek Trash TMDLs. It is not clear how compliance with the Santa Monica Bay Debris TMDL is measured for jurisdictional parties located in the Ballona and Malibu Creek Watersheds. For example, does compliance with the Ballona and Malibu Trash TMDLs automatically equate to compliance with the Santa Monica Bay Debris TMDL? We request that the proposed TMDL be</p>	<p>Compliance with the Ballona Creek Watershed Trash TMDL and the Malibu Creek Trash TMDL will constitute compliance with the trash related requirements of the Santa Monica Bay Debris TMDL for areas/jurisdictions within the Ballona Creek and Malibu Creek Watersheds that are addressed by those existing TMDLs. Clarification is provided in the Basin Plan Amendment and Staff Report.</p>

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			revised to clarify how compliance will be assessed for responsible parties in the Ballona Creek and Malibu Creek Watersheds. The TMDL should provide that compliance with the Ballona Creek and Malibu Creek Trash TMDLs constitutes compliance with the Santa Monica Bay Nearshore and Offshore Debris TMDL for those jurisdictions in the Ballona Creek and Malibu Creek Watersheds.	
5.4	LACDPW	Sept.13	<p><b>Industries that are responsible for discharge of plastic pellets should be identified in the TMDL.</b></p> <p>Though the proposed TMDL mentions industrial facilities as the source of plastic pellets, these industrial facilities are not specifically identified by name. In fact, it is our understanding that the industrial facilities were not informed about the development of the proposed TMDL, including future compliance expectations, or had the opportunity to comment. Participation by the industrial facilities is critical to the TMDL development process as the responsibility of meeting the plastic pellet target lies directly with them. We request that applicable industrial facilities in the watershed be identified and listed in the TMDL; these facilities should also be given the opportunity to comment on this TMDL.</p>	Industrial facilities within the Santa Monica Bay Watershed Management Area have been identified. These facilities have also been notified of the draft TMDL, and have been given the opportunity to comment.
5.5	LACDPW	Sept.13	<p><b>All obligations imposed on municipal stormwater permittees under this TMDL should be deferred for a minimum of one year in light of the current budget crisis faced by the State and the municipalities.</b></p> <p>The TMDL imposes new obligations on municipal stormwater permittees. These obligations are in addition to the new obligations imposed by this Regional Board on the municipal stormwater permittees this year under the other TMDLs adopted by this Regional Board, as well as the ongoing obligations imposed on municipal stormwater permittees under prior TMDLs. The new obligations imposed</p>	The County of Los Angeles is a responsible jurisdiction under two previously established Trash TMDLs within the Santa Monica Bay Watershed Management Area (WMA) -- the Malibu Creek Trash TMDL and the Ballona Creek Trash TMDL, which cover the two largest subwatersheds within the Santa Monica Bay WMA (comprising 43.2% of the WMA). As described in this TMDL, compliance with the Ballona Creek Watershed Trash TMDL and the Malibu

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			<p>by this TMDL are imposed without regard or discussion of the source of funds for these TMDL obligations.</p> <p>In light of the State budget crisis and the budget issues faced by municipalities in the County of Los Angeles, the Regional Board should not impose new programs that are going to place additional financial burden on municipal stormwater permittees. Accordingly, all obligations imposed on the municipal stormwater permittees under this proposed TMDL should be deferred for at least one year. With this deferral, the submission of the Trash Monitoring and Reporting Plan (TMRP) should not be required until 18 months from the TMDL's effective date. All other and subsequent dates should likewise be extended by one year. In addition, the TMDL should provide that the dates can be further extended should be municipalities lack funding to implement these programs.</p>	<p>Creek Trash TMDL will constitute compliance with the trash related requirements of the Santa Monica Bay Debris TMDL for areas/jurisdictions within the Ballona Creek and Malibu Creek Watersheds that are addressed by those existing TMDLs. Responsible jurisdictions and agencies that have developed a Regional Board approved TMRP for the Ballona Creek Trash TMDL and/or Malibu Creek Trash TMDL do not have to submit a separate TMRP for this Debris TMDL for those areas, if responsible jurisdictions and agencies are meeting all compliance requirements under those TMDLs.</p> <p>Furthermore, the date to begin implementation of a TMRP will likely be at least 1½ years from Regional Board adoption of the TMDL, since the TMDL will likely not become effective for approximately 9 months after the Regional Board's action, and then after the TMDL becomes effective, responsible jurisdictions have another six months to submit their TMRPs and PMRPs, and then 6 months after EO approval to implement them. Therefore, in effect, Responsible Jurisdictions will have over one year to submit the TMRP after the Regional Board adopts this TMDL, and over 1½ years to begin to implement it.</p>
5.6	LACDPW	Sept.13	<b>The monitoring and implementation compliance schedule</b>	Please see response to comment 5.5. The

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			<p><b>should also be extended given the breadth of the area covered and the number of jurisdictions involved.</b></p> <p>The proposed TMDL covers a much larger geographical area than any of the TMDLs previously developed for the region, consisting of about 420 square miles of land area draining to the Santa Monica Bay, 55 miles of shoreline with 44 beaches, and several miles into the ocean. It also covers numerous responsible agencies. Based on experience with previous TMDLs, it is not possible to develop a sound monitoring and reporting plan in a six-month time frame for a TMDL of this scale. This is because the development of monitoring and reporting plans would require the involvement of experts in the field as well as coordination with multiple agencies throughout the watershed. Therefore, we request that the time frame for developing monitoring plans, as identified in Tables 7-34.2 and 7-34.3 of the proposed BPA, after any deferral, be extended from six months to at least one year. The additional time would allow for more effective interagency coordination and to identify and address the new challenges posed by the plastic pellets monitoring.</p> <p>Further, the proposed BPA does not provide adequate time for the responsible jurisdictions to attain the final WLA. The TMDL provides no evidence as to how the responsible jurisdictions are to meet the eight-year compliance schedule. Given that the compliance with the proposed TMDL greatly depends on the effective implementation and compliance of other upstream Trash TMDLs, the compliance schedule for this TMDL should take those upstream TMDLs into account. Sufficient time should be allowed for responsible parties to conduct monitoring and research needed during the course of implementing the TMDL. Integration with other TMDLs and</p>	<p>Implementation Schedules for both point and nonpoint sources specified in the BPA are reasonable. Responsible agencies within the Los Angeles Region have a great deal of experience implementing a variety of certified full capture devices, partial capture devices, and institutional controls to comply with the requirements of other established Trash TMDLs in the LA Region, and in the Santa Monica Bay Watershed Management Area. Many of these responsible agencies and jurisdictions are the same as those named in the Santa Monica Bay Debris TMDL, including the County of Los Angeles. This TMDL will benefit from the innovation of agencies such as the County of Los Angeles, City of Los Angeles, Caltrans and others that have developed cost effective certified full capture devices, and partial capture systems, and have extensive experience installing and maintaining these BMPs. Data collected by the responsible jurisdictions for these other Trash TMDLs support the effectiveness of these compliance measures to reduce trash loading to Santa Monica Bay.</p> <p>Although the Santa Monica Bay Watershed Management Area (WMA) is large, the two largest subwatersheds within the WMA, namely the Malibu Creek Watershed and the Ballona Creek Watershed, are already covered by established trash TMDLs. The</p>



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			regional watershed management programs is also necessary. We, therefore, request that the eight-year implementation schedule in Table 7-34.2 of the BPA be extended to 15 years.	proposed Santa Monica Bay Watershed Debris TMDL implementation schedule takes into account the related implementation schedules of these other two Trash TMDLs and establishes a final compliance deadline that is after the final compliance deadlines for the Malibu and Ballona Creek Watershed Trash TMDLs.
5.7	LACDPW	Sept.13	<b>Discrepancy in the Substitute Environmental Document (California Environmental Quality Act document).</b> In the California Environmental Quality Act document, the answer to item 3.e., "Will the proposal result in discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity?" is marked as "No Impact" (p. 71). However, on page 95, the answer is noted as "Potentially significant impact." The answer on page 95 is appropriate; the answer on page 71 should be corrected.	Comment noted. The Substitute Environmental Document has been revised to correct the inconsistency.
6.1	LACFCD	Sept.13	<b>The proposed TMDL should not name the LACFCD as a responsible party</b> The proposed TMDL should not name the LACFCD as one of the responsible parties for meeting the TMDL's waste-load allocations for several reasons. First, land areas draining to the LACFCD storm drains that empty into the Santa Monica Bay are under the jurisdiction of upstream municipalities. The LACFCD storm drains function solely as a conveyance for urban and stormwater runoff from upstream entities and do not generate any of the pollutants of concern at issue in the TMDL. Further, the LACFCD does not control land uses or industrial facilities within the municipalities and, therefore, has no feasible means of preventing the pollutants at issue flowing from those land uses and facilities from	The Regional Board's approach to regulating trash in the context of a TMDL is unique and unlike that used for other pollutants. Trash is generally visible and easily containable, and these attributes make it a pollutant that is readily controllable within its area of origin through proper and frequent collection and disposal by municipalities and the public. Also, the feasibility of containing this pollutant allows for determining compliance within a jurisdiction prior to discharge to the MS4. The LA Region trash TMDLs take this into account in identifying responsible jurisdictions and agencies and their points of compliance, and in assigning waste load allocations.

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			entering its facilities and the Santa Monica Bay. We request the removal of the LACFCD as a responsible party from the proposed TMDL.	<p>The TMDL is designed to assign all responsibility for trash generated within a land area to the responsible jurisdictional agency. The intent of the TMDL is to control the trash prior to its being discharged to the MS4 and from there to impaired waters. In this manner, responsible jurisdictions within the watershed are assigned waste load allocations and should be responsible for controlling all potential trash discharges from their area. The flood control districts are not assigned waste load allocations. However, the Regional Board recognizes the flood control districts' authority over the MS4 and the fact that some of the key compliance strategies for the trash TMDL rely on installations within the flood control districts' infrastructure. Because of this, flood control districts may be held responsible with a jurisdiction and/or agency for non-compliance where the flood control district has either:</p> <ul style="list-style-type: none"> <li>(i) without good cause denied entitlements or other necessary authority to a responsible jurisdiction or agency for the timely installation and/or maintenance of full and/or partial capture trash control devices for purposes of TMDL compliance in parts of the MS4 physical infrastructure that are under its authority, or</li> <li>(ii) not fulfilled its obligations</li> </ul>

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				<p>regarding proper BMP installation, operation and maintenance for purposes of TMDL compliance within the MS4 physical infrastructure under its authority,</p> <p>thereby causing or contributing to a responsible jurisdiction and/or agency to be out of compliance with its interim or final Waste Load Allocations.</p> <p>Under these circumstances, the flood control district's responsibility shall be limited to non-compliance related to the drainage area(s) within the jurisdiction where the flood control district has authority over the relevant portions of the MS4 physical infrastructure.</p> <p>Additionally, consistent with the requirements of their respective MS4 permits, the flood control districts are responsible for visually monitoring and removing trash and debris from all open channels and other MS4 drainage structures under their ownership. These requirements are intended to address stray trash and debris that have been deposited either illegally or through wind transport into the open channels. The flood control districts shall also identify and prioritize problem areas of illicit discharge. For these problem areas, the flood control districts shall propose a more frequent schedule of inspection and removal beyond the standard requirements of their MS4 permits. Alternatively, the flood control</p>

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				<p>districts shall demonstrate that stray trash and debris are captured or removed prior to their discharge from the MS4 to Santa Monica Bay.</p> <p>Regional Board staff has added language to address LACFCD's comment by more precisely defining the scope of the flood control districts' responsibility under the TMDL.</p>
6.2	LACFCD	Sept.13	<p><b>An Error in Table 9 of the Staff Report Needs To Be Corrected</b></p> <p>Page 36, Table 9 of the Staff Report erroneously identifies the LACFCD as the entity having jurisdiction over 6.37 square miles of drainage area in Santa Monica Bay Watershed. This number is based on land use area, but the LACFCD does not have jurisdiction over any land use area in the watershed. We request that this error be corrected and the LACFCD be removed from Table 9 of the Staff Report.</p>	<p>Table 9 has been revised to correctly assign responsibility for the 6.37 square miles to the County of Los Angeles, not the LACFCD.</p> <p>See also response to comment 6.1.</p>
6.3	LACFCD	Sept.13	<p><b>The LACFCD is erroneously named on page 5 of the proposed amendment.</b></p> <p>On page 5 of the proposed amendment, the LACFCD is included among the Los Angeles County MS4 permittees who are assigned waste load allocations for trash. There can be no waste load allocation assigned to the LACFCD because, as discussed in comment 2 above, the LACFCD has no land use area, which is the basis on which waste load allocations are assigned. The erroneous reference to the LACFCD on page 5 of the amendment should, therefore, be removed. The removal of the reference to the LACFCD on page 5 makes the TMDL consistent with the Los Angeles River, Ballona Creek and Malibu Creek Trash TMDLs, which assigned no waste load allocation to the LACFCD.</p>	<p>See response to comment 6.1.</p>

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7.1	LACDBH	Sept. 13	<p>The Los Angeles County Department of Public Works (DPW), on behalf of the County and the Los Angeles County Flood Control District, has submitted two separate comment letters in response to the proposed "Santa Monica Bay Nearshore and Offshore Debris TMDL". In the letter submitted on behalf of the County, DPW states in pertinent part the following: "The TMDL imposes new obligation on municipal stormwater permittees. These obligations are in addition to the new obligations imposed by this Regional Board on the municipal stormwater permittees this year under the other TMDLs adopted by this Board, as well as the ongoing obligation imposed on municipal stormwater permittees under prior TMDLs. The new obligations imposed by this TMDL are imposed without regard or discussion of the source of funds for these TMDL obligations. In light of the state budget crisis and the budget issues faced by the municipalities in Los Angeles County, the Regional Board should not impose new programs that are going to place additional financial burden on municipality stormwater permittees. Accordingly, all obligations imposed on the municipal stormwater permittees under this proposed TMDL should be deferred for at least one year. With this deferral, the submission of the Trash Monitoring and Reporting Plan (TMRP) should not be required until eighteen months from the TMDL's effective date. All other subsequent dates should likewise be extended by one year. In addition, the TMDL should provide that the dates can be further extended should the municipalities lack funding to implement these programs."</p> <p>The Department of Beaches and Harbors concurs with the foregoing and has additional comments on your staff report</p>	See response to comment 5.5.

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			as follows:	
7.2	LACDBH	Sept. 13	Page 12: The title of Figure 4 is incorrect; it should be revised to read Beaches Owned or Operated by Los Angeles County (the Department of Beaches and Harbors does not by itself own any beaches). In addition, the map used in Figure 4 is out of date. We will provide a revised map for your use.	Comment noted. The Staff Report has been revised accordingly.
7.3	LACDBH	Sept. 13	Page 30: The first paragraph mentions that there will be a trash component included in the proposed Statewide Marina General Permit. We are not certain if this is in reference to the often discussed "Coastal Marinas Permit". We understood that a trash component would not be a part of such a coastal marina permit and the County's comments are, therefore, predicated on that basis. We reserve the right to revise our comments should this Debris TMDL be linked to any other permit requirements.	Because the scope and components of the Statewide Marina General Permit have not yet been finalized, the paragraph has been removed.
7.4	LACDBH	Sept. 13	Pages 45 and 47. Both figures on these pages are labeled as Figure 7, but they show different data. One should be re-labeled in correction.	The staff report has been revised accordingly.
7.5	LACDBH	Sept. 13	Page 48: The first paragraph states "The MFAC/BMP program shall include collection and disposal of all trash found on the shoreline and parking lots, or in areas close enough in proximity to the Santa Monica Bay such that wind or stormwater runoff may carry the trash into the bay". We suggest it be modified to state "The MFAC/BMP program shall include collection and disposal of all trash found on the shoreline and beach parking lots, or in areas close enough in proximity to the Santa Monica Bay, such that wind or stormwater runoff may carry the trash into the bay".	Comment noted. The suggested modification was made in the Staff Report.
7.6	LACDBH	Sept. 13	Page 75, Table 22: The "MFAC Description" column indicates assessment once per year per beach. Of all the	The County may propose in its TMRP which beaches it will monitor. If some beaches

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			beaches operated and maintained by the County only 10 are of the size suitable for any monitoring regimen. Further, the staff report underestimated the cost of monitoring 12 beaches per year, which is impractical from a logistic point of view as well as from a financial perspective as we will explain below. Accordingly, the County requests that no more than three to four beaches are monitored each year.	cannot be monitored, justification for not including them must be presented in the TMRP.  The cost estimates for monitoring contained in the Staff Report are reasonable and were based on Regional Board experience. .
7.7	LACDBH	Sept. 13	Page 76: Table 24 is cut off of the page	The Staff Report has been revised fix the formatting.
7.8	LACDBH	Sept. 13	Page 76: Table 23 needs to be corrected; the "Total Hours/Yr" figure for Los Angeles County Department of Beaches and Harbors should be 5,900, not 3,628 (5,456 + 444 5,900). In addition, the \$37.50 per hour labor cost used to calculate the cost for compliance with this monitoring regime does not reflect the County's true cost. The proposed work needs to be administered by a District Manager whose hourly cost is \$96.46. This increases our projected annual compliance cost to \$569,114 (5,900 x \$96.46), not \$221,250 as indicated in the staff report. The County believes that. three to four "Compliance Assessments" per year and a similar number of "Afternoon Evaluations" each year to be conducted on the most popular beaches should yield adequate data to gauge the cleanliness of all County-owned or operated beaches, as the cleaning procedure for every beach is based on the same training procedure and manual, allowing the County to continue to direct its resources to conduct actual beach cleaning work to benefit the public.	The calculations in the Staff Report have been corrected.  In estimating the cost of the monitoring program, staff appropriately used the cost of personnel who would be in the field conducting the actual compliance assessments.  See also response to comment 7.6.
8.1	VCWPD	Sept. 9	Please note, the VCPWA and District are implementing requirements of the MCW Trash TMDL for both point sources and non point sources prior to the effective date of the SMB Debris TMDL. As required by the MCW Trash TMDL BPA,	Comment noted.

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			we, in cooperation with the City of Thousand Oaks, submitted on April 30, 2010 a Trash Monitoring and Reporting Plan (TMRP) for Executive Officer approval. The submitted TMRP outlines the strategies and efforts that will be implemented to meet all requirements of the MCW Trash TMDL.	
8.2	VCWPD	Sept. 9	<p>The proposed implementation strategies for both point and nonpoint source requirements include structural and non structural Best Management Practices (BMPs) and a Minimum Frequency Assessment and Collection (MFAC) Program to ensure compliance with this TMDL. We strongly believe that our proposed TMRP/MFAC program will thoroughly address trash and debris sources within the Ventura County jurisdiction that might potentially affect the SMB Watershed. Moreover, we are currently in the process of addressing trash and debris problems countywide via implementation of the Ventura County NPDES Permit No CAS004002 (Permit) requirements. We are implementing nonstructural BMPs to meet provisions outlined in the Permit, which include countywide measures to address trash, in addition to requirements of the currently approved trash TMDLs. Non structural BMPs being developed and/or implemented include the following:</p> <ul style="list-style-type: none"> <li>1) Bilingual education and outreach to students and residents in Ventura County area promoting understanding of environmental issues and how to protect surface water and stormwater quality;</li> <li>2) Bilingual education and outreach to commercial and industrial businesses promoting a clear understanding of the potential for activities to pollute stormwater and importance of effective implementation of BMPs;</li> <li>3) Catch basins inspections at least once a year, and cleaned</li> </ul>	Comment noted.



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			<p>at 25% or more of the unit's capacity. During storm season, all drainage facilities are inspected and cleaned as necessary;</p> <p>4) Street sweeping of County's residential areas with drainage to Medea Creek within MCW twice per month;</p> <p>5) All District owned-and-maintained open channels cleared, inspected, and cleaned at least once per year.</p> <p>6) Placement of trash receptacles at public use areas and along the hiking/walking trails in the urbanized Oak Park area within MCW.</p> <p>7) Ventura County Ordinance (6923 Litter) prohibits the disposal and accumulation of trash in public areas, private driveways, parking areas, streets, alleys, sidewalks, or components of the storm drain or any water course.</p> <p>8) The County's catch basins are labeled, "Don't pollute, Flows to Waterways".</p>	
8.3	VCWPD	Sept. 9	<p>Language in the Draft Staff Report suggests that MFAC programs may be implemented only to satisfy nonpoint source obligations. Since some responsible parties such as, the VCPWA and District have no direct discharge into the SMB shorelines, we feel that compliance with both point and nonpoint sources can be reached by implementing the above referenced MFAC program. This will be consistent with the Regional Board Resolution No. R4-2008-007 for the MCW Trash TMDL. <b>Requested Action:</b> We request the Draft Staff Report and the tentative BPA be revised to consistently state that responsible jurisdictions are responsible for both point and nonpoint sources and will be deemed in compliance with both the Waste Load Allocations (WLAs) and Load Allocations (LAs) if an MFAC/BMP program, approved by the Executive Officer, is implemented.</p>	<p>The MFAC/BMP program is designed to manage trash from nonpoint source areas, which requires manual cleanup of trash directly on the waterbody, its shoreline, and within surrounding open space. Point source trash dischargers can use full capture systems, partial capture systems, and/or institutional controls, as indicated in your comment at 8.2, to achieve compliance with the WLAs in this Debris TMDL.</p>
8.4	VCWPD	Sept. 9	<p><b>RESPONSIBLE PARTIES</b>  The District is concerned with its naming as a point source</p>	<p>As stated in the Basin Plan Amendment, the trash WLA and trash related requirements of</p>

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			<p>responsible party in this SMB Debris TMDL. The <b>District owns and operates a small facility in Medea Creek Reach 2, which is within MCW listing of impaired water bodies, and is consequently addressed in the MCW trash TMDL.</b> All potential trash produced from the District's facility is addressed by the Malibu Creek TMRP submitted for approval on April 30, 2010. The District has no other facility in the SMB Watershed that may potentially contribute debris, trash, or plastic to the SMB beaches. As a matter of fact, the District is concerned that the naming in this TMDL is based upon incorrect assumptions and responsibilities associated with Principal Permittee duties. The District is designated as the Principal Permittee in the Ventura County MS4 Permit. The duties are primarily defined in the Permit in the following four categories:</p> <ul style="list-style-type: none"> <li>• Program Administration,</li> <li>• Reporting,</li> <li>• Monitoring, and</li> <li>• Outreach.</li> </ul> <p>By no means does the Principal Permittee have the authority to "coordinate and facilitate activities" for specific TMDLs. TMDLs are issued waterbody specific to identified responsible parties, not to a Stormwater Permit's regional program entity. If the naming as a responsible party in the SMB Debris TMDL is based on this assumption, we feel this is an inaccurate interpretation of the Principal Permittee duties, role, and responsibilities.</p> <p><b>Requested Action:</b> The District requests to <b>be removed</b> as a responsible party for point sources in the SMB Debris TMDL.</p>	<p>the SMB Debris TMDL that are applicable to responsible agencies and jurisdictions covered by the Ballona Creek Watershed Trash TMDL and the Malibu Creek Trash TMDL shall be addressed through the Ballona Creek Trash TMDL and the Malibu Creek Trash TMDL. Please also see response to comment 5.3.</p> <p>The Ventura County Watershed Protection District has jurisdiction over portions of the MS4, which could discharge both trash and plastic pellets to Santa Monica Bay. VCWPD is identified as a responsible agency because it operates and manages portions of the MS4, not in its role as the principal permittee. VCWPD is not required to coordinate and facilitate all activities arising from the requirements of this TMDL. Please see response to comment 6.1.</p>
8.5	VCWPD	Sept. 9	<b>SOURCE ANALYSIS</b>	See response to comment 5.2.

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			<p>Section III Source analysis on page 30 Land based Nonpoint Sources of Plastic Pellets states that spills will be addressed by point source of plastic pellets or the MS4 Permittee. We are concerned that MS4 Permittees are required to be responsible and abate plastic pellet spills we might not even know about or have jurisdiction for. We do not understand why the MS4 Permittees should be responsible for responding to a spill that happen during transport, transfer, or handling of plastic pellets. Plastic industries must be responsible for the proper handling and consequently must have a proper and timely responsive plan in the event of a spill. Further, it is our understanding that responsibility to control discharges of plastic pellets or "nurdles" will be limited to industrial facilities that produce or use pellets in their operations. To better assist Regional Board staff with this effort, we have reviewed business licenses, industrial permits, and industry information available for areas falling under Ventura County's jurisdiction. At this time, we find no information or data that indicate that any facility located within Ventura County produces these pellets or has the potential to discharge such pellets as part of its operation.</p> <p><b>Requested Actions:</b> We request clarification of the following:</p> <p>1) Information or data to show which facility within Ventura County has the potential to generate or discharge plastic pellets within the Malibu Creek Watershed.</p>	
8.6	VCWPD	Sept. 9	<p><b>WASTE LOAD AND LOAD ALLOCATIONS</b></p> <p>1. WLAs and LAs are assigned to the Permittees of the L.A. County and Ventura County MS4 Permit; however, the Regional Board has not considered areas for which the County of Ventura is not responsible although they are within the County's boundaries. Those privately owned and</p>	<p>Jurisdictions may establish ordinances to ensure proper trash disposal and to control illicit trash discharges from private lands.</p> <p>The Santa Monica Bay Debris TMDL also identifies the National Park Service,</p>

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			<p>operated areas have the potential of generating trash and the County of Ventura unincorporated has no authority over them, thus it has no mechanism to take actions associated with this SMB Debris TMDL implementation.</p> <p><b>Requested Action:</b> We request that the Regional Board revise the WLAs and include all the potential sources and jurisdictions, including private lands and independent park districts.</p>	<p>California Department of Parks and Recreation and State Lands Commission as responsible entities under the proposed TMDL.</p>
8.7	VCWPD	Sept. 9	<p>The Draft Staff Report in Section V page 32 paragraph 5 assigns LAs to the County of Ventura and others, which have jurisdiction over non-beach open space. However, this contradicts the rationale given in the same section and page in paragraph 3 to exclude other municipalities from being a responsible party in the SMB Debris TMDL. There are considerable areas under the County of Ventura jurisdiction within the SMB Watershed that are zoned as undeveloped/open space areas, yet the VCPWA is not excluded from being responsible for said areas nor is it excluded from the SMB Debris TMDL. Additionally, Section VIII A.2.1 requires each responsible jurisdiction to identify locations where the most trash is littered and accumulated within non-beach open space/parks. We recognize that the SMB Watershed might benefit from trash cleanup events; however, we believe such frequent cleanup is unwarranted. The VCPWA nor the District has any jurisdiction over non-County parks within the SMB Watershed. Open space, on the other hand, does not have trash accumulation warranting a monthly deployment of trash collection crews.</p> <p><b>Requested Actions:</b></p> <p>1) We request that the Regional Board revise the LAs and <b>remove</b> the County of Ventura as a responsible party for LAs assigned for the non-beach open space.</p>	<p>In the majority of cases, jurisdictions with undeveloped/open space land use are identified as responsible entities under the TMDL. For the most part, these areas have the potential to contribute to trash discharges to Santa Monica Bay as a result of recreational use of these areas and hydrologic connection to waterways that ultimately discharge to Santa Monica Bay.</p> <p>Regarding the minimum frequency to cleanup trash from non-beach open space, Ventura County may document the trash quantity collected during the cleanup events in order to demonstrate a decreasing trend and justify a reduction in cleanup frequency during the reconsideration of this TMDL.</p>

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			2) We request that the Regional Board decrease the TMRP clean-up frequency from monthly to quarterly for non-beach open space/parks to reflect a conceivable and realistic trash accumulation cycle based upon the proven linkage between trash from non-beach open space and impairments in the SMB marine waters.	
8.8	VCWPD	Sept. 9	<p><b>COST ANALYSIS</b>  The cost determination in Section X, Cost Considerations is unclear. This section references only Los Angeles County cities, excluding MFAC costs and efforts being made in Ventura County. In addition, it is unclear what the annualized costs apply and how capital costs were determined. We disagree with the cost estimate on page 75 of the Staff Report for MFAC program implementation. The estimate assumes a single person can complete trash assessment and collection in two hours. Initial monitoring and assessment conducted in the Ventura River Watershed, Revolon Slough, and Beardsley Wash required three to four hours with at least six people to pick up trash in a 100 foot stretch of the water bodies. Additionally, it does not consider time spent during transportation and difficult access to remote open space locations.</p> <p><b>Requested Action:</b>  This section should be clarified and updated to correctly represent the MFAC real costs based upon underway efforts in Ventura County and other areas of L.A. County.</p>	The hours estimated for implementing a MFAC program include the hours needed to cleanup open space in Ventura County. The cost estimate is provided for reference and does not assign cost estimates to individual entities.
8.9	VCWPD	Sept. 9	<p><b>LANGUAGE CLARIFICATIONS/DEFINITIONS</b>  <u>MFAC Implementation and Applicability</u>  The language in the Draft Staff Report and tentative BPA is unclear as to the extent of application of the MFAC program. The application of the MFAC program should be clearly limited to a defined area.</p>	<p>Please see the response to comment 8.3.</p> <p>Responsible jurisdictions and agencies are not required to access and collect trash from areas where access by personnel is</p>

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			<p>Many areas of the SMB Watershed are inaccessible or unsafe to access. The Draft Staff Report and tentative BPA should contain language to clarify that trash does not have to be collected in areas posing a hazard during the baseline determination period and during MFAC implementation. Specifically, responsible jurisdictions should not have to collect trash from dense thickets of vegetation and where water depth may preclude a safe crossing.</p> <p>The responsible parties may have limited jurisdiction or authority to access some areas of the SMB Watershed. Additionally, Cities and Counties may not have the local authority to access areas outside of their limits, particularly at private properties located within unincorporated areas.</p> <p><b>Requested Actions:</b></p> <p>1) We request clarification of the extent of the MFAC implementation and applicability.</p> <p>2) We suggest the Regional Board include language acknowledging these limitations and ensuring that compliance is achieved if the MFAC program is implemented in the areas of the responsible party's authority.</p>	<p>prohibited, as specified in the Implementation section-nonpoint source (e) of the BPA. Any special concerns and limitations shall be included in the TMRP for the Executive Officer's review and approval.</p>
8.10	VCWPD	Sept. 9	<p>Implementation and Compliance for Plastic Pellets</p> <p>We have a serious concern about the jurisdictions and agencies identified as responsible parties for point sources of trash, which will need to develop and submit a Plastic Pellet Monitoring Plan (PMRP). The language in the Draft Staff Report and tentative BPA is unclear as to the extent of application of the PMRP program. The PMRP calls for protocols for a timely and appropriate response to possible pellets spillage within the Permittee's jurisdiction. We believe the plastic pellets carriers and manufacturers must have a</p>	<p>Please see response to comments 2.3 and 5.2.</p>

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			<p>comprehensive plan to ensure that plastic pellets are contained in the event of a spill. Additionally, clean-up activities due to plastic pellets spillage must not be responsibility of the MS4 Permittees. See Comment D "Source Analysis" page 3 of this letter for further discussion and explanation.</p> <p><b>Requested Action:</b> We request removal of the PMRP submittal requirement from the SMB Debris TMDL and limit it to a notification of the Regional Board in the event of a plastic pellet spill within our jurisdiction.</p>	
8.11	VCWPD	Sept. 9	<p><u>Impairment of Beneficial Uses</u></p> <p>It is our understanding that according to the 1998, 2002 and 2006 303 (d) lists, debris is impairing beneficial uses in the SMB marine waters. However, there is no documentation, nor has it been proven that open spaces and the undeveloped areas of the SMB Watershed are directly linked and related to impairment for trash in the SMB marine waters.</p> <p>Additionally, as it is written now, the non-listed tributaries of the SMB Watershed are being addressed as if they were impaired for trash with the development of the SMB Debris TMDL. This not only circumvents the process of the 303 (d) of the Clean Water Act, but it does not make sense from the pragmatic standpoint. We do not believe it is equitable or reasonable to require us to comply with point source allocations, and to retrofit lightly urbanized areas within the Unincorporated Ventura County with structural full-capture devices where trash impairments have not been properly designated.</p> <p><b>Requested Actions:</b></p> <p>1) We request a full linkage analysis and the rationale behind making the SMB Watershed and all its tributaries impaired for trash when the trash impairment is only limited to the</p>	<p>First, many areas within the Santa Monica Bay Watershed Management Area are unassessed. However, it is reasonable given the characteristics of the WMA – highly urbanized areas and/or heavily used recreational areas – and the ubiquitous nature of debris in the environment to assign wasteload and load allocations to all land areas draining to Santa Monica Bay. The Clean Water Act requires protection of downstream areas, and nothing in section 303(d) limits the Regional Board's authority to establish a TMDL for upstream waterbodies that flow into downstream waterbodies that are identified as impaired. Therefore, the TMDL includes all areas that may be a source of trash to downstream water bodies. This approach is consistent with the decision in <i>City of Arcadia v. State Water Resources Control Board</i>, 135 Cal. App. 4<sup>th</sup> 1392 (2006), in which the court ruled that the trash TMDL was consistent with federal and state law in providing for an adequate margin of safety and considering other uncertainties.</p>

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			<p>SMB beaches and marine waters.</p> <p>2) We request to provide us with the data, information utilized and rationale for linking Ventura County to the impairments of SMB Debris TMDL.</p>	<p>Furthermore, the Regional Board has authority to regulate pollutants that could discharge into upstream waterbodies in order to protect downstream water bodies. See, for example, <i>Headwaters, Inc. v. Talent Irrigation Dist.</i> 243 F.3d 526 (9th Cir. 2001) and <i>National Cotton Council of America v. U.S. Environmental Protection Agency</i>, 553 F.3d 927 (6th Cir. 2009).</p> <p>Second, the SMB Debris TMDL does not require retrofitting of all areas with certified full capture devices. Responsible jurisdictions may choose from a variety of implementation approaches, including structural full or partial capture devices or institutional controls. It may be adequate and most cost-effective in lightly urbanized areas to use a suite of institutional controls such as enforcement of litter ordinances, street sweeping, and cleanout of catch basins, particularly prior to the rainy season to achieve compliance with the WLAs.</p>
8.12	VCWPD	Sept. 9	<p><u>Site-specific Load Allocations</u></p> <p>Section VIII A.2 on page 46 states that based on the trash generation rate derived from the TMRP " ... <i>during the first two years of implementation, the Regional Board will consider the proposal of a site specific Load Allocation.</i>"</p> <p>However, neither Table 14 in the Draft Staff Report nor Table 7-34.3 of the tentative BPA has any provisions that reflect consistency in regards to the consideration of a site-specific baseline after two years of implementation.</p> <p><b>Requested Action:</b></p> <p>A revision of both the Staff Report and tentative BPA to</p>	<p>If a site specific allocation is developed through the TMRP, it would be considered during reconsideration of the TMDL as scheduled at Task 6.</p>



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			include language that clearly states when and how the Regional Board will consider a proposal for the site-specific LAs.	
9.1	Agoura Hills	Sept. 13	<p>Comment No. 1:  Findings regarding trash impairments within the Malibu Creek Watershed discussed in the Draft Santa Monica Bay Nearshore and Offshore Debris TMDL staff report dated July 30, 2010 and proposed Basin Plan Amendment (BPA) seem to contradict those of the Trash Total Maximum Daily Load for the Malibu Creek Watershed staff report dated February 14, 2008 and its associated BPA.</p> <p>It appears the statement made in the Waste Load Allocation section, page 4, of the proposed BPA, "Zero trash is defined as no trash discharge into waterbodies within the Santa Monica Bay Watershed Management Area ...," is intended to designate all waterbodies within the Malibu Creek Watershed as impaired for trash and place compliance points throughout the watershed. The BPA incorporating the Malibu Creek Trash TMDL found only certain waterbodies within the watershed as impaired for trash. The consequence of the proposed statement can be found in the Implementation section, page 6, of the proposed BPA, which requires the point source discharger to retrofit the Municipal Separate Storm Sewer System (MS4) with costly trash mitigation devices. We find this generalization that the entire Malibu Creek Watershed is impaired for trash an unsupported regulatory determination that lacks justification and merit that will cause the responsible agencies and jurisdictions to spend its valuable financial resources.</p> <p>As stated in the Problem Statement of the proposed BPA,</p>	<p>See response to comment 8.11.  If any tributary waterbodies are observed to convey no debris to Santa Monica Bay, responsible jurisdictions may propose, in the TMRP, the continued implementation of existing BMPs as adequate for compliance with the Debris TMDL WLAs, and subsequently demonstrate compliance on an annual basis as required.</p>

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			<p>"Discharges of debris, including trash and plastic pellets, into Santa Monica Bay violate water quality objectives, impair beneficial uses, and cause pollution and nuisance." The target waterbody of the impairment is Santa Monica Bay, NOT waterbodies within the Santa Monica Bay Watershed Management Area. Therefore compliance within the Malibu Creek Watershed should be measured at the watershed's discharge points to the Bay, namely Malibu Lagoon, and not throughout the watershed. Therefore, we respectfully request a modification to the Waste Load Allocations section, Page 4, of the proposed BPA with the following:</p> <p>"Zero trash is defined as no trash discharged into Santa Monica Bay or on the shoreline of Santa Monica Bay."</p>	
9.2	Agoura Hills	Sept. 13	<p>Comment No. 2:  The City respectfully submits that the proposed inclusion of the City of Agoura Hills in the requirements with respect to "plastic pellets" is not founded on any substantial evidence.</p> <p>The TMDL dealing with "plastic pellets" sets waste load allocation of zero for such pellets and specifies that industrial facilities with SIC codes 282X, 305X, 308X, 39XX, 25XX, 3261, 3357, 373X and 2893 are typically associated with such pellet manufacturing. The tentative TMDL further states that "industrial facilities with the term 'plastic' in the facility or operator name may also be subject to this Waste Load Allocation. With respect to this requirement, the City does not have within its jurisdictional limits any such industry, nor does the City have industries with the name "plastic" in the facility or operator name within its jurisdictional limits. A query of the City's business permit database identified eight facilities with an SIC code mentioned above. A survey of the</p>	Please see responses to comments 2.3 and 5.2.

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			<p>establishments concluded that none of the eight facilities deal with plastic pellets.</p> <p>Without any evidence that any of these industries exist or operate within the City's jurisdictional limits, the proposal that the City prepare a "Plastic Pellet Monitoring and Reporting Plan" is a useless exercise and an unnecessary regulatory burden upon the City and its staff. How is the City to prepare a "monitoring" report for activities that do not take place within its jurisdictional limits?</p> <p>The City is a strong advocate of environmental protections for water and other media. It has adopted and continues a very cooperative approach with the Regional Water Board on issues such as stormwater discharges. But, the City should not be subjected to a TMDL with associated Waste Load Allocations and associated reporting requirements when there is simply no evidence that the City is even a possible source of "plastic pellets."</p>	
9.3	Agoura Hills	Sept. 13	<p>In addition, specific references to plastic pellets should be removed from this BPA as sufficient mechanisms are in place to mitigate this impairment. Industrial facilities that import, manufacture, process, transport, store, recycle, or otherwise handle plastic pellets must comply with the Industrial Storm Water General Permit. Adequate mitigation of plastic pellets should be achieved through the general permit, and NOT by placing additional requirements on local government to oversee industrial activities. Additionally, in accordance with requirements of the municipal NPDES permits (Nos. CAS004001 and CAS004002), sufficient ordinances are in place to address a release of plastic pellets to the MS4 as an illicit discharge. For example, the City of</p>	<p>Studies cited in the Staff Report have demonstrated that the marine life in the Santa Monica Bay has been impacted by nurdles and plastic pellets. While recent legislation regarding discharge of plastic pellets is a positive step to reducing the impacts of plastic pellets on the environment, the requirements of this legislation established in Cal. Water Code section 13367 have yet to be incorporated into the Statewide General Industrial Permit. The SMB Debris TMDL is consistent with the requirements of Cal. Water Code section 13367 and contemplates</p>

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			<p>Agoura Hills Municipal Code 5505 states, "It is prohibited to commence, establish, use, maintain, or continue any illicit connection to the municipal separate storm sewer system or any illicit discharge to the municipal separate storm sewer system."</p> <p>Furthermore, the City's Municipal Codes 5508 contains the following that gives value to regulation under the State's Industrial Storm Water General Permit:</p> <p>Requirements for industrial/commercial and construction activities - Each industrial discharge, discharger associated with construction activity, or other discharger described in any general storm water permit addressing such discharges, as may be issued by the U.S. Environmental Protection Agency, the state water resources control board, or the regional board shall comply with all requirements of such permit. Each discharger identified in an individual NPDES permit shall comply with and undertake all activities required by such permit. Proof of compliance with any such permit may be required in a form acceptable to the city engineer or his designated representative, prior to the issuance of any grading, building or occupancy permits, or any other type of permit or license issued by the city. (Ord. No. 97-272, § 1, 4-16-97)</p> <p>We suggest necessary modifications be made to the Industrial Storm Water General Permit to negate the need to specifically identify plastic pellets in the proposed BPA and place unnecessary requirements on local government.</p>	<p>that the plastic pellet WLAs will be implemented through the Statewide General Industrial Permit upon its reissuance, or through other individual or regional permits for discharges of stormwater from industrial facilities and activities. Similarly, for the most part, the TMDL contemplates that requirements related to plastic pellets that are proposed for MS4 Permittees will be met through implementation of existing elements of the MS4 Permits such as industrial facility inspections and each permittee's illicit connection/illicit discharge program.</p> <p>Please also see response to comment 5.2.</p>
9.4	Agoura Hills	Sept. 13	<p>Comment No. 3: Due to the uncertain intention of Footnote No. 5 on Page 15</p>	<p>Jurisdictions that have submitted TMRPs to fulfill the requirements of the Ballona Creek</p>

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			<p>pertaining to Table 7-34.2, Task No. 1, it appears to indicate the "Responsible Jurisdictions", with the exception of Beverly Hills, Inglewood, West Hollywood, and Hidden Hills, are required to submit a Trash Monitoring and reporting Plan. Since the City, in coordination with the County of Los Angeles and its watershed partners, submitted a TMRP on April 30, 2010, we believe that Footnote No. 5 also applies to these agencies. However, another interpretation of specifically referencing the Cities of Beverly Hills, Inglewood, West Hollywood, and Hidden Hills, could be that these agencies are not required to submit a Pellet Monitoring and Reporting Plan (PMRP). Please clarify the intention of "For PMRP ONLY" and the associated footnote.</p>	<p>Trash TMDL or the Malibu Creek Trash TMDL only need to submit a PMRP under the Santa Monica Bay Debris TMDL, if applicable.</p> <p>Also, please see responses to comments 8.4 and 5.3.</p>
10.1	Westlake Village	Sept. 13	<p>Comment No. 1: Findings regarding trash impairments within the Malibu Creek Watershed discussed in the Draft Santa Monica Bay Nearshore and Offshore Debris TMDL staff report dated July 30, 2010 and proposed Basin Plan Amendment (BPA) seem to contradict those of the Trash Total Maximum Daily Load for the Malibu Creek Watershed staff report dated February 14, 2008 and its associated BPA.</p> <p>It appears the statement made in the Waste Load Allocation section, page 4, of the proposed BPA, "Zero trash is defined as no trash discharge into waterbodies within the Santa Monica Bay Watershed Management Area .," is intended to designate all waterbodies within the Malibu Creek Watershed as impaired for trash and place compliance points throughout the watershed. The BPA incorporating the Malibu Creek Trash TMDL found only certain waterbodies within the watershed as impaired for trash. The consequence of the proposed statement can be found in the Implementation section, page 6, of the proposed BPA, which requires the</p>	Please see responses to comments 8.11 and 9.1.

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			<p>point source discharger to retrofit the Municipal Separate Storm Sewer System (MS4) with costly trash mitigation devices. We find this generalization that the entire Malibu Creek Watershed is impaired for trash an unsupported regulatory determination that lacks justification and merit that will cause the responsible agencies and jurisdictions to spend its valuable financial resources.</p> <p>As stated in the Problem Statement of the proposed BPA, "Discharges of debris, including trash and plastic pellets, into Santa Monica Bay violate water quality objectives, impair beneficial uses, and cause pollution and nuisance." The target waterbody of the impairment is Santa Monica Bay, NOT waterbodies within the Santa Monica Bay Watershed Management Area. Therefore compliance within the Malibu Creek Watershed should be measured at the watershed's discharge points to the Bay, namely Malibu Lagoon, and not throughout the watershed. Therefore, we respectfully request a modification to the Waste Load Allocations section, Page 4, of the proposed BPA with the following:</p> <p>"Zero trash is defined as no trash discharged into Santa Monica Bay or on the shoreline of Santa Monica Bay."</p>	
10.2	Westlake Village	Sept. 13	<p>Comment No. 2: The City respectfully submits that the proposed inclusion of the City of Westlake Village in the requirements with respect to "plastic pellets" is not founded on any substantial evidence.</p> <p>The TMDL dealing with "plastic pellets" sets waste load allocation of zero for such pellets and specifies that industrial facilities with SIC codes 282X, 305X, 308X, 39XX, 25XX, 3261, 3357, 373X and 2893 are typically associated with</p>	Please see responses to comments 2.3 and 5.2.

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			<p>such pellet manufacturing. The tentative TMDL further states that "industrial facilities with the term `plastic' in the facility or operator name may also be subject to this Waste Load Allocation. With respect to this requirement, the City does not have within its jurisdictional limits any such industry, nor does the City have industries with the name "plastic" in the facility or operator name within its jurisdictional limits.</p> <p>Without any evidence that any of these industries exist or operate within the City's jurisdictional limits, the proposal that the City prepare a "Plastic Pellet Monitoring and Reporting Plan" is a useless exercise and an unnecessary regulatory burden upon the City and its staff.</p> <p>The City is a strong advocate of environmental protections for water and other media. It has adopted and continues a very cooperative approach with the Regional Water Board on issues such as stormwater discharges. But, the City should not be subjected to a TMDL with associated Waste Load Allocations and associated reporting requirements when there is simply no evidence that the City is even a possible source of "plastic pellets."</p>	
10.3	Westlake Village	Sept. 13	<p>In addition, specific references to plastic pellets should be removed from this BPA as sufficient mechanisms are in place to mitigate this impairment. Industrial facilities that import, manufacture, process, transport, store, recycle, or otherwise handle plastic pellets must comply with the Industrial Storm Water General Permit. Adequate mitigation of plastic pellets should be achieved through the general permit, and NOT by placing additional requirements on local government to oversee industrial activities. Additionally, in accordance with requirements of the municipal NPDES</p>	Please see response to comment 9.3.

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			<p>permits (Nos. CAS004001 and CAS004002), sufficient ordinances are in place to address a release of plastic pellets to the MS4 as an illicit discharge. For example, the City of Westlake Village Municipal Code 5.5.025 states, "It is prohibited to commence, establish, use, maintain, or continue any illicit connection to the municipal separate storm sewer system or any illicit discharge to the municipal separate storm sewer system."</p> <p>Furthermore, the City's Municipal Codes 5.5.040 contains the following that gives value to regulation under the State's Industrial Storm Water General Permit:</p> <p>Requirements for Industrial, Commercial and Construction Activities - Each industrial discharger, discharger associated with construction activity, or other discharger described in any general stormwater permit addressing discharges and issued by the U.S. Environmental Protection Agency, the State Water Resources Control Board, or the Regional Board shall comply with all requirements of such permit. Each discharger identified in an individual NPDES permit shall comply with and undertake all activities required by such permit. Proof of compliance with any such permit may be required, in a form acceptable to the City, prior to the issuance of any grading, building or occupancy permits, or any other type of permit or license issued by the City. (Ord. No. 143-96, Enacted, 12/11/96)</p> <p>We suggest necessary modifications be made to the Industrial Storm Water General Permit to negate the need to specifically identify plastic pellets in the proposed BPA and place unnecessary requirements on local government.</p>	



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10.4	Westlake Village	Sept. 13	Comment No. 3: Due to the uncertain intention of Footnote No. 5 on Page 15 pertaining to Table 7-34.2, Task No. 1, it appears to indicate the "Responsible Jurisdictions", with the exception of Beverly Hills, Inglewood, West Hollywood, and Hidden Hills, are required to submit a Trash Monitoring and Reporting Plan. Since the City, in coordination with the County of Los Angeles and its watershed partners, submitted a TMRP on April 30, 2010, we believe that Footnote No. 5 also applies to these agencies. However, another interpretation of specifically referencing the Cities of Beverly Hills, Inglewood, West Hollywood, and Hidden Hills, could be that these agencies are not required to submit a Pellet Monitoring and Reporting Plan (PMRP). Please clarify the intention of "For PMRP ONLY" and the associated footnote.	Please see responses to comments 8.4 and 9.4.
11.1	Thousand Oaks	Sept.13	While the City is committed to addressing trash impairments in its jurisdictional areas of the MCW, we are most highly concerned with two specific items: 1. Naming the City as a responsible party under the Santa Monica Bay Debris TMDL in addition to the Malibu Creek Watershed Trash TMDL will require the City to meet the requirements of two different regulations addressing the exact same impairment in the MCW. It also places the City in regulatory "double jeopardy", in that compliance with the "trash" TMDL does not ensure compliance with the "debris" TMDL. The existing EPA approved MCW Trash TMDL addresses all trash impairments in the watershed. The Regional Board has not provided adequate linkage analysis data to justify the imposition of additional TMDL implementation and monitoring requirements. The overlapping TMDLs will ultimately led to extraordinary costs, complication and confusion for both the City and the other MCW Trash TMDL responsible parties, without	The SMB Debris TMDL has been specifically developed to coordinate with the requirements and schedule of the MCW Trash TMDL to ensure that entities identified under the MCW Trash TMDL do not face duplicative requirements. Please also see responses to comments 5.3 and 8.4.

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			increased beneficial use protection.	
11.2	Thousand Oaks	Sept.13	2. The City is highly concerned that it will be inappropriately burdened with a costly and misdirected effort associated with TMDL requirements pertaining to plastic pellets. The City has no facilities in the Malibu Creek Watershed that utilize, store, or transport plastic pellets. However, the proposed BPA will require the City to develop a Plastic Pellet Monitoring and Reporting Plan (PMRP), revise current stormwater inspection practices and programs, and ultimately be burdened with monitoring requirements when specific identifiable industries should clearly bear this responsibility. The proposed BPA language clearly and correctly 'states that Waste Load Allocations (WLAs) will be allocated to industrial facilities as responsible parties. It is overreaching, unfair and an imprudent use of public funds for the Regional Board to require any agency, including the City, to be held responsible for plastic pellets spilled during transportation or while in use at industrial facilities.	Please see response to comment 5.2.
11.3	Thousand Oaks	Sept.13	<b>Overlapping TMDL Requirements and Redundancy</b> The City is highly concerned with the apparent overlapping TMDL requirements that' would be imposed if the current version of the Debris TMDL is adopted. It is unclear why the Regional Board is adopting additional TMDL requirements in the MCW, essentially creating duplicative regulatory actions and requirements addressing the same pollutant. The City has invested resources into meeting compliance requirements per the EPA approved MCW Trash TMDL for identified and listed reaches impaired for trash. It is not clear why the City would be required to address point sources via a mechanism other than the current Minimum Frequency Assessment Program (MFAC) approach and develop separate Trash Monitoring and Reporting Plans (TMRPs), as would	The Santa Monica Bay Debris TMDL <i>will not</i> create duplicative regulatory actions and requirements. Please see response to comments 5.3, 8.4, and 11.1.

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			<p>be required in the Debris TMDL BPA. The current Debris TMDL language acknowledges the use of the MCW baseline for the Debris TMDL but lacks any reference to current MFAC or TMRPs. Furthermore, the Debris TMDL BPA lists implementation requirements for open space areas not currently 303(d) listed for trash. Again, it is unclear why the BPA would essentially require two separate MFACs and TMRPs for the same watershed.</p> <p>The City believes that the improvements and constructive elements included in the MCW Trash TMDL should be fully implemented and evaluated prior to any effort to redouble the regulatory burden on listed Responsible Parties. As proposed, the City would have to develop and implement two TMRPs. We request clarification in both Staff Report and BPA language to clarify any possible confusion, and again, would recommend clearly stating that a responsible party implementing and in full compliance with the MCW Trash TMDL is meeting requirements of the Debris TMDL.</p> <p>Based on the above comments, the City requests that it be removed as a responsible party to the Debris TMDL or that the BPA be revised to fully acknowledge that the City, if implementing and fully complying with the MCW Trash TMDL, is deemed to be in compliance with the Debris TMDL.</p>	
11.4	Thousand Oaks	Sept.13	<p><b>Lack of Linkage Analysis Necessitating City Inclusion in the TMDL</b></p> <p>The City remains committed to addressing trash in jurisdictional areas, yet it is not clear how the Regional Board is linking any near or offshore impairment to the City, other than by virtue of a portion of the City's land area being</p>	Please see response to comment 9.1.

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			<p>located within the MCW. While it is clear jurisdictional boundaries lie within a watershed that drains to the Santa Monica Bay, the language in both the BPA and Staff Report fail to identify data that specifically links the City to nearshore or offshore impairments. It should also be noted that there are five 'sinks' and physical barriers that significantly limit the mobility of trash and debris and rarely provide any consistent hydraulic conduit for trash or debris to flow from the City's jurisdiction to Santa Monica Bay. Westlake Lake and dam, Lake Lindero and dam, Malibou Lake and dam, Rindge dam, Malibu Lagoon and beach sand bar form significant barriers to trash movement from Thousand Oaks to the Santa Monica Bay. The City requests that the Staff Report and BPA be revised to clearly identify how SMB nearshore and offshore impairments are linked to discharges from Malibu Creek tributaries that are located far upstream of the Santa Monica Bay.</p> <p>The City is troubled by the precedent established by the approach taken in the BPA, which proposes TMDL requirements for reaches that have not been identified as impaired. It does not seem appropriate for the Regional Board to utilize a "guilty until proven innocent" approach for this TMDL, by seemingly assuming that every reach of stream that drains to the bay is impaired by trash. The Malibu Creek Watershed has identified impaired areas which are addressed by the MCW Trash TMDL. The City requests the language be revised to remove any required Debris TMDL efforts outside of the identified impaired reaches in the MCW.</p>	
11.5	Thousand Oaks	Sept.13	<p><b>Appropriate Approach to Addressing Plastic Pellets</b>  The City is concerned that the current approach the Regional</p>	Please see response to comment 5.2.

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			<p>Board is taking in addressing plastic pellets via the Debris TMDL will not successfully address the issue. While the City acknowledges the appropriate manner in which industrial permit holders will be assigned Waste Load Allocations (WLAs), we fully believe that a process to address pellets at the source (through industrial permitting) would more fairly and effectively address the issue. Facilities that utilize, transport, distribute and/or store pellets would be better suited to utilize source control strategies prior to pellets entering the environment.</p> <p>The City is concerned that if the current BPA requirements are not revised, the City will be required to implement actions that are inappropriate and unnecessary. The City should not be required to develop a Plastic Pellet Monitoring and Reporting Plan (PMRP), as 1) the industrial facilities should have the burden of addressing monitoring requirements as the responsible party implementing the WLAs and 2) no such industrial facilities are located in the City. Additionally, the City should not be required to monitor for plastic pellets or revise current stormwater inspection programs. If the Regional Board chooses to address plastic pellets via this TMDL, the City requests that all monitoring and reporting requirements be clearly designated as the obligation of the responsible industrial parties.</p>	
12.1	Hermosa Beach	Sept.13	While we are supportive of measures that are effective in controlling pollutants discharged to the Santa Monica Bay, we urge you to consider whether all of the requirements in this TMDL are reasonable, appropriate and practical for achieving the TMDL objectives. Monitoring and reporting when it is inappropriate or unnecessary places an undue burden on municipalities' already strained budgets.	Please see response to comment 5.2.

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			<p>The City is particularly concerned with the requirement that all municipalities subject to the TMDL must prepare not only a Trash Monitoring and Reporting Plan, but also a Plastic Pellet Monitoring and Reporting Plan, and that we will be required to somehow monitor the amount of plastic pellets discharged from the MS4 regardless of whether there is any industrial activity involving plastic pellets conducted within the City. To monitor for plastic pellets in the City's storm drain discharge when there is no industrial activity involving plastic pellets within the City would be a fruitless endeavor and a waste of scarce public funds which could be more effectively utilized for actual pollution control. Furthermore, if no industrial activity involving plastic pellets exists within a municipality, the likelihood that a plastic pellet spill would occur via truck transport is extremely remote since there would be no destination for such delivery within the municipality. The spill response provisions of the City's existing Illicit Connection and Illicit Discharge Elimination Program will readily address a spill of plastic pellets in the unlikely event that an errant delivery truck carrying plastic pellets were to overturn within the city, so a separate monitoring and reporting plan is unnecessary for such purpose.</p> <p>The City of Hermosa Beach respectfully requests that a provision be included in the Santa Monica Bay Marine Debris TMDL for responsible jurisdictions to waive the requirement for a Plastic Pellet Monitoring and Reporting Plan if we can demonstrate to the satisfaction of the Regional Board Executive Officer that there is no industrial activity within the City involving plastic pellets.</p>	

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13.1	Manhattan Beach	Sept.13	<p>The City of Manhattan Beach is fully prepared to undertake additional measures necessary to achieve the objectives of the Santa Monica Bay Marine Debris TMDL in order to protect our beautiful beaches and marine life. And while we are supportive of measures that are effective in controlling pollutants discharged to the Santa Monica Bay, we are concerned that some of the requirements are unnecessary and place an undue burden on municipalities' already strained budgets.</p> <p>The City is particularly concerned with the requirement that all municipalities subject to the TMDL must prepare not only a Trash Monitoring and Reporting Plan, but also a Plastic Pellet Monitoring and Reporting Plan, and that we will be required to somehow monitor the amount of plastic pellets discharged from the MS4 regardless of whether there is any industrial activity involving plastic pellets conducted within the City. To monitor for plastic pellets in the City's storm drain discharge when there is no industrial activity involving plastic pellets within the City would be a fruitless endeavor and a waste of scarce public funds which could be more effectively utilized for actual pollution control. Furthermore, if no industrial activity involving plastic pellets exists within a municipality, the likelihood that a plastic pellet spill would occur via truck transport is extremely remote since there would be no destination for such delivery within the municipality. The spill response provisions of the City's existing Illicit Connection and Illicit Discharge Elimination Program will readily address a spill of plastic pellets in the unlikely event that an errant delivery truck carrying plastic pellets were to overturn within the city, so a separate monitoring and reporting plan is unnecessary for such</p>	Please see response to comment 5.2.

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			<p>purpose.</p> <p>The City of Manhattan Beach respectfully requests that a provision be included in the Santa Monica Bay Marine Debris TMDL for responsible jurisdictions to waive the requirement for a Plastic Pellet Monitoring and Reporting Plan if we can demonstrate to the satisfaction of the Regional Board Executive Officer that there is no industrial activity within the City involving plastic pellets.</p>	
14.1	Rolling Hills	Sept. 10	<p>Because the City of Rolling Hills does not have a storm drain system that is amenable to the installation of full capture devices or partial capture devices, the City is implementing a Trash Monitoring and Reporting Plan (TMRP) including a Minimum Frequency of Assessment and Collection Program (MFAC) in conjunction with Best Management Practices (BMPs) for the Machado Lake Trash TMDL that has been approved by the Executive Officer of the Los Angeles Regional Water Quality Control Board. The City of Rolling Hills will of necessity utilize the same approach in order to comply with the Santa Monica Bay Nearshore and Offshore Debris TMDL. The proposed Basin Plan Amendment for the Marine Debris TMDL should be clarified to state that agencies responsible for compliance with waste load allocations may utilize the MFAC/BMP approach to demonstrate compliance.</p>	<p>Responsible jurisdictions may comply with the WLA through any lawful manner, including generally strategies that employ full capture systems, partial capture systems and/or institutional controls.</p> <p>As the City of Rolling Hills does not have a storm drain system that is amenable to the installation of full capture devices or partial capture devices, they may propose in their TMRP the use of institutional controls to comply with the SMB Debris TMDL WLAs. See also response to comment 8.3.</p>
14.2	Rolling Hills	Sept. 10	<p>However, the City does have some concerns with certain requirements in the proposed Marine Debris TMDL. Municipalities are already burdened with administration, monitoring and reporting associated with multiple TMDLs and MS4 Permit requirements. Additional monitoring and reporting when it is inappropriate or unnecessary puts an undue burden on municipalities' already strained budgets.</p>	<p>Comment noted.</p>



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			Thus while we are supportive of measures that are effective in controlling and limiting pollutants discharged to the Santa Monica Bay, we urge you to consider whether all of the requirements in this TMDL are reasonable, appropriate and practical way for achieving the objectives of the TMDL.	
14.3	Rolling Hills	Sept. 10	The City is particularly concerned with the Marine Debris TMDL requirement that all municipalities must prepare not only a Trash Monitoring and Reporting Plan, but also a Plastic Pellet Monitoring and Reporting Plan which includes monitoring the amount of plastic pellets discharged from the MS4 regardless of whether there is any industrial activity involving plastic pellets conducted within the jurisdiction. For the City of Rolling Hills, a Plastic Pellet Monitoring and Reporting Plan is entirely unnecessary as is monitoring stormwater discharge for said pellets - there is no industrial or commercial zoning or land use within the City and gate guards control entrance to the City so that no commercial trucks could enter without advance permission. This is an unreasonable and inappropriate requirement to impose on a private, entirely low density, single-family residential city. There is no evidence to suggest that plastic pellets would originate from or travel through Rolling Hills, and we respectfully request that the plastic pellet requirements not be applied to the City of Rolling Hills.	Please see response to comment 5.2.
15.1	Rolling Hills Estates	Sept. 10	And while we are supportive of measures that are effective in controlling pollutants discharged to the Santa Monica Bay, we urge you to consider whether all of the requirements in this TMDL are reasonable, appropriate and practical for achieving the TMDL objectives. Monitoring and reporting when it is inappropriate or unnecessary places an undue burden on municipalities' already strained budgets.	Comment noted. Please see response to comment 5.2.

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			<p>The City is particularly concerned with the requirement that all municipalities subject to the Marine Debris TMDL must prepare not only a Trash Monitoring and Reporting Plan, but also a Plastic Pellet Monitoring and Reporting Plan, and that we will be required to somehow monitor the amount of plastic pellets discharged from the MS4 regardless of whether there is any industrial activity involving plastic pellets conducted within the City. To monitor for plastic pellets in the City's storm drain discharge when there is no industrial activity involving plastic pellets within the City would be a fruitless endeavor and a waste of scarce public funds. The likelihood that a plastic pellet spill would occur on our streets via truck transport is extremely remote since there is no destination for such delivery within our City or our sister cities on the Palos Verdes Peninsula. Due to the geographic location of the Palos Verdes Peninsula, trucks do not typically pass-through on their way to other destinations, and there are no rail lines on the Peninsula.</p> <p>The City of Rolling Hills Estates respectfully requests that a provision be included in the Santa Monica Bay Marine Debris TMDL for responsible jurisdictions to waive the requirement for a Plastic Pellet Monitoring and Reporting Plan if we can demonstrate to the satisfaction of the Regional Board Executive Officer that there is no industrial activity within the City involving plastic pellets.</p>	
16.1	Rancho Palos Verdes		<p>The City believes that some of the fundamental elements of the TMDL are not clearly defined. The definition of Santa Monica Bay is not clearly outlined in this TMDL. The 'nearshore' zone is defined as being bound by the 'shoreline' which is a transient line subject to tidal fluctuations. In order to monitor the shoreline in compliance with the TMDL's</p>	<p>Responsible agencies may propose a definition of "shoreline" in their TMRP for purposes of developing a site specific load allocation; however, this is not required.</p>

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			<p>proposed Trash Monitoring and Reporting Plan (TMRP), the responsible agencies should have a clear definition of the demarcation of this line. Without this clarification, it will be difficult to establish baseline load and waste load allocations and discharge rates which are consistent and reliable. In addition, compliance with the TMDL is defined as "zero trash in and on the shorelines of the Santa Monica Bay". Clearly this definition is important since it is used to determine agencies' compliance with the TMDL.</p> <p>In addition, the term `beach' is not clearly defined. Rancho Palos Verdes' coastline is characterized by rocky and inaccessible terrain and should not be subject to the non-point source load allocation requirements of this TMDL. The City proposes that the word `sandy' be included in the definition of beaches as non-point sources. Alternatively, the City proposes that the term `beaches' be explicitly limited to those agencies identified in the Tentative Amendment at p. 6 in the section describing load allocations assigned to such jurisdictions.</p>	<p>While the Palos Verdes shoreline may be characterized by rocky terrain, it is not entirely inaccessible. Please see response to comment 8.9.</p>
16.2	Rancho Palos Verdes		<p>The City believes it should be exempted from having to submit a Plastic Pellet Monitoring and Reporting Plan (PMRP). The requirements of the PMRP are not relevant to the City of Rancho Palos Verdes. Page 70 of the Staff Report states, "Plastic pellets will be monitored at the selected outfalls of storm drains within the Santa Monica Bay watershed, where industrial permittees are located". In addition, the Source Analysis for the Proposed Amendment at p.4 describes the "principal source" of plastic pellets as "from industry that imports, manufacturers, processes, transports, stores, recycles or otherwise handles plastic pellets". But, the City has no industrial land use within the</p>	<p>Please see response to comment 5.2.</p>

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			<p>Santa Monica Bay subwatershed. There are no railways or ports within City boundaries which could be potential contributors of plastic pellets, and Rancho Palos Verdes does not receive drainage from any areas where these types of facilities are located.</p> <p>The City would like language added to the Basin Plan Amendment at p. 7 under the Section entitled "Plastic Pellets" as follows:</p> <p>“Jurisdictions and agencies identified as responsible jurisdictions for point sources of trash in this Santa Monica Bay Debris TMDL and in the existing Malibu Creek and Ballona Creek Trash TMDLs shall prepare a Plastic Pellet Monitoring and Reporting Plan (PMRP), provided that any agency or jurisdiction which has none of the industrial plastic industries using or otherwise handling plastic pellets within its limits shall be exempted from this requirement. If an agency changes its zoning and land use plans to allow for industries that use or otherwise handle plastic pellets, then it shall be subject to the PMRP within 90 days of the effective date of such a land use amendment.”</p> <p>In addition, the industrial facilities outlined in the TMDL are already subject to Statewide General or Individual Industrial Stormwater permits. This is specifically noted in the Tentative Amendment at p. 6. These permittees are required to prepare a Stormwater Pollution Prevention Plan (SWPPP) and to submit annual monitoring reports demonstrating compliance with the plastic pellet waste load allocations (WLAs). Therefore, the City believes that the responsibility for assuring and demonstrating compliance with these WLAs</p>	

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			<p>should lie solely with the facilities for which they were issued. While the City understands 'the Board's concern in regards to a potential spill of these pellets during transport and believes that this concern can be addressed through a Spill Response Plan included in the required TMRP, it feels that the absence of industrial facilities and transportation corridors in the City warrants an exemption from this requirement altogether.</p>	
17.1	Beverly Hills	Sept. 13	<p>As you know, the City is an active member of LASQP, and strives to cooperate with the Regional Water Board and all concerned cities in maintaining and improving the quality of waters in Santa Monica Bay. But, in this particular instance, the City respectfully submits that the proposed inclusion of it in the requirements with respect to "plastic pellets" is not founded on any substantial evidence and would be difficult to achieve compliance.</p> <p>The TMDL dealing with "plastic pellets" sets waste load allocation of zero for such pellets and specifies that industrial facilities with SIC codes 282X, 305X, 308X, 39XX, 25XX, 3261, 3357, 373X and 2893 are typically associated with such pellet manufacturing. The tentative TMDL further states that "industrial facilities with the term 'plastic' in the facility or operator name may also be subject to this Waste Load Allocation. With respect, the City does not have within its jurisdictional limits any such industry. Nor does Beverly Hills have industries with the name "plastic" in the facility or operator name within its jurisdictional limits. The City of Beverly Hills suggests that the requirements of this TMDL be implemented in the existing General Industrial Waste NPDES permit. Plastic manufacturers, which stores and uses these "plastic pellets" are usually issued with this permit.</p>	Please see response to comment 5.2.

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			Therefore, compliance inspectors and plastic manufacturing facilities will be able to implement BMPs for this pollution of concern without extensive resources or changes to their current procedures. If the burden of compliance is placed on the MS4 owners, MS4 owners will need to learn new inspection methods and processes to ensure compliance for such facilities. Consequently, more time will be required from MS4 owners to implement the requirements of this permit and additional economic burden will be placed in the MS4 owners.	
17.2	Beverly Hills	Sept. 13	Based on this TMDL, compliance is measured based on BMP implementation to reduce "plastic pellets" pollution. Sometimes, the size of these pellets is smaller than 5 mm in diameter. Hence, these "plastic pellets" are smaller than both the full capture and partial capture catch basin debris device. Would that suggest MS4 owners will never achieve full compliance?	The industrial facilities identified in the BPA are considered to be the responsible parties for plastic pellets and are assigned with waste load allocations (please see response to comment 5.2). Compliance for MS4 Permittees is based on fulfilling the requirements of the TMRP and, in addition, developing and implementing a PMRP, if applicable. MS4 Permittees are not assigned a plastic pellet WLA in the proposed TMDL.
17.3	Beverly Hills	Sept. 13	The Plastic Pellet Monitoring and Reporting Plan requirement will be difficult, if not impossible to implement. As mentioned before, Beverly Hills doesn't have any plastic manufacturing facilities within its jurisdiction. It would be a useless exercise in paper and an unnecessary regulatory burden upon the City and its staff to report something that is not existent in our jurisdiction. In addition, the City doesn't have access to outflow channel pipes because the City doesn't have any open channel system. Entrance to our storm drain system would require a confined space entry and is a safety issue. The monitoring and reporting plan also requires the City to "count" for plastic pellets in our storm drain system.	Comment noted. Please see response to comment 5.2.

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			Without a known methodology, this would a very time consuming process as it may require staff to "sift" through our catch basin debris separating plastic pellets and other debris. This would only cause a tremendous stress on staff and moneys. The City simply doesn't find this efficient use of resources to comply with this TMDL.	
17.4	Beverly Hills	Sept. 13	On page 15 of the Basin Plan Amendment (Table 7-34.2 Santa Monica Bay Nearshore and Offshore Debris TMDL: Implementation Schedule), the City is unclear on our responsibility to the Trash Monitoring and Reporting Plan (TMRP) and the Pellet Monitoring and Reporting Plan (PMRP). One could interpret that language to mean that the City would be responsible for the PMRP, while someone else could easily interpret that language to mean that the City would be responsible for only the TMRP. The City requests that Regional Board staff clarify this issue.	Please see responses to comments 5.3 and 8.4. The City of Beverly Hills is required to comply with the provisions specified in the Ballona Creek Trash TMDL. Compliance with the Ballona Creek Trash TMDL will constitute compliance with the trash related provisions of this Debris TMDL for areas under the jurisdiction of Beverly Hills within the Ballona Creek Watershed.
17.5	Beverly Hills	Sept. 13	The City is a strong advocate of environmental protections for water and other media. It has adopted and continues a very cooperative approach with the Regional Water Board on issues such as stormwater discharges. But, the City should not be subjected to a TMDL with associated Waste Load Allocations and associated reporting requirements when there is simply no evidence that the City is even a possible source of "plastic pellets." We urge the Board to modify the tentative TMDL to exempt cities, such as Beverly Hills, from having to monitor and report on non-existent activities	Please see response to comment 5.2.
18.1	Hidden Hills	Sept. 13	The City hereby requests that it be removed as a Responsible Agency under this TMDL because: <ul style="list-style-type: none"> <li>• The City is already covered. under the Los Angeles River and Malibu Creek Trash TMDLs;</li> <li>• The City has no industrial or commercial plastic processing, handling, or transportation facilities; and</li> </ul>	The City of Hidden Hills is located in the Santa Monica Bay Watershed, and is therefore a Responsible Jurisdiction for the Santa Monica Bay Debris TMDL. However, the Debris TMDL Trash WLA and other requirements for trash may be met by Hidden

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			<ul style="list-style-type: none"> <li>The City has access restricted only to residents, owners, and approved visitors</li> </ul>	<p>Hills by complying with the previously established Malibu Creek Trash TMDL (see response to comment 8.4).</p> <p>Also, please see response to comment 5.2.</p>
18.2	Hidden Hills	Sept. 13	<p><u>Coverage Under the Los Angeles and Malibu Creek Trash TMDLs</u></p> <p>The City is located in the northwest corner of Los Angeles County and has storm drain outlets intermittently discharging to the Los Angeles River and the Malibu Creek Watersheds. As such, the City is currently subject to existing Trash TMDLs under each of these watersheds. In the Los Angeles River Watershed, the City must meet, and has met, TMDL Waste Load Allocations (WLAs) for the Los Angeles River Trash TMDL as adopted by the Regional Board on September 23, 2008 in Resolution No. 2007-012. Further, the City is subject to the WLAs of the Malibu Creek Trash TMDL as adopted by the Regional Board on July 7, 2009 in Resolution No. 2008-007. The City, along with other Responsible Agencies, recently submitted the Malibu Creek Trash Point and Non-Point Source Trash TMDL, Trash Reporting and Monitoring Plan.</p>	Comment noted.
18.3	Hidden Hills	Sept. 13	<p><u>City Code Provisions Restricting Commercial Operations</u></p> <p>The City requests removal from the SMB Marine Debris TMDL because 99.7 percent of all land use within its borders is limited, to residential use, 1053.5 of 1056 acres. Only 2 1/2 acres are zoned for restricted commercial operations - all of these are outside those found and contemplated in the SMB Marine Debris TMDL. The City hereby provides the following City code provisions (HHMC)1 and Hidden Hills Community Association rules to demonstrate that all current and potential land use(s) will not permit plastic pellet</p>	Comment noted. Please see response to comment 5.2.



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			<p>handling, transport; or processing operations and the City is therefore justified in its request to be removed as a Responsible Agency or Party from the TMDL.</p> <p><u>Existing Land Uses</u>  The City is a gated (limited access) community comprised primarily of residential lots with the exception of one community association building, two horse riding arenas, one real estate office, and one elementary school located outside the City gates. The school is under the authority and control of the Las Virgenes School District that is subject to State issued permits. The City certifies that there are no 'businesses or commercial activity in the City that is within the stated Standard Industry Classification (SIC) codes associated with industrial activities involving plastic pellets - for example SICs including 282X, 305X,. 308X, 39XX, 25XX, 3261, 3357, 373X, and 2893. Additionally, there are no industrial facilities with the term "plastic" in the facility or operator name located within the City's jurisdictional limits that might otherwise be subject to the WLA for plastic pellets.</p> <p><u>Potential Land Uses</u>  All future development in the City is limited to five (5) land use zones or types . These include:  RA-S Residential Agriculture Suburban3  RA-S-2 Residential Agriculture Suburban-24  R-1 Residentials  CR Restricted Commercial  C-U Community Uses</p> <p>All permitted residential homes, the principal land use and zoning, are restricted to nonindustrial/processing activities.</p>	

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			<p>Where contemplated, commercial use properties are strictly limited. Per HHMC §5-2F-1, the following uses may be permitted in the CR zoned properties, subject to development plan review and issuance of a City business license:</p> <p>A. Professional, executive, administrative and sales offices, not including medical or dental offices or clinics.</p> <p>B. Retail and service stores and businesses, not including food services or sale of alcoholic beverages. Such businesses shall not involve the manufacturing, processing, fabricating or treatment of any products, other than that which is clearly related, incidental and secondary to the primary business conducted on the premises.</p> <p>C. Accessory buildings and structures which are necessary to a permitted use, require no additional employee or customer parking and are located on the same lot as the related primary use.</p> <p>D. Freestanding and building-mounted signs, as described herein.</p> <p>E. Nonconforming structures and other improvements, lawfully in existence prior to April 1, 1985.</p> <p>The City also requires that all commercial use of public property be permitted by the City Secretary. As of September 8, 2010 there has been no permitted or allowed commercial use of public property.</p>	
18.4	Hidden Hills	Sept. 13	<p><u>Hidden Hills Community Association Limits on Commercial Operations</u></p> <p>In addition to City code limitations for commercial property use(s), the Hidden Hills Community Association (HHCA) also governs and limits all land use within the City. All land use must conform to the Declaration of Covenants,</p>	Comment noted.

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			<p>Conditions, and Restrictions of the HHCA as filed and County land records as dated December 5, 1950 and as amended thereafter.</p> <p>The HHCA R/R provides that all lots, or "Building Sites," shall be used solely for residential. purposes. Use of a Building Site for commercial operations, including but not limited to manufacturing, warehousing, and renting rooms or guest houses, is not permitted. The HHCA R/R then provides that the "Board of Directors shall be the sole arbiter of whether a given activity has exceeded the limited business use or has an "excessive negative impact on the community" so as to be precluded. The Board's decision in this regard shall be final and binding." This section provides the Board of Directors great authority in determining whether a "Resident" has exceeded the limited business exception.</p> <p>In addition to City restrictions and approval(s) for proposed land use(s), all property, building, and lot modifications are required to be reviewed and approved by the HHCA Architectural Committee. The focus is to maintain the residential equestrian environment and use of the initial development. In fact, the City is one of the few incorporated areas where this remains true. Violations of the HHCA Rules and Regulations can subject the owner, tenant or resident to specific enforcement actions.</p>	
18.5	Hidden Hills	Sept. 13	<p><u>Restricted City Access</u></p> <p>Additionally, the City is a private property-gated community that has no permitted through traffic. "Access to the City is limited only to residents, tenants, owners and their invited guest(s). Only these individuals are allowed within the City's gates." As stated in the HHCA's transportation policy and</p>	Comment noted.

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			gate policy documents, "Hidden Hills is a private community, entrance by nonresidents is a privilege, not a right." Such access into and out of the City is constantly monitored around the clock by private security agents located at one of three HHCA access gates. Due to this strict entry and exit control into and out of the jurisdiction, there is no situation that could be envisioned or imagined that would allow a transportation vehicle to carry plastic pellets entrance into the City's jurisdictional boundaries.	
18.6	Hidden Hills	Sept. 13	<p><u>Recommend Actions and Suggestions</u></p> <p>The City, based on the foregoing reasons, believes that the Regional Board is warranted and justified in excluding and removing the City as a responsible party from the SMB Marine Debris TMDL. In summary the following reasons justify this exclusion:</p> <ul style="list-style-type: none"> <li>• The City, by municipal code, limits all land use to residential lots, with only limited professional businesses authorized.</li> <li>• There are no commercial or industrial operations within the City that resemble or meet the stated plastic pellet processing, handling, transport, or manufacturing TMDL descriptions.</li> <li>• The HHCA also limits and controls all land use and development to residential lots via recorded property covenants, conditions, and restrictions.</li> <li>• The HHCA's goal and purpose is to maintain the City as' a residential community. All development must conform and seek approval from the HHCA Architectural Committee.</li> <li>• The HHCA, by covenant, limits travel to only residential and ancillary type of use. All non-private traffic must obtain permission to gain access.</li> </ul>	Please see responses to comments 5.2 and 5.3.

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			<ul style="list-style-type: none"> <li>To the extent that the proposed BPA lists Hidden Hills as a city responsible only for performing a Plastic Pellets Monitoring &amp; Reporting Plan (PMRP), such a requirement is completely unnecessary given the lack of any substantial evidence that any industry exists within the City jurisdictional limits that would use, store, or transport plastic pellets.</li> </ul> <p>The City therefore requests that the Regional Board and its staff approve this request to be removed from the SMB Marine Debris TMDL. To minimize the paper use in this submittal, the City code provisions and HHCA documents are not included but are available on the City and HHCA websites. The specific links to these sites and specific documents are provided in Appendix A.</p>	
19.1	Palos Verdes Estates	Sept. 13	<p><b>1. TMDL Waste Load Allocation Implementation Measures for Plastic Pellets</b></p> <p>As found in the current Debris TMDL documents, the BPA identifies the City as being subject to the implementation measures, such as creating a Plastic Pellet Monitoring and Reporting Plan (PMRP) and monitoring storm drain system outfalls, required for the WLAs for plastic pellets. However, the City is not listed as a responsible party for the plastic pellet WLAs and does not have any industrial facilities that import, manufacture, process, store, recycle, or otherwise handle plastic pellets within its jurisdiction. Furthermore, the City does not have any major thoroughfares that are used for overland transportation and also limits the weight of commercial vehicles on the roads entering the City. Therefore, the City recommends that the Regional Board remove the responsibilities of the City regarding the management of plastic pellets from the Debris TMDL.</p>	Comment noted. Please see response to comment 5.2.

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			Presented below, is supporting information for the above statements concerning the absence of industrial facilities and the nonexistence of major thoroughfares within the City's jurisdiction as well as the limiting of commercial vehicle weights.	
19.2	Palos Verdes Estates	Sept. 13	<p><b>Industrial Activities and Zoning Regulations</b></p> <p>The City recommends that the Regional Board eliminate the City's responsibility to meet the plastic pellet WLA implementation measures required under the Debris TMDL because no industrial activities are permitted within the City's jurisdiction and no industrial activities will be permitted in the future. This is because all land use within the City's jurisdiction is limited to open space, residential, and commercial.</p> <p>i. No Existing Industrial Activities  The City certifies that there are no businesses or industrial activities in the City that are associated with the Standard Industry Classification (SIC) codes involving plastic pellets including SIC codes: 282X, 305X, 308X, 39XX, 25XX, 3261, 3357, 373X, and 2893. Additionally, there are no industrial facilities with the term "plastic" in the facility or operator name, regardless of the SIC code, that may be subject to the WLA for plastic pellets.</p> <p>ii. Zoned Land Uses  All development in the City is limited to four (4) land use zones. These include:  OS Zone: Open Space  R1-Zone: Single Family Residential  RM-Zone: Multi-Family Residential  C Zone: Restricted Commercial</p>	Comment noted. Please see response to comment 5.2.

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			<p>The Restricted Commercial Zone (C Zone) includes general retail stores, shops, barber shops, beauty salons, financial institutions, medical, dental, and optometry offices, professional offices, law offices and other general business offices, except those listed as a use requiring a conditional use permit, or as a prohibited use.</p> <p>Conditional use permit businesses include restaurant, cafe, tea room, or other eating establishments, with or without outdoor dining facilities; bar or cocktail lounge located within five hundred feet of a residential district (R-1 or R-M); uses providing dancing, music, theatrical performances or other entertainment of any kind; uses entailing public assembly of one hundred persons or more; churches, schools and places of assembly; mixed commercial and residential uses; gasoline service stations, including minor mechanical repair; commercial parking lots; uses including liquor stores and others purveying alcoholic beverages located within five hundred feet of a residential district (R-1 or R-M); uses operating between the hours of ten p.m. and seven a.m.; any uses proposing video or similar electronic games; health and fitness center; real estate offices; and laundry and clothes-cleaning agencies, provided that no dry cleaning shall be conducted on the premises.</p> <p>Prohibited uses <b>include' industrial and manufacturing uses requiring processing or assembly of components or goods;</b> video and amusement arcades; drive-thru restaurants; gasoline service station mini-markets; auto body repair shops; bowling alleys; mortuaries; cemeteries; movie theaters; any business or enterprise, whether or not operated</p>	

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			for profit, intended to serve or which does serve as a means of distributing or providing marijuana for medical purposes as defined by the Compassionate Use Act, California Health & Safety Code Section 11362.5 et seq. ("medical marijuana dispensary"); massage parlors; provided, however, that an establishment at which massage services are provided by a physical therapist or chiropractor licensed by the state of California or by a massage technician licensed by the county of Los Angeles shall not be deemed a massage parlor; commercial car washes; truck terminals; dry cleaning facilities with a dry cleaning plant on the premises; salvage and recycling facilities; and tattoo parlors.	
19.3	Palos Verdes Estates	Sept. 13	<p><b>No Major Thoroughfares within the City's Jurisdiction</b></p> <p>Another factor that justifies the City's request for exclusion from the plastic pellet WLA implementation measures under the Debris TMDL is due to the fact that the City does not contain any major thoroughfares within its Jurisdiction that would be used for transporting plastic pellets. Additionally, the City limits the weight of commercial vehicles that can use Palos Verdes Drive West and Palos Verdes Drive North to 20,000 pounds; these two roads are the main entry points for the City. This further limits the amount of commercial transportation that takes place within the City's Jurisdiction. Attachment 1 contains a map of the City showing the City's transportation network.</p>	Comment noted. Please see response to comment 5.2.
19.4	Palos Verdes Estates	Sept. 13	<p><b>Recommend Actions</b></p> <p>The City, based on the above reasons, recommends that the Regional remove the responsibilities of the City for the plastic pellet WLA implementation measures required under the Debris TMDL. In summary, the following reasons justify this exclusion:</p> <ul style="list-style-type: none"> <li>• There are no current industrial operations that import,</li> </ul>	Comment noted. Please see response to comment 5.2.



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			<p>manufacture, process, store, recycle, or otherwise handle plastic pellets within the City's jurisdiction;</p> <ul style="list-style-type: none"> <li>• The City, by municipal code, limits all land use to open space, residential, and commercial. Therefore, there will be no new industrial development within the City's jurisdiction;</li> <li>• The City does not have any major thoroughfares within its jurisdiction, which limits the transport of plastic pellets; and</li> <li>• The City limits the weight of commercial vehicles to 20,000 pounds on the roads that serve as the main access points from the City thereby further limiting the transport of plastic pellets.</li> </ul> <p>Therefore, the City again implores the Regional Board and its staff to approve this recommendation to remove the City's responsibilities for the plastic pellet WLA implementation measures required under the Debris TMDL.</p>	
20.1	City of Los Angeles	Sept. 9	<p><b>Addressing Plastic Pellets</b></p> <p>The City of LA has continually supported both local and state wide efforts addressing plastic pellets entering the environment. The City supported the passage of AB 258 (Krekorian), approved by the Governor on October 14, 2007, requiring the State Coastal Commission to implement a statewide marine debris reduction effort in order to control the discharges of plastic. AB 258 also required the State Board and Regional Boards to implement a program for the control of discharges of preproduction plastics from point and nonpoint sources, including waste discharge monitoring, and reporting requirements that target plastic manufacturing, handling, and transportation facilities. Plastic pellets are starting material that industries use to produce various plastic</p>	Comment noted.

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			<p>products such as pens, containers for food and beverages, toys, and other plastic products. Industries that manufacture and process the starting material, herein called plastic pellets are responsible for the proper transportation, use, and disposal of the starting material and its by-products and as such should be regulated through the industrial permits directly by the Regional Board. What constitute trash are the end products consumed by people, once discarded and disposed of in the environment. Therefore the City believes that the Debris TMDL should be revised and all requirements including monitoring, reporting, and spill response related to plastic pellets be assigned to the appropriate industrial sources.</p> <p>Numerous studies have identified the need to address plastic pellets at the industrial sources. The Algalita Marine Research Foundation (AMRF) was granted \$482,183 by the California State Water Resources Control Board and California Coastal Commission Research Foundation to conduct a pilot project, researching industrial sites and non-point sources responsible for adding plastic debris to the Los Angeles and San Gabriel Rivers' watersheds. In this study, sites on industrial facilities were sampled before and after the implementation of best management practices (BMPs). In addition, some storm drains discharging from manufacturer's sites were sampled. The result of the study showed that sites visited after BMPs had been implemented had notably less plastic pellets in their discharge than those visited before the BMPs were installed. This study supports controlling the pellet at the source (plastic facilities) is the most efficient way of eliminating the pellets and is the responsibility of the plastic manufacturers not the local jurisdictions.</p>	<p>Please see response to comment 5.2.</p>

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			<p>Additionally, the project tested the effectiveness of current industry-generated BMPs, known as Operation Clean Sweep, to control discharges of plastic debris through urban runoff from the plastics manufacturing sector. Based on this assessment, the project is developing an Action Plan for the State of California.</p> <p>The Southern California Coastal Water Research Project (SCCWRP) conducted studies addressing how wide, spread the problem of plastic pellets is, what the distribution of the such materials (at what areas are they found in higher numbers), and how much pellets are mobilized after rain events. The summary of studies indicates that beaches close to the manufacturers and distributors of plastic pellets were found to have more pellets. Once again, the study shows that the sources can be identified, isolated based on the facilities locations and subsequently most effectively addressed through establishment of BMPs and corrective measures at the industrial facilities. The results of these studies points to the need to place measures in place at plastic facilities to comply with the zero discharge requirements of a zero Wasteload Allocation. These industrial dischargers should be held responsible for all actions including monitoring and spill response. The requirements as well as the measures that the industrial facilities must have in place to minimize accidental spills through transportation or on their premises and subsequent actions if a spill were to occur should be clearly specified in the relevant industrial permits. The cities and other MS4 jurisdictions should not be held responsible for monitoring and reporting of plastic pellets.</p> <p><b>REQUEST: The City requests that the Debris TMDL be</b></p>	

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			<b>revised and all requirements related to plastic pellets be assigned to the appropriate industrial sources.</b>	
20.2	City of Los Angeles	Sept. 9	<p><b>Plastic Pellet Monitoring and Reporting Requirements</b></p> <p>The City is concerned with the current Debris TMDL requirements pertaining to addressing and monitoring plastic pellets. As proposed, the Debris TMDL would require MS4 permittees, including the City, to develop and implement a "Plastic Pellet Monitoring and Reporting Plan" (PMRP). This requirement would unfairly and unnecessarily shift the responsibility for determining compliance with Wasteload Allocations (WLAs) from industrial dischargers to local government. Under Proposition 218, local governments do not have the authority to increase stormwater program revenues to cover the additional costs of a specialized plastic pellet monitoring program. The City and other MS4 agencies have spent millions of dollars to implement previous trash TMDLs. The plastic pellet requirements contained in the Debris TMDL are very different; however, while "trash" generically can be generated by residents and visitors to the City, the plastic pellets are very specifically linked to discrete industrial sources.</p> <p>The Debris TMDL establishes a target of zero for plastic pellets and appropriately identifies specified categories of industrial dischargers as the principle source of plastic pellets. The Debris TMDL then assigns a WLA of zero to these dischargers. When the Debris TMDL is implemented, the sources of plastic pellets that are subject to WLAs should be required to conduct monitoring and reporting to verify compliance with the zero discharge allocation. Given that the target is zero, compliance monitoring by the regulated sources will be adequate to determine whether the water</p>	<p>Comment noted. Please see response to comment 2.3, 3.2 and 5.2.</p> <p>Industrial facilities within the Santa Monica Bay Watershed Management Area that manufacture, handle or transport plastic pellets will be required, under the Statewide Industrial General Permit upon its reissuance, or Individual or Regional Industrial Stormwater Permits, to monitor, document, and submit an annual report regarding plastic pellet discharges.</p>

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			<p>body is in compliance with target, since the presence of any quantity of plastic pellets in the discharge would exceed the target. Thus, the obligation to conduct the PMRP should be placed on the sources regulated by the Debris TMDL and not on the stormwater agencies that do not produce, distribute, transport or discharge the pellets.</p> <p>Federal regulations require a direct and proportionate link between the monitoring requirements imposed on a discharger and its compliance obligations. (See 40 C.F.R. §§ 122.41(j)(1), 122.44(i), 122.48.) In addition, while the Water Code authorizes regional water quality control boards to require individual dischargers to investigate water quality and submit monitoring reports, the statute provides that "the burden, including costs, of [monitoring] reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports." (Wat. Code, § 13267(b)(1), emphasis added.) The information needed to determine effectiveness of the TMDL can and should be obtained from those generating the pollutants, and thus the imposition of a new monitoring requirement on local government is not reasonably related to the need for the information.</p> <p><b>REQUEST: The City requests that the Regional Board revise the Debris TMDL so all requirements related to plastic pellets are assigned to the appropriate industrial sources.</b></p>	<p>The requirements specified in 40 CFR §§ 122.41, 122.44, and 122.48 apply only to permits, and are thus not applicable to TMDLs. When this TMDL is incorporated into the applicable permits, comments concerning these regulations would be appropriate at that time.</p> <p>To determine the effectiveness of this TMDL, information needs to be obtained from both the generators and handlers of plastic pellets and the municipalities that have plastic facilities within their jurisdictions. Obtaining information from both industries and municipalities is not duplicative. Data from municipalities will be necessary to evaluate the effectiveness of the TMDL by assessing cumulative discharges of plastic pellets resulting from possible transportation related spills, discharges from facilities that may not be enrolled in the IGP or other applicable industrial stormwater permits, and illicit discharges.</p>
20.3	City of Los Angeles	Sept. 9	<p><b>Overlapping TMDL Requirements</b>  The City has been actively implementing both the Los Angeles River and Ballona Creek Trash TMDLs, and is</p>	Please see response to comments 5.3, 8.4 and 11.1.

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			<p>currently well ahead of the required implementation goals outlined in the respective TMDL BPAs. While acknowledging the Ballona Creek efforts in the Debris TMDL, the City believes that the language must be revised to ensure that responsible MS4 parties that are on schedule and meeting regulatory milestones for existing trash TMDLs are in compliance with the Debris TMDL. The City is concerned that the Debris TMDL will require extra and unnecessary efforts and resources for the Ballona Creek watershed which is already addressed by an existing EPA approved trash TMDL. The current Debris TMDL would require the City and other MS4 jurisdictions to modify numerous existing procedures and programs that have been working both effectively and efficiently to meet current TMDL requirements. The Debris TMDL would require the City to modify the current Regional Board approved Trash Monitoring and Reporting Program (TMRP) to include various components listed in the Monitoring and Reporting Plan section of the Debris TMDL. The City does not believe these requirements are either necessary or fiscally responsible at this time. The City has already completed most of the tasks for the Ballona Creek Trash TMDL and it is not clear why two separate TMRPs, baselines, areas for prioritization, and rain definitions would be necessary. The City strongly believes that the Debris TMDL language should be revised to remove any duplicative requirements for watersheds already implementing actions to control trash via EPA approved trash TMDLs. These revisions should clearly state that responsible parties are deemed in compliance with the Debris TMDL if meeting all current trash TMDL requirements and not be held responsible for any additional and/or duplicative monitoring or reporting requirements. By</p>	

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			<p>not revising the Debris TMDL BPA language, the City believes the duplicative nature of the Debris TMDL will create confusion not only with required actions, but also create an extremely confusing regulatory paradigm when milestones and regulatory deadlines are already reached.</p> <p><b>REQUEST: The City requests that the following language to be included on page 12 of the Debris TMDL BPA, to be inserted under the first paragraph in the Monitoring and Reporting Plan:</b></p> <p><b>Responsible agencies and jurisdictions that have developed a Regional Board Approved TMRP for the Ballona Creek Trash TMDL shall not be required to submit a TMRP for areas already being addressed by BC Trash TMDL in the Santa Monica Bay WMA if currently meeting all compliance requirements.</b></p>	<p>Staff agrees that the responsible jurisdictions and agencies that have developed a Regional Board approved TMRP for the Ballona Creek Trash TMDL do not have to submit a separate TMRP for this Debris TMDL for those areas already covered, if responsible jurisdictions and agencies are meeting all compliance requirements under the Ballona Creek TMDL.</p>
20.4	City of Los Angeles	Sept. 9	<p><b>MFAC Requirements</b>  The beaches of southern California (boardwalk to the water level) are owned by the State of California and operated by the Los Angeles County Department of Beaches and Harbors. The City only has jurisdiction over the boardwalk and the facilities (not the beach) to the west of the boardwalk, which can result in nonpoint sources of trash. To address these nonpoint sources, the City currently cleans the board walk and associated facilities daily. As such, the City is meeting the conditional frequency of the MFAC and requiring cleanup and/or evaluation at dusk, which would not be consistent with our current maintenance procedures, will result in the City incurring additional costs without commiserate benefits.</p>	<p>Jurisdictions and agencies are only responsible for nonpoint source discharges from areas under their ownership and/or management.</p> <p>It is critical to perform afternoon evaluations to confirm that the existing BMPs, including daily cleanup, are sufficient to minimize trash being left in these nonpoint source areas, and not being carried by wind or other mechanisms to Santa Monica Bay.</p>

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			<b><u>REQUEST:</u></b> The City requests that the Regional Board 1) clearly identifies the Los Angeles County Department of Beaches and Harbors as the entity responsible for MFAC requirements at the beaches adjacent to the Venice Beach area and 2) revise the requirement to do daily cleaning at dusk to simply doing daily cleaning.	