Response to Comments on the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL Revision
Comment due date: May 7, 2012

List of Public Review Comment Letters
1. County of Los Angeles, May 7, 2012
2. City of Los Angeles, May 7, 2012
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4. Patricia McPherson (Grassroots Coalition), May 7, 2012

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1	County of Los Angeles, May 7, 2012		
1.1	County of Los Angeles	**A. The Rolling Geometric Mean Should Be Calculated Every Four Weeks.** Regional Board staff has conducted a thorough analysis of two approaches to calculate the geometric mean - rolling versus discrete approach -and arrived at the following conclusion and recommendations: "A rolling geometric mean may, in some cases, determine a beach does not meet standards when it does. For example, a single very high sample can influence the geometric mean calculation week after week into a period where the water quality is, in fact, meeting standards. Alternatively, a discrete geometric mean can, in some cases, arbitrarily split a period of low water quality such that the geometric mean calculation determines the beach does meet water quality standards when there was a period when it did not. ... In the superior interest of not failing to identify water quality impairment, the rolling geometric calculation is preferred. ... calculate geometric	Staff disagrees with the County's suggestion to calculate the rolling geometric mean every four weeks. The method suggested by the County is more of a discrete calculation method with overlap; only the last two weeks of any month would be included into more than one calculation (and never the first two weeks). Since most sites sample weekly (and none less than weekly) a weekly calculation is appropriate.

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		mean weekly using 5 or more samples for rolling six week period." [Page 36 of Staff Report] While we are not opposed to the rolling approach, calculating the rolling geometric mean on a weekly basis as proposed by staff is very problematic and should be revised as described below. As stated in the staff report, geometric mean was meant to measure the quality of a water-body long term. Therefore, calculating the geometric mean weekly is not meaningful. More importantly, calculating geometric mean for a certain week by using data collected over previous six weeks would not reflect the condition of the water-body in that week because about 83% of the data used in the calculation was taken from outside of the week. We propose the following revision to staff's recommended language for calculating geometric mean: "For purposes of this TMDL, the geometric means shall be calculated ~~weekly~~ every four weeks as a rolling geometric mean using 5 or more samples, ~~for~~ over six week periods, starting all calculation weeks on Sunday." This proposed change would make geometric mean calculation and application more meaningful and, at the same time, reasonably addresses staff's and our concerns for the following reasons: • The rolling approach is still used and provides a two-week overlap between geometric mean calculation periods. Thus, seasonal interdependency and continuity in the calculation are	

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		maintained. This would address staff's concern about the arbitrary boundaries between seasons or calculation periods. • It reduces the false positive conclusion about exceedances, i.e., the conclusion that "a beach does not meet standards when it does" would be minimized. It is in line with USEPA's draft criteria approach of 30-90 days duration for geometric mean calculation.	
1.2	County of Los Angeles	**B. The Reference System Approach Should Apply to Geometric Means.** As stated in the TMDLs under this re-consideration and other various Regional Board documents, Regional Board supports the reference system approach as a mechanism of implementing recreational standards in Los Angeles Region: "[The reference system] approach is used in recognition of the fact that there are natural sources of bacteria that may cause or contribute to exceedances of bacteria objectives and that it is not the intent of Regional Board to require treatment or diversion of natural coastal creeks or to require treatment of natural sources of bacteria.... or to hold a non-reference beach to a higher standard than a reference beach." According to Appendix 8 of the draft Staff Report and summarized in the table below, there are about 20-25% exceedances of geometric mean at the reference site (i.e., Leo Carrillo Beach).	During the data period examined, exceedances of the geometric mean water quality objectives were observed at Leo Carrillo Beach. However, Leo Carrillo remains the best available reference system. Staff acknowledges that further study and corrective actions may be required at Leo Carrillo Beach in order to address geometric mean exceedances. The epidemiological studies referenced in USEPA's 1986 ambient water quality criteria make the link between geometric mean concentrations and health risk. Therefore, in order to protect public health, there should be no allowable exceedances of the geometric

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		[See the County of Los Angeles comment letter for table] These exceedances are very similar to single-sample exceedances for wet-weather, which explains the impact of wet-weather on geometric mean results. Despite these significant exceedances of geometric mean at the reference site, staff continues to recommend allowing no exceedances of geometric mean objectives. This inconsistent application of the reference system approach is not based on science and potentially would require the treatment of non-anthropogenic sources of bacteria. Given the complex nature of bacteria and, more importantly, the fact that non-anthropogenic sources can cause significant exceedances of the geometric mean (as seen in the above table), staff should re-assess its approach on the implementation of the geometric mean standards. It is unreasonable to hold dischargers to a standard that cannot be met at the reference site. Therefore, appropriate number of geometric mean exceedances should be allowed based on findings at the reference site.	mean. In addition, USEPA has not been willing to endorse exceedances of the geometric mean water quality objective during any period.
1.3	County of Los Angeles	**F. Ballona Estuary and Malibu Lagoon Standards Should Be Based on Marine Water Data.** As stated in the respective TMDLs, the recreational beneficial uses for Ballona Estuary and Malibu Lagoon were set based on marine water and, accordingly, marine water bacteriological objectives were used for these two water-bodies. However, the allowable exceedance days for these two water-bodies were set based on exceedance rates at freshwater reference sites. This approach is inappropriate and not scientifically justified. We understand that	Staff recommends Leo Carrillo Beach as the reference beach for all Santa Monica Bay beaches because it is within the Santa Monica Bay watershed; it provides a long database; and ensures equal protection across Santa Monica Bay beaches. In order to

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		currently there is no representative reference system for these two water-bodies. However, these are unique water-bodies that are very different from freshwater creeks and should be treated in that manner. At a minimum, these two water-bodies should be treated in a similar manner as the Santa Clara River Estuary. For the same reasons given in the Santa Clara River Estuary Bacteria TMDL, the data from the San Mateo State Beach and San Onofre State Beach should be used as reference system for Ballona Estuary and Malibu Lagoon. Accordingly, the allowable exceedance rates should be 30% for wet weather and 9% for dry weather. The corresponding exceedance days then would be 23 days for wet weather and 26 days for dry weather. If staff maintains that Santa Clara River Estuary approach is not appropriate for these two water-bodies, then the Leo Carrillo Beach results should be used. In this case, the allowable exceedance would be 22% (17 days) for wet weather and 10% (29 days) for dry weather.	protect the adjacent beaches nearby the Ballona Estuary and Malibu Lagoon, staff agrees to use Leo Carrillo as the representative reference beach for Ballona Estuary and Malibu Lagoon. Staff recognizes that the freshwater exceedances probabilities are lower than the updated Leo Carillo exceedances probabilities and that staff has previously applied the marine water standards, including allowable exceedance days to estuaries in the region. Staff therefore agrees to revise the allowable exceedances probabilities for the Malibu Lagoon and Ballona Estuary to be equal to the Leo Carillo exceedances probabilities of 22% for wet weather, 10.4% for winter dry weather, and 0% for summer dry weather. In the 1993 storm year, there were 75 days for wet days, 210 days for summer-dry days, and 80 days for winter-dry days. In this case, for daily sampling the allowable exceedance days for the summer dry-weather period are zero days, the winter dry-weather period are 9 days, and the wet-weather

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			period are 17 days. For weekly sampling the allowable exceedance days for the summer dry-weather period are zero days, the winter dry-weather period are 2 days, and the wet-weather period are 3 days. Staff agrees to revise the staff reports and BPAs for the Ballona and Malibu Bacteria TMDL accordingly.
1.4	County of Los Angeles	**H. Additional Re-Consideration** With the continuous evolution of the science behind bacteria and health risks associated with recreational activities, it is important to evaluate these TMDLs every five years. There are still many unanswered questions about bacteria that need to be addressed in the future as the science evolves. Some of the issues that warrant re-opener includes (i) the USEPA's new recreational criteria, slated for November 2012, with the associated implementation guidance to come in November 2013; (ii) the development of site-specific recreational criteria using quantitative microbial risk assessment (QMRA) tool for beaches impacted by non-POTW discharges; (iii) the epidemiological studies being conducted in southern California for non-point source impacted beaches; and (iv) consideration of natural sources exclusion once anthropogenic sources are addressed.	Staff acknowledges that other aspects of the TMDL may need to be reconsidered, especially as the science continues to develop. Staff will consider all new material and information brought to our attention at any time and bring the TMDL to the Board for re-consideration if warranted. For this reconsideration currently before the Board, staff is not recommending that a mandatory re-consideration of the TMDL be put in the implementation schedule.
1.5	County of Los Angeles	**I. Bacteria Indicator for Marine Waters** USEPA's draft 2012 recreational water quality criteria, released in December 2011, state the following regarding bacteria indicators:	Changes to bacterial standards have not been considered for this action, have not been noticed for public comment and

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		"Not all indicators have a clear relationship to illness levels observed in epidemiological studies. Two microorganisms that have consistently performed well as indicators of illness in epidemiological studies are entrococci in both fresh and marine water and E. coli in fresh water. Accordingly, the USEPA recommended the use of enterococci as a bacterial indicator for marine waters. USEPA's conclusion and recommendation were drawn upon the latest research and science on the link between illness and fecal contamination at recreational beaches. Many studies, including USEPA studies, have found no correlation between other bacteria indicators, such as total coliform and fecal coliform, and health risks, and have cast doubt on the application of these indicators for regulatory purposes. Despite recent science and USEPA's recommendations, staff continues to use traditional bacteria indicators (total coliform, fecal coliform, enterococcus, and fecal- to-total coliform ratio), which were originally established by the State Department of Public Services under the authority given to it via Assembly Bill (AB) 411. The AB 411 bacteria standard was intended for beach notification or advisory purposes (such as postings, closings, and restrictions) and never was intended to be used for TMDL or permit compliance assessment. Therefore, the continued use of these multiple indicators for TMDLs is inappropriate. In 2010, the Regional Board removed the fecal coliform indicator from freshwater standard based on USEPA recommendations and epidemiological study findings that enterococcus and *E. coli* were	are outside the scope of this reconsideration. Furthermore, the marine water standards used by this Board are based on a landmark epidemiological study conducted at Santa Monica Bay beaches, the results of which showed a correlation between the indicators and increased health risk.

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		the indicators that most strongly correlate with swimming associated illness in freshwater. The same is true for marine waters, where only enterococcus has shown strong correlation with illness. Therefore, staff should update its bacteria standard as part of this re-opener to reflect enterococcus as the sole bacteria indicator for marine waters, which is consistent with USEPA's draft new criteria.	
1.6	County of Los Angeles	**L. Definition of Joint Responsibility** The TMDLs, under the waste load allocation section, provide that responsible jurisdictions and responsible agencies are "jointly responsible" for complying with the waste load allocations. The TMDLS, however, do not define what is meant by "jointly responsible." This has caused significant confusion. It is our understanding, based on comments made by members of the Regional Board at various Board hearings, that it is not the intent of the Board to make any one jurisdiction responsible for the discharges of other jurisdictions. Instead, it is our understanding that, by referring to "jointly responsible," the Board members intend to convey the requirement that all jurisdictions assigned waste load allocations must have programs to meet those allocations, not just some jurisdictions. Because "jointly responsible" is not defined, however, a single jurisdiction can and has been solely held responsible for the contributions from other jurisdictions. This could discourage a jurisdiction from implementing a program to meet the TMDL due to another jurisdiction will be held responsible and meet the obligation. We therefore request that the Regional Board clarify the meaning of "jointly responsible" by adding the following language to each	The MS4 co-permittees discharge to a common conveyance system where their discharges commingle. The inter-connected nature of the MS4 makes it difficult to determine exactly where pollutants originated within the MS4. In such an integrated system, one or more permittees may have caused or contributed to exceedances. Thus, permittees are responsible either because a permittee is one of several sources that discharge pollutants or a permittee conveys and ultimately discharges pollutants that may have originated further up the MS4. In both cases, the MS4 owner and operator are responsible for pollutants discharged from its system. The TMDL does not require individual co-permittees to be responsible for the operations of other co-permittees. Accordingly, MS4 permittees would be

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		waste load allocation section where there is a reference to jointly responsible: "Jointly responsible" means that the responsible jurisdictions and agencies within a watershed [or sub watershed] are all responsible for implementing programs in their respective jurisdictions to meet the waste load allocations. No jurisdiction or agency shall be individually responsible for meeting the waste load allocations by itself nor shall any jurisdiction or agency be responsible for meeting another jurisdiction's or agency's waste load.	responsible for implementing programs in their respective jurisdictions to meet the waste load allocations in the co-mingled system, unless the discharger demonstrates that its discharge did not cause or contribute to the exceedance.
2	City of Los Angeles, May 7, 2012		
2.1	City of Los Angeles	**Establishing that the City's Implementation Plans represent an Integrated Water Resources Management (IWRM) approach:** The bacteria TMDLs that are being revised by the Regional Board allowed for slightly extended wet weather compliance schedules if responsible jurisdictions used an IRWM approach for their Implementation Plans. The Bureau went through considerable effort, including stakeholder processes, to ensure its Implementation Plans qualified as IRWM approaches. The Bureau supports the Regional Board's modifications of the wet weather TMDL compliance schedules (year 2021 instead of 2017) to reflect IRWM timelines.	Comment noted.
2.2	City of Los Angeles	**Revision of Allowable Exceedance Days based on Updated Reference Site Data:** When the Ballona Creek Bacteria TMDL was adopted, it was acknowledged that the marine reference site at Leo Carrillo Beach	Comment noted.

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		was not representative of freshwater conditions. However, at the time no freshwater reference site data were available. During development of the Los Angeles River Bacteria TMDL, CREST compiled freshwater reference watershed data from the Southern California Coastal Waters Research Program (SCCWRP) and calculated the corresponding number of freshwater Exceedance Days. The Bureau supports the incorporation of freshwater reference data into the Ballona Creek Bacteria TMDL.	
2.3	City of Los Angeles	**Geometric mean calculation does not require "filled-in" values:** For the Ballona Creek Bacteria TMDL, the current practice as specified in the Coordinated Monitoring Program (CMP) is to "fill in" concentration values on days when samples are not collected in order to calculate a geometric mean on a daily basis. The fill-in, or daily, calculation approach is cumbersome and unnecessary to protect human health. The Bureau supports the Regional Board's decision to use a calculation approach that does not require filled-in values while maintaining the same level of human health protection.	Comment noted.
2.4	City of Los Angeles	**Allowance for special studies to better represent non-detect samples:** It is common to measure bacteria concentrations that are below the method detection limit, particularly in Ballona Creek Estuary. The current practice is to substitute the detection limit for detect samples, but for enterococcus the detection limit (10 MPN/100mL) is relatively close to the TMDL target for the marine geometric	Comment noted.

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		mean (35 MPN/100mL). As such, some geometric mean exceedances may be an artifact of detection limit substitution as opposed to poor water quality. The Bureau supports the Regional Board's acknowledgement of this issue and allowance to submit special studies to facilitate substitution of alternative values for non-detect samples.	
2.5	City of Los Angeles	**Changing compliance with geometric mean targets to reflect wet weather compliance dates:** The previous BPA included the concept of a "dry weather geometric Mean" which was misrepresentative because the calculation reflected a long-term condition but with many days potentially excluded. The Bureau supports the Regional Board's decision to link geometric mean compliance with the final compliance dates (after both dry and wet weather allocations must be attained).	Comment noted.
2.6	City of Los Angeles	**Major General Comment #1)** ***Revisions to the Ballona Creek Bacteria TMDL should not be limited to the specific elements at the time of original TMDL adoption:*** As noted in Staff Report and Public Notice, the Regional Board has focused on specific reconsideration elements, rather than conducting a general reconsideration of the Ballona Creek TMDL and the high priority issues that may affect them. As such, the current reopener is potentially limited in nature and scope. Since the development of the Ballona Creek Bacteria TMDL, the Regional Board staff and responsible jurisdictions have learned	Staff acknowledges that responsible jurisdictions have learned many lessons regarding TMDLs and the implementation of projects. Staff will consider all new material and information brought to our attention at any time and bring the TMDL to the

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		many lessons regarding TMDLs and their implementation. These lessons have come during implementation of projects to reduce discharges of bacteria, and from development of subsequent TMDLs including the Los Angeles River Bacteria TMDL. Furthermore, it seems unreasonable to assume the list of high priority reopener issues for the Ballona Creek TMDL is the same now as it was when developed over six years ago in 2006. Finally, there are instances in the TMDL revisions where the Regional Board expanded the scope to include items beyond the original reconsideration elements. For example, monitoring was not a reconsideration element for the Ballona Creek Bacteria TMDL, but the Regional Board has nonetheless added additional monitoring requirements to the Basin Plan Amendment. The jurisdictions responsible for implementation of this TMDL should be given the opportunity to provide input on other high-priority issues to be considered during this TMDL revision. Do not limit Ballona Creek Bacteria TMDL revisions to the original reconsideration elements. Instead, consider comments from responsible jurisdictions regarding all topics that are high priority for TMDL implementation and compliance. The list of high priority issues developed in 2006 for the TMDL has evolved.	Board for re-consideration if warranted in the future. As stated in the staff report, "This reconsideration is not a general reconsideration of all the elements of the BC Bacteria TMDL, but a re-examination of certain technical issues which, as recognized at the time of TMDL adoption, might need revision upon further data collection and analysis, study or experience." The additional changes proposed by staff, which were not specified for reconsideration in the original TMDL, are intended to improve clarity and consistency. For example, the additional outfall monitoring requirements are intended to comport the Ballona TMDL with the Los Angeles River and Santa Clara River Bacteria TMDLs. Staff continues to recommend that the TMDL reconsideration be limited to the elements specified in the original TMDL and to make changes to improve clarity and consistency.
2.7	City of Los Angeles	**Major General Comment #2)** ***The revised implementation schedule should include at least one TMDL reopener prior to the***	

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		***final compliance dates*:** Reopeners are a critical aspect of TMDL implementation. The revisions to the Ballona Creek Bacteria TMDL will make important modifications, and the Bureau greatly appreciates the time of Regional Board staff to develop and adopt these revisions. However, reopeners are not a "one time deal." The recently adopted Los Angeles River Bacteria TMDL acknowledges the value of multiple reopeners and included two specific reopeners at four- and ten-years after the effective date as well as specific language that a reopener would occur within one year of significant technical studies or policy changes. The science of bacteria regulations are rapidly evolving, and the Bureau requests at least one additional re-opener prior to the final (wet weather) compliance date in 2021. The Regional Board has already limited the scope of the current TMDL revisions to specific elements, and over the next nine years it is certain that additional high priority issues will emerge through completion of implementation projects, special studies, and other data collection efforts. In addition, this future reopener could be used to evaluate and, if needed, revise the proposed calculation method of the geometric mean, as this method uses a rolling calculation that may result in multiple propagations of peak values at the reference site and compliance sites. An additional reopener is necessary and should be incorporated into the schedule for the revised Ballona Creek Bacteria TMDL. At least one explicit reopener should occur prior to the final wet weather compliance date of 2021. The recommended date for the explicit reopener is 2018, which (1) represents the point at which responsible jurisdictions will be implementing their final projects for wet weather	See response to comment # 1.4.

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		compliance, (2) corresponds to the date requested by the Bureau for the Santa Monica Bay Beaches TMDL reopener, and (3): provide opportunities for correlating the success of the MS4 Permit Reasonable Assurance Plan to meeting the TMDL.	
2.8	City of Los Angeles	**Major General Comment #3)** ***Language should be added to the wasteload allocation sections that allow the Regional Board to discern MS4 discharges from other sources*****:** The Ballona Creek watershed has a multitude of dischargers including various types of NPDES permits. However, the final WLAs for MS4s are based on allowable numbers of Exceedance Days. In this manner, the Ballona Creek TMDLs make MS4s wholly responsible for attainment of WQOs in the creeks and estuary. That is, if the numbers of exceedances in the creeks or estuary are higher than allowable, then that discharge to that reach are out of compliance regardless of whether the many other NPDES permittees have addressed their discharges. For example, MS4 could be deemed out of compliance if a major industrial NPDES discharger was continually exceeding their TMDL-required permit limits for *E. coli*. Similarly, for reaches that have multiple municipalities, it is important that jurisdictions can distinguish their discharges from one another. The Los Angeles River Bacteria TMDL addressed this concern with language regarding three "equivalent conditions" that represent WLA attainment for MS4. This same language should be incorporated into the Ballona Creek TMDLs. The equivalent conditions language from the Los Angeles River Bacteria TMDL should be incorporated to the BPA for the Ballona Creek Bacteria TMDL. The language below was copied directly from the BPA for the LA River Bacteria TMDL and modified to reflect the Ballona Creek TMDL (e.g., replaced “River” with “reach or estuary”,	Staff does not believe it is necessary to add the proposed language to the TMDL in order to allow for “equivalent conditions” for WLA attainment. This language is better included in the MS4 than the TMDL. By including this language in the MS4 rather than in specific TMDLs, staff can ensure consistency in how the various TMDLs are implemented by the MS4. In fact, similar language is included in the working proposal for the MS4 permit released for public review on April 23, 2012.

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		"*E. coli*" with "bacteria", etc.): "MS4 dischargers can demonstrate compliance with WLAs by demonstrating that WLAs are met in the reach/estuary or by demonstrating one of the following conditions at outfalls to the reach/estuary: 1. Flow-weighted concentration of bacteria in MS4 discharges is less than or equal to the single sample WQOs, based on a weighted-average using flow rates from outfalls to the reach or estuary; 2. Zero discharge; 3. Demonstration of compliance as specified in the MS4 NPDES permit which may include the use of BMPs where the permit's administrative record supports that the BMPs are expected to be sufficient to implement the WLA in the TMDL, the use of calculated loading rates such that loading of bacteria to the reach or estuary is less than or equal to a calculated loading rates that would not cause or contribute to exceedances based on a loading capacity representative of conditions at the reach or estuary at the time of compliance or other appropriate method." It should be noted that this requested change does not necessarily constitute a substantive change to the BPA. During the public comment period for the LA River Bacteria TMDL, the exact language above was added to the BPA and the TMDL was not re-noticed.	
2.9	City of Los Angeles	**Major Ballona Comment #1)** ***The interaction between Exceedance Days and High Flow Suspension Days should be revised to reflect the approach of the LA River Bacteria TMDL.***	

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		During development of the Los Angeles River Bacteria TMDL, a detailed analysis of LAX rainfall data was conducted and an alternative approach was developed for the interaction of the High Flow Suspension (HFS) and Exceedance Days. With the alternative approach, Exceedance Days and HFS days are mutually exclusive (see page 43 and 44 of the Staff Report for the LA River Bacteria TMDL). The approach for the Ballona Creek TMDL should be consistent with the Los Angeles River Bacteria TMDL. It is important that agencies like the City and LA County are not using different HFS versus Exceedance Day approaches in different watersheds. Please revise the BPA for the Ballona Creek TMDL to reflect the improved approach for the HFS and Exceedance Day interaction, as follows: 1. Please strike entirely the footnote in Table 7.21.2a (page 10) which says: "***In Reach 2, the greater of the allowable exceedance days under the reference system approach or high flow suspension shall apply." 2. Please replace the tables in the Waste Load Allocations and Load Allocations sections (pages 5 and 6, respectively) with the table below, which was copied directly from the BPA for the Los Angeles River Bacteria TMDL:	Staff believes no changes are needed. Staff agrees that the High Flow Suspension (HFS) applies to Reach 1 and 2 of Ballona Creek. However, Benedict Canyon Channel, Ballona Estuary, and Del Ray Lagoon are not subject to the HFS. Thus, the waste load allocations for Reach 1 and 2 must be set to attain the downstream allowable exceedances days in the Estuary (as well as comply with the Santa Monica Bay TMDL at adjacent beaches). Given the nature of the Ballona Creek watershed, the existing approach for addressing HFS in the Ballona TMDL is appropriate. No change to the TMDL is needed.

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<tr><th>Allowable Number of Exceedance Days</th><th>Daily Sampling</th><th>Weekly Sampling</th></tr>
<tr><td>Dry Weather</td><td>5</td><td>1</td></tr>
<tr><td>Non-HFS* Waterbodies Wet Weather</td><td>15</td><td>2</td></tr>
<tr><td>HFS Waterbodies Wet Weather</td><td>10 (not including HSF days)</td><td>2 (not including HSF days)</td></tr>
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*HFS = High Flow Suspension
</td><td></td></tr>
<tr><td>2.10</td><td>City of Los Angeles</td><td>Major Ballona Comment #2) The revised outfall and follow-up investigation monitoring requirements should be removed and combined into a requirement for a Source Investigation Plan

The Regional Board has added outfall monitoring requirements and revised the follow-up monitoring language in the BPA for the Ballona Creek Bacteria TMDL. Monitoring requirements were <u>not</u> a specific reconsideration element for the TMDL, but the Regional Board staff added outfall monitoring requirements nonetheless. Based on the Bureau's experience with conducting the Coordinated Monitoring Plan (CMP) for the Ballona Creek Bacteria TMDL, we offer an alternative to the monitoring requirements proposed by the Regional Board.

The follow-up monitoring requirements in the original Ballona Creek Bacteria TMDL were based on the beach TMDLs, which were designed to assist with posting of beaches after bacteria exceedances. However, data collected from Ballona Creek are not used to post signs</td><td>Staff agrees that follow up monitoring requirements for Ballona Creek when there is an in-stream exceedances can be different than the follow up monitoring for beaches. Staff proposes to strike the 4th paragraph in the Monitoring section on page 9. (Paragraph starts with "If an in-stream location…" and ends with "… meet bacteria water quality objectives"). Staff proposes to modify paragraph 3, to clarify how outfall monitoring will be used to determine whether or not bacterial sources</td></tr>
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		(there is no such notification program for any flowing waterbody in the Los Angeles region). Follow-up monitoring requirements for Ballona Creek should be different than those for the beaches, and useful for the agencies responsible for eliminating bacteria exceedances. The highly prescriptive approach to follow-up monitoring that is currently in the Ballona Creek Bacteria TMDL will require a high-level of resources to repeatedly characterize in-stream concentrations (rather than sources), and the Bureau does not view the data as useful for making management decisions to support implementation. For example, daily monitoring within 24-hours of exceedances neither helps dischargers understand the sources of exceedances nor assists with planning/implementation of control measures. Instead of daily in-stream follow-up monitoring, data regarding the sources of upstream bacteria would be much more useful for responsible agencies. The Bureau would appreciate the flexibility to work with the Regional Board, other responsible jurisdictions and stakeholders to develop an outfall and follow-up monitoring program that will be useful for source assessment and TMDL implementation purposes, as well as evaluating attainment of WLAs. In addition, it should be noted that the requirement to submit an Outfall Monitoring Plan within six months of the effective date of the TMDL revisions may contradict with the upcoming MS4 Permit renewal. In particular, the Watershed Management Plans that are a centerpiece of the draft Permit will not be developed within six months, and thus the proposed Outfall Monitoring Plan would be developed without coordination with Watershed Management Plans, which is contrary to the spirit of the new permit requirements. **REQUEST:** Please replace the outfall monitoring and follow-up	originating within the jurisdiction of the responsible agency have caused or contributed to the in-stream exceedance. In paragraph 3: "…Responsible jurisdictions or agencies shall not be deemed non-attaining if ~~the investigation~~ *the outfall monitoring* described in the paragraph ~~below~~ *above* demonstrates that bacterial sources originating within the jurisdiction of the responsible agency have not caused or contributed to the exceedance." This change makes the Ballona Creek TMDL consistent with the Los Angeles River and Santa Clara River Bacteria TMDL monitoring requirements. Regarding the timing for submittal of an outfall monitoring plan, since the TMDL will not become effective until approved by the State Water Board, OAL, and USEPA, it is most probable that the due date for the outfall monitoring plan will be after any deadline for submitting an integrating monitoring plan under the LA County MS4 permit.

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		monitoring requirements in the BPA with a requirement for the development and implementation of a Source Investigation Plan. The City and other responsible jurisdictions could work jointly to develop a Source Investigation program that would be useful for source assessment, TMDL implementation purposes, and evaluation of WLA attainment. Please note this request is not intended to reduce the requirements proposed by the Regional Board; instead it is a request for the Bureau to have the opportunity to develop a program that meets the intent of the BPA language: (1) assess loading, (2) characterize in-stream WQO exceedances, and (3) determine whether exceedances are due to MS4 discharges. The following edits to the revised BPA for the Ballona Creek Bacteria TMDL are requested: 1. Strike entirely the 2nd paragraph in the Monitoring section on page 9. (Paragraph starts with "Responsible jurisdictions" and ends with "permit and TMDL objectives"). 2. Strike entirely the 4th paragraph in the Monitoring section on page 9. (Paragraph starts with "If an in-stream location" and ends with "bacteria water quality objectives"). 3. Insert the following paragraph at the end of the Monitoring section: "Responsible jurisdictions and agencies shall submit a Source Investigation Plan within one year of the effective date of the TMDL revised by Resolution R12-XXX, and initiate the Source Investigation Plan within six months of receipt of comments from the Regional Board. The Source Investigation Plan shall propose a receiving water and outfall monitoring program to (1) assess the bacteriological water quality of storm drain discharges and their impact on receiving water quality and (2) to characterize the magnitude and duration of exceedances at non-attaining in-stream locations."	

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2.11	City of Los Angeles	**Major Ballona Comment #3)** ***The Bureau respectfully requests an extension of the dry weather compliance schedule for the Ballona Creek Bacteria TMDL.*** The Ballona Creek Bacteria TMDL may have the most aggressive dry weather schedule of any of the bacteria TMDL in the Los Angeles region -six years for compliance in a 130 square mile watershed. The Ballona Creek watershed is large and highly urbanized; there are a multitude of sources, responsible jurisdictions, and stakeholders; and there is little or no dilution of dry weather urban runoff in Ballona Creek (unlike the Los Angeles River or Santa Monica Bay). Since original adoption of this TMDL, the Bureau has learned many implementation lessons, particularly from Proposition projects. In some cases, a *single* BMP project can take six years to complete, *after* funding becomes available. Using realistic project timelines and a dry weather implementation schedule that better reflects them, as was created for the Los Angeles River Bacteria TMDL, is critical to the Bureau. The Bureau views this reopener as an opportunity to (1) revise the dry weather schedule to better reflect the logistics and engineering challenges faced with the implementation of the Ballona Creek Bacteria TMDL, and (2) to allow for completion of the keystone dry weather projects in the City's Implementation Plan. Justification to extend the dry weather schedule for the Ballona Creek BacteriaTMDL includes the following: 1) **The major dry weather projects in the City's Implementation Plan will take several more years to complete**: even if construction began today, the City's major	Staff acknowledges the implementation efforts conducted to date by the City of Los Angeles. However, in order to improve the water quality of Ballona Creek, Ballona Estuary, and Sepulveda Channel, and protect public health, staff does not agree to extend the deadline (i.e., April 27, 2013) to achieve compliance with the allowable exceedance days for dry weather. The existing dry-weather compliance deadline was approved by the Regional Board after a lengthy public participation process, and considering all stakeholder input and the nature of the Ballona Creek watershed. In fact, the dry-weather compliance deadline for Ballona Bacteria is longer than the deadlines for the beach bacteria TMDLs and the Malibu Creek bacteria TMDL. Staff notes that it takes time to implement BMPs. Staff understands the complexities associated with funding, designing, and constructing BMP projects, but notes that 6 years is likely on the higher end of the range of time

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		dry weather projects would not be complete by April 2013. Shown in Table 1 are costs and timelines for the Low Flow Treatment Systems in Ballona Creek and Sepulveda Channel and a Low Flow Diversion in Del Rey Lagoon. These timelines were developed by the Bureau based on experience with previous projects. It should be noted that the Low Flow Treatment system in Ballona Creek would be one of the largest dry weather treatment systems implemented in the Los Angeles region, and would represent one of the Bureau's premier stormwater projects. 2) **The Bureau has submitted an Implementation Plan to the Regional Board**: the Bureau is eager to receive the RB's comments on our proposed IP. The Bureau understands that the Regional Board rarely adopts or approves implementation plans. However, the dry weather Implementation Plan for the Ballona Creek Bacteria TMDL is unique in that centralized Low Flow Treatment Systems were proposed to treat runoff from Ballona Creek and Sepulveda Channel watersheds. In the comments on the City's Implementation Plan for the Metals TMDL, Regional Board staff raised concerns about the Low Flow Treatment Systems including permitting and attainment of WQOs upstream of their locations. The Bureau cannot move forward with construction of the Low Flow Treatment Systems until we have collaborative discussions with the Regional Board regarding the role and feasibility of Low Flow Treatment Systems for bacteria TMDL compliance. 3) **Additional time is needed to the sources of bacteria in Del Rey Lagoon and its impact on Ballona Estuary**: the wetland system of Del Rey Lagoon is complex. Water from	required. For example, in its Los Angeles River Metals TMDL Implementation Plan, the City states that the time required for design, bid/award, and construction is typically 32 months for distributed BMPs and 60 months for a regional BMP. Staff understands that the Los Angeles River Implementation Plan is a different plan for different pollutants in a different watershed, but the types of BMPs contemplated are similar. Staff therefore believes that it is possible to design and construct BMPs on a faster schedule than 6 years. Staff also notes the difficulties in funding BMP projects and how this has impacted the schedule for BMP implementation in the Ballona Creek watershed. Staff understands the City's desire to have Regional Board input on their draft implementation plan, and while staff has not yet formally commented on the draft IP, staff commits to working with the City regarding the role and feasibility of low flow treatment systems. It should be noted that the Regional Board does not approve implementation plans, and the City need not wait for approval before moving

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		the Ballona Estuary freely flows in and out of the Lagoon during dry weather as the tide gate is open. During low tides, the lagoon is nearly empty. Because of the tidal fluctuations, the lagoon attracts shorebirds and waders such as gulls, herons, and egrets. A study by Dr. John Dorsey from Marymount University entitled A Study of Fecal Indicator Bacteria in Del Rey Lagoon found the Lagoon can act as a source of Enterococcus to the Ballona Estuary, and identified birds and sediments as likely sources. Under the CMP, the Bureau has collected a large amount of data from Del Rey Lagoon which has assisted with further characterizing sources to and within the Lagoon. In addition, the Bureau has considered multiple options for addressing the bacteria sources to Del Rey Lagoon including institutional controls and a weather diversion (there is only one discrete stormwater to the Lagoon, the proposed project would capture both dry and wet weather flow). Furthermore, Bureau has considered approaches to address the Lagoon as a natural source to the Estuary, including a loading study. The LFD project (see Table 1) and source studies would require close coordination with the Regional Board and other stakeholders (including Department of Fish and Game) and take several years to complete. **[See the City of Los Angeles comment letter for Table 1]** Based on the City's good faith effort to implement the Ballona Creek Bacteria TMDL, revisions to the draft Implementation Plan that may need to be done in response to the Regional Board's comments, and the significant timelines associated with completing studies and major	forward with projects. Staff agrees that it did raise concerns about the inclusion of low flow treatment systems in the draft implementation plan for the Metals TMDL, but the City still included the use of low flow diversions in the final implementation plan. So it is clear that the City can move forward on implementation planning regardless of Regional Board comments. The TMDL allowed time for the submittal of a study for the sources of bacteria in Del Rey Lagoon and its impact on Ballona Estuary. While no study has been submitted to date, the City is welcome to submit a study to the Regional Board in the future. Regardless, according to its draft implementation plan, the City has identified projects that, if implemented, are expected to lead to compliance with waste load allocations; these projects were not dependent on a Del Rey Lagoon study. Staff therefore does not believe that the study warrants an extension of the dry-weather compliance schedule. Finally, staff recognizes that several

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		dry weather projects, the Bureau respectfully requests a schedule extension. **REQUEST:** Please revise the dry weather compliance date to 2021 for the Ballona Creek Bacteria TMDL. In this manner, the dry weather schedule will coincide with the wet weather schedule, which is consistent with the Los Angeles River Bacteria TMDL. A compliance date of 2021 also matches the timelines for the City's major dry weather projects (Table 1) and the wet-weather final compliance deadline of the Santa Monica Bay Bacteria TMDL.	projects are in the works to meet the TMDL allocations and that the City needs more time to complete these projects. However, staff believes the City's need for additional time to comply is best addressed through the permitting process, in which the City can be granted additional time to comply with waste load allocations based on the completion of tasks according to a time schedule order. Again, staff does not agree to extend the deadline (i.e., April 27, 2013) to achieve compliance with the allowable exceedance days for dry weather.
2.12	City of Los Angeles	The Bureau would like to express its support for categorizing the number of freshwater exceedances based on "wet" and "dry" days, instead of further separating dry weather into "summer dry" and "winter dry". The new dry weather categorization approach better reflects the operations of low flow diversions (LFDs) in the area, which are now operated year-around and not seasonally. (This comment is shown in Attachment A)	Comment noted.
2.13	City of Los Angeles	On page 10, Table 7.21.2a, the BPA states the Final Allowable: Exceedance Days is zero (0) during the Winter Season, Early Summer Season, Mid-Summer Season, and Later Summer Season. Please clarify what is meant by these "Seasons." (This comment is shown in Attachment A)	"Geometric Mean" in Table 7.21.2a has been revised to remove references to "seasons". This additional text was included in error. The Table shall now read "Zero (0) exceedances of the Geometric Mean Bacteria Water Quality Objectives."

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3	Heal the Bay & Santa Monica BayKeeper, May 7, 2012		
3.1	Heal the Bay & Santa Monica BayKeeper	**The Regional Board should preserve a rolling 30-day geometric mean period** We urge the Regional Board to preserve **a rolling 30-day geometric mean period**, which is critical for tracking and identifying chronic water quality problems. This is extremely important for public health protection of beachgoers on a day to day basis. The Regional Board staff is proposing a longer six-week geometric mean period. A shorter geometric mean period is more technically sound because it allows for a more comprehensive analysis, which can better account for the beach water quality fluctuations that may be masked with a longer period. As demonstrated in the attached Table, using the six week geomean period results in lower protection. According to EPA's 1986 Recreational Beach Water Quality Criteria, the current water quality monitoring recommendation is no less than five samples equally spaced over a 30-day period. California's Ocean Plan is identical to USEPA's geometric mean water quality monitoring guidelines. Additionally, the California Department of Health Services' Draft Guidance for Salt and Freshwater Beaches recommends a "...a 30-day sampling period in order to provide the minimum protective bacteriological standards for waters adjacent to public beaches and public water-contact sports areas." There is no justification for the Regional Board to provide a different calculation in the Draft Amendments. While we support zero (0) exceedances of the geometric mean, we believe the proposed increase in the geometric mean period is unjustified as it will result in decrease in public health protections.	The shorter calculation period for the geometric mean is not more technically sound - the 6 week calculation period will ensure in almost all cases at least 6 samples in each geometric mean calculation – the 30 day will often have 5 and often have only 4 which can result in a much less accurate geometric mean. The Regional Board recommended method provides a more accurate geometric mean every week instead of a less accurate geometric mean calculation. In addition to the sources Heal the Bay quotes, USEPA's recently-released draft Recreational Water Quality Criteria recommends a 30 to 90 day period for the calculation of geometric means. The day to day health protection of beachgoers is addressed also by the single sample maximum. The Regional

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		Instead, the Regional Board should take the most protective approach and maintain the existing rolling 30-day geometric mean period, at the minimum.	Board uses a dual method: both single sample maximum limits and geometric mean limits ensure adequate protection of human health. No beach water quality fluctuation is ever masked.
3.2	Heal the Bay & Santa Monica BayKeeper	**The Regional Board should not implement sub-seasons in the Draft Amendment** It is inappropriate for the Regional Board to divide the geometric mean calculation period into sub-seasons for the Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL as proposed in the Draft Amendment. Calculating a static (non-rolling) geometric mean per sub-season would inhibit the ability to track chronic pollution problems, and is inconsistent with the rolling geometric means proposed in the Draft Amendment for Santa Monica Bay, Marina del Rey, LA Harbor and Cabrillo Beach, and Malibu Creek Watershed Bacteria TMDL's. Why did staff propose a different approach for this TMDL? Instead, this proposed approach would simply provide regulatory relief to dischargers and would be disastrous for public health protection. We urge the Regional Board to remove geometric mean sub-season periods and instead retain a rolling 30-day geometric mean for both wet and dry weather, in order to provide continuous public health protection.	The proposed sub- seasonal geometric mean language was included in error and has been removed from the BPA (Table 7.21.2a, page 10). The Table shall now read "Zero (0) exceedances of the Geometric Mean Bacteria Water Quality Objectives."
3.3	Heal the Bay & Santa Monica BayKeeper	**The Regional Board should not use the 90th percentile storm year to determine exceedance rates** The proposed Draft Amendment uses the number of wet weather days during the 90th percentile storm year to determine the number of days of allowable number of exceedances. Because the 90th percentile rain event year is used to determine the number of allowable exceedances,	The critical condition for bacteria exceedances is wet weather, and the 90th percentile year, in terms of the number of wet-weather days, has a

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		during 90% of all years analyzed, the actual number of exceedances at the reference location will be less than the allowable number of exceedances. Thus, in 90% of the years the TMDL does not truly account only for natural conditions. Heal the Bay has expressed its concern over this methodology in our comment letters regarding both the dry and wet bacteria TMDL's for Santa Monica Bay Beaches. Instead, we suggest that the Regional Board use the median or 50th percentile storm year.	return frequency consistent with that used in other TMDLs. Establishing the WLA based on the historical exceedances of the reference watershed during a dry year would result in the reference watershed itself being in non-compliance. This would undermine the intent of the reference watershed approach, which is to make allowances for natural sources of bacteria and to avoid diverting natural creeks and drainages. In addition, the methods employed to meet the WLAs based on the critical wet-year will reduce exceedances during drier years as well. Use of the 90th percentile year assists implementing agencies in planning for a worst-case scenario and it is expected that in years with fewer wet days a decline in exceedance days will be observed.
3.4	Heal the Bay & Santa Monica BayKeeper	**Miscellaneous** • As you know, the TMDL allows for additional compliance time when an integrated approach to wet weather TMDLs is pursued. We supported this concept, as it is extremely important to look at water issues comprehensively. Most dischargers appear to be taking this added time as a "given."	Staff disagrees. Based on the documents submitted to the Regional Board for consideration, responsible agencies have met the minimum requirement of the TMDLs to qualify as

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		What evaluation has been done by the Regional Board to ensure that this extra time is truly merited and progress to this end is occurring? We have seen no confirmation to date. As part of this reopener process, we strongly urge the Regional Board to set strong criteria for being eligible for this extra time and to evaluate what has occurred to date. • The notice mentions an amendment to Chapter 3. What does this entail? We do not see any such proposed changes in the documents distributed. • We are encouraged that the Regional Board decided not to use "ghost data"[5] when determining the geometric mean. These data may misrepresent actual water quality and fluctuations, thereby giving the public a false sense of security or misrepresentation of poor water quality conditions.	implementing an integrated approach. As such, the alternate implementation milestones in the TMDL are triggered and responsible agencies are to now meet the extended schedule as specified in the TMDL. The proposed Tentative Basin Plan Amendment amends the implementation provisions for Water Contact Recreation in Chapter 3 which is included in Attachment D to the Tentative Regional Board Resolution and can be found on the Regional Board website in the following link: http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/bpa_90_R12-XXX_td.shtml or provided upon request. Comment noted. The meaning of the term "ghost data" remains unclear to RB staff.
3.5	Heal the Bay & Santa Monica BayKeeper	In summary, Heal the Bay and Baykeeper strongly urge the Regional Board to ensure that water quality standards are met and public health is not compromised for years to come. The Bacteria TMDLs reconsiderations should not be used to relax water quality protection at the expense of beachgoers and our vitally important tourist economy.	See response to comment 3.1. Changing from a 30-day to a six-week calculation period does not relax water quality protection. The targets and

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		To that end, the proposed Draft Amendments should be revised to preserve the rolling 30-day geometric mean to accurately account for water quality fluctuations and better protect the public from bacteria pollution. Furthermore the proposed static seasonal geometric mean should be removed from the Ballona TMDL. Finally, the Regional Board should no longer use Leo Carrillo Beach as the most appropriate reference beach for our Region but should instead rely on Nicholas Beach or another more appropriate location.	allocations are unchanged and the geometric mean calculation period is lengthened to ensure a reasonably accurate assessment of the central tendency of the beach data. The Ballona Creek TMDL Basin Plan Amendment has been revised to delete the reference to the discrete geometric mean calculation.
4	Patricia McPherson (Grassroots Coalition)	TMDL comments both oral and written submitted by Grassroots Coalition and John Davis have not had meaningful response by USEPA. It has been unclear as to process regarding the USEPA TMDL and SWQRCB TMDL. All comments to USEPA are also applicable to SWQRCB. Issues regarding bacterial levels and TMDLs should not be driven by potential construction of treatment wetlands- e.g., the current proposals for deconstructing Ballona Creek levies and constructing and creating a non historic estaurine system at Ballona Wetlands. -No pollution/ bacteria levels should be allowed for in areas currently free of such contamination. - Future potential dredging of Ballona areas should not be allowed to be contaminated with Ballona Creek contaminants in the water column, in sediments and surface trash and debris. -Naturally occurring bacteria in wetlands still need further scientific review prior to decision making regarding the SWQRCB arbitrary and//or capricious determination of contaminant levels. -Further public notice regarding Ballona and Malibu should be	As stated in the staff report : "This reconsideration is not a general reconsideration of all the elements of the Bacteria TMDL, but a re-examination of certain technical issues which, as recognized at the time of TMDL adoption, might need revision upon further data collection and analysis, study or experience." The TMDL adopted by USEPA for Sediment and Exotic Vegetation for the Ballona Creek Wetlands is not part of the action before the Regional Board. The subjects suggested by the commenter are beyond the scope of this reconsideration.

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		offered for full public input. There has been much confusion and lack of public outreach to inform the public regarding these important matters. Please allow for this additional comment as part of GC's May 7, 2012 response. - The Ballona area's groundwater is classified as potential drinking water. The freshwaters of the Ballona area must be protected and enhanced. Historically, the area was over drafted for use of its freshwater aquifers. (Poland Report) The Marina del Rey was also constructed, which allowed for further saltwater intrusion and disruption of clay layers that had previously protected the freshwaters. (US House Document 389). As a non adjudicated basin area (Ballona area) the LARWQCB has far too long avoided its role in the protection of the fresh groundwater of the Ballona area. Instead, LARWQCB has allowed for continued development over the area, with failure to exert adequate oversight that would ensure that actual (not estimated) volumes of groundwater withdrawal and diversion would be prudently monitored and/or not allowed as per various EIR mitigation criteria. Since the MTBE contamination halted groundwater extraction for drinking water purposes, the Ballona area should have been recharging its groundwater supplies which would/could help to halt the saltwater intrusion. However, LARWQCB has turned a blind eye, despite all the new Best Management Practices language has come into being, to various sites in the Marina del Rey have been improperly withdrawing and discharging groundwater on a permanent basis ON LARWQCB PERMITS for CONSTRUCTION DEWATERING- which by definition would halt dewatering once construction had ceased.	

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