Comment Summary and Response on August 31, 2012 Draft:
Reconsideration of Los Angeles River Nitrogen Compounds and Related Effects TMDL
to Incorporate Site-Specific Objectives for Ammonia
Comment due date: October 15, 2012

1. County Sanitation Districts of Los Angeles County
2. City of Los Angeles, Bureau of Sanitation
3. City of Burbank
4. City of Los Angeles, Bureau of Sanitation and City of Burbank (Attachment submitted with both letters #2 and #3
5. United States Environmental Protection Agency, Region IX
6. Heal the Bay
7. County of Los Angeles and Los Angeles County Flood Control District
8. Joyce Dillard, P.O. Box 31377, Los Angeles, CA 90031

Comment Number	Author	Comment	Response to Comment
1.1	LACSD	The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate the opportunity to provide comments on the proposed amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to revise the total maximum daily load (TMDL) for nitrogen compounds and related effects in the Los Angeles River by incorporating site-specific ammonia objectives (SSOs) for select reaches of the Los Angeles River.	Comment noted.
1.2	LACSD	The Sanitation Districts request the following language be removed from pages 5 and 7 of the proposed amendment: "Regardless of the SSO and SSO-derived WLAs, for	Regional Board disagrees that this statement should be removed. See responses to individual points below.

		discharges with concentrations below site-specific water quality objectives, effluent limitations shall ensure that effluent concentrations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies existing at the time of permit issuance, reissuance, or modification. Regional Water Board staff may consider recommendations from a Regional Water Board-led workgroup that will be charged with evaluating alternative methodologies for calculating effluent limitations for discharges with concentrations below site-specific water quality objectives. Permit compliance with anti-degradation and anti-backsliding requirements shall be documented in the permit fact sheets."	
1.3	LACSD	**Performance-Based Limits Were Not Included in the Basin Plan Amendment Adopting the SSOs** The ammonia SSOs were formally adopted by the Regional Board on June 7, 2007 with adoption of Resolution No. 2007-005 amending the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan). The resolution contained procedures for implementing the SSOs, to supplement the detailed implementation procedures for incorporating ammonia objectives into NPDES permits. These procedures did not include use of performance-based limits; the appropriate time to consider performance-based limits would have been at the time of adoption of the Basin Plan amendment adding the SSOs. The SSOs and their implementation	The Basin Plan Amendment to incorporate SSOs was specific to establishing ambient water quality objectives, taking into account site-specific water quality characteristics, in order to protect the designated aquatic life beneficial uses of the surface waterbodies included in the study. In contrast, TMDLs are programs of implementation to ensure that pollutant loadings from specific point sources and nonpoint sources are controlled to ensure that the impairments addressed by the TMDL are resolved. TMDLs include numeric targets as well as wasteload allocations. TMDLs are not self-executing; the wasteload allocations assigned to point sources in a TMDL must be implemented through NPDES permits. Title 40 of the Code of Federal Regulations requires that

		procedures were approved by the State Water Resources Control Board (State Water Board) on January 1, 2008 (Resolution No. 2008-0004), the Office of Administrative Law on May 12, 2008 (File 2008-0401-03S), and the USEPA on March 30, 2009. None of the formal approvals of the SSOs indicated a need for performance-based limits to become part of the implementation process for the SSOs.	NPDES permits include effluent limitations consistent with the assumptions and requirements of available wasteload allocations in TMDLs. However, the federal Clean Water Act (CWA) and implementing regulations also include other requirements for developing effluent limitations that must be addressed, including antidegredation and antibacksliding requirements. Although the results of the ammonia site-specific objective study indicate that the water quality conditions of the waterbodies in the study allow a higher level of ammonia loading without causing aquatic toxicity, it does not follow that WRPs would be permitted to discharge higher than current pollutant loads in NPDES permits. CWA section 303(d)(4)(B) provides that where the water quality standard is being attained, effluent limitations based on a water quality standard established pursuant to section 303 may be revised "only if such revision is subject to and consistent with the antidegradation policy established under this section." Ensuring that WRPs continue to meet levels of water quality that can reliably be maintained by existing treatment technologies, where better than necessary to achieve the WLAs derived from the SSOs, is consistent with these requirements. It is appropriate that the TMDL include specific implementation language to provide direction to the permit writer regarding the development of effluent limitations that are both consistent with the assumptions and requirements

			of the available WLA and other federal requirements for the development of effluent limitations, including antibacksliding and antidegredation requirements
1.4	LACSD	**Performance-Based Limits Are Not Necessary to Protect Beneficial Uses** Performance-based limits are not necessary to protect the beneficial uses of the Los Angeles River. The SSOs, as stated in findings made by the Water Boards during their adoption and approval, "provide the same level of protection for aquatic life in the affected waterbodies as the national 30-day average criteria are intended to"[2] and "would result in no adverse impact on wildlife."[3] Additionally, during consideration of the SSOs the Regional Board rejected the need to maintain existing ammonia objectives instead of adopting the SSOs, acknowledging that such an action would have "resulted in an objective that is more stringent than the threshold necessary to project aquatic life in these waterbodies."[4] The Regional Board also made it clear in its response to comments on the SSO Basin Plan amendment that the "proposed SSOs are based on a number of conservative assumptions" and "the SSOs are not a 'relaxing' of the objective."[5] Furthermore, USEPA's approval of the ammonia SSOs also recognized that "portions of this amendment which establishes ammonia criteria [are] as protective as those currently applicable for these water bodies in the Los Angeles Region," and that "given available data and expert opinion, the SSOs are protective of	The footnote language is necessary to ensure that implementation of the SSOs in NPDES permits does not allow the degradation of existing water quality, consistent with federal antidegradation requirements (40 CFR section 131.12). Additionally, a general prohibition on backsliding is established in CWA section 402(o)(1). The intent of the 1987 Amendments to the Clean Water Act, which incorporated sections 402(o)(1) and 303(d)(4), was to preserve present pollution control levels achieved by dischargers by prohibiting the adoption of less stringent effluent limitations than those already contained in their discharge permits, except in limited circumstances. The effluent limitations, when set based on the level of water quality that can be reliably achieved by the facility's applicable treatment technologies existing at the time of permit issuance, reissuance, or modification, would still be consistent with the TMDL WLAs and the SSOs upon which the WLAs are based, because they are at least as protective as the WLAs. In addition, effluent limitations must not only be consistent with available WLAs, but must also be consistent with other federal and state requirements (including, but

		aquatic life."6 Therefore, requiring stricter, performance based limits would not provide any additional water quality benefits and is not necessary to protect beneficial uses.	not limited to, 40 CFR §§ 122.44(d)(1)(vii)(B) and 131.12; CWA §§ 402(o)(1) and 303(d)(4)(B); CWC § 13377; State Board Resolution No. 68-16). The language is designed to ensure that the effluent limitations comply with all federal and state requirements. The language simply requires that WRPs perform at a level that can be *reliably* attained by existing treatment technologies at the time of permit issuance, reissuance or modification. The TMDL WLAs are based on the SSOs, which are the level necessary to protect beneficial uses (the floor) as is required; however, deriving effluent limitations requires other considerations. The Regional Board previously adopted a TMDL that contained language requiring effluent limitations based on current treatment levels when it adopted a Revision of the Metals TMDL for the Los Angeles River and its Tributaries. The State Water Resources Control Board (State Board) and US EPA also support the inclusion of a footnote requiring effluent limitations based on existing water quality where existing discharge quality is better than the applicable water quality objectives and associated WLAs. This is demonstrated by the State Board's approval of the Metals TMDL Revision and USEPA's comment letter on the Metals TMDL Revision, dated March 11, 2010.
1.5	LACSD	**Performance-Based Limits Restrict Options for Disinfection**	The footnote is written to allow a broad array of options for ensuring that effluent concentrations

		One of the primary reasons the Sanitation Districts pursued the ammonia SSO was to provide operational flexibility to our WRPs. The Sanitation Districts currently operate all of our WRPs, including the Whittier Narrows WRP, with nitrification/denitrification (NDN) to minimize the discharge of ammonia and nutrients. Under typical lower flow conditions, the NDN process removes all the ammonia present in wastewater. Ammonia is added back during the disinfection process to form chloramines, which reduces THM formation, but increases effluent ammonia concentrations. It also increases formation of the disinfection by-product NDMA. Constraining effluent ammonia concentrations to levels tighter than necessary to protect water quality removes operational flexibility, and may impact the ability to beneficially use recycled water. Not only do performance-based limits unnecessarily complicate efforts to optimize disinfection, but they are counter to the stated intent of the SSOs. The Regional Board has previously acknowledged the need for ammonia SSOs, due to the complexities of the disinfection treatment process and the variability associated with the biological NDN process, in Section VIII.B of the July 2007 Final Staff Report. Setting performance-based limits based on the optimal performance of NDN would restrict operational flexibility and not allow for treatment plants to be optimized to address all constituents of concern, not just ammonia.	do not exceed the level of water quality that can be reliable maintained by the facility's applicable treatment technologies. A stakeholder group is in development to discuss the details of setting effluents limits and monitoring requirements for wastewater treatment plants in the Los Angeles River Watershed that are capable of performing better than water quality objectives. The goal of this stakeholder group is to reach a consensus that is protective of water quality, fair to the permittees, and consistent with state and federal requirements for the development of effluent limitations. Permit writers may consider the variability of ammonia concentrations due to the addition of ammonia after nitrification/denitrification implementation when developing effluent limitations. Permit writers may also consider how balancing disinfection processes with reducing THM and NDMA formation are predicted to affect ammonia concentrations in effluent.

1.6	LACSD	**Establishing Performance-Based Limits Equates to Derating Plant Capacity** NDN treatment is used to remove ammonia and nutrients from wastewater. The nitrification step, which biologically oxidizes ammonia into nitrite, is dependent on two main factors: the retention time of flow in the biological reactor and the amount of nitrifying bacteria present in the reactor. As flow increases, the time in the reactor decreases, resulting in less time for ammonia oxidation to occur and, ultimately, more ammonia in the effluent. Under lower flow conditions, all of the ammonia at the Sanitation Districts' WRPs is typically oxidized to nitrite. However, during high diurnal flow peaks and other high flow events, this not always the case. Additionally, temperature can impact ammonia removal as well, with colder temperatures inhibiting nitrification and thus causing lessened removal of ammonia during the winter months. If a performance-based limit is set based on current performance, it would prohibit usage of the full 15 MGD capacity and would effectively derate the plant.	Changes to flow into a treatment plant that require adjustment of effluent limitations fall under the purview of permitting. The approach for setting and complying with effluent limits for discharges with concentrations below SSO is the subject of the stakeholder group discussed in response to comment 1.5. This stakeholder group is the arena for discussing under which situations current performance may not accurately reflect the future performance of the treatment plant due to changes in flow and temperature. There are numerous guidance documents available to permit writers to use when developing effluent limitations to ensure no degradation of existing water quality. Whatever approach permit writers take must be supported, but it may not necessarily be the use of 95th percentile of performance.
1.7	LACSD	**Performance-Based Limits Would Restrict Necessary Maintenance Activities** Performance-based limits also limit the ability to maintain a WRP. Occasionally, biological treatment units must be taken out of service for cleaning and routine maintenance. When this is done, flow through other units is increased. As previously described, additional flow through the remaining units in service	Changes to flow into a treatment plant that require adjustment of effluent limitations fall under the purview of permitting. The approach for setting and complying with effluent limits for discharges with concentrations below SSOs is the subject of the stakeholder group discussed in response to comment 1.5. This

		could result in increased ammonia concentrations in the effluent and possible violations of any performance-based limits.	stakeholder group is the arena for discussing the impact of additional flow due to maintenance on performance of the treatment plant due to changes in flow.
1.8		**Performance-Based Limits are a Disincentive for Improving System Performance** The Sanitation Districts continually strive to improve WRP operation and effluent quality to the extent feasible. One benefit to increasing effluent quality is to increase the margin of safety for compliance, so that effluent violations become less likely. However, performance-based limits remove the incentive to conduct such improvements. If more stringent limits are imposed whenever effluent quality improves, justifying improvements becomes much more difficult. The improvements would no longer serve as a means of ensuring more consistent compliance.	Effluent limits based on existing treatment technologies are a means for ensuring that success which has been achieved through improved technologies is perpetuated. This does not place undue burden on the WRPs as there should be no need to backslide from the technology which has been employed. Ensuring an adequate margin of safety for compliance will be addressed through the stakeholder group mentioned in the response to comment 1.6.
1.9	LACSD	**Ability to Supply Recycled Water May Decrease as a Result Performance Based Limits** The Sanitation Districts serve approximately five million people and produce approximately 120 MGD of recycled water in our Joint Outfall System (JOS)[7]. The JOS is designed to allow the flexibility to divert flows, when needed, to specific WRPs. In several locations, flow is diverted to maximize recycled water usage. As the demand for recycled water increases, the Sanitation Districts are making every possible effort to divert flows to locations where it can be reused. If performance-based limits for ammonia are enacted, the Sanitation Districts' ability to divert flows to optimize reuse will be	See response to comment 1.6 The commenter's assertion that the ability to divert flow to support future water conservation or recycling efforts would be hampered by limits based on existing technology is speculative. The approach for setting and complying with effluent limits for discharges with concentrations below SSO is the subject of the stakeholder group discussed in response to comment 1.5. This stakeholder group is the arena for discussing under which situations current performance may not accurately reflect the future performance of the treatment plant due to changes in flow.

		hampered. As stated above, an increase in flow at a WRP may result in increased ammonia in the effluent and, ultimately, a violation of any previously established performance-based limits. As the Sanitation Districts take every step to be in compliance with permit limits, our ability to divert flows to maximize reuse would be limited.	Furthermore, if there were any increases in ammonia concentrations in effluent due to flow diversions, there is no evidence that this would occur within the term of a given permit. However, if the Los Angeles Water Board determines sufficient evidence is presented, it has the authority to modify effluent limitations at the time of permit issuance, reissuance, or modification. If a need for change in an effluent limitation is demonstrated, due to the need to divert flow to support recycling and reuse, it must be shown that the changed effluent limitation meets the exception requirements under federal anti-backsliding laws, including a consideration of water quality standards and anti-degradation policies.
1.10	LACSD	**Monitoring Requirements** The Sanitation Districts request the new monitoring requirements on page 9 of the proposed amendment be replaced with the following language: "Tillman, LA-Glendale, Burbank, and Whittier Narrows POTWs must conduct confirmatory receiving water monitoring to verify that water quality conditions are similar to those of the 2003 ammonia WER study period. Confirmatory monitoring will consist of the following: 1. On an annual basis, receiving water hardness and alkalinity will be evaluated and compared to conditions observed from 2000 to 2007. If the current year's annual mean hardness and alkalinity is 25% lower than the 2000 to 2007 mean, the	Comment noted. See responses to detailed comments below.

		Discharger will initiate quarterly receiving water chronic testing using the invertebrate Ceriodaphnia dubia at the downstream receiving water location 100 feet below the outfall. 8 Results from this toxicity testing will be evaluated to determine if discharged ammonia is causing toxicity (see section (2) below for details on this evaluation). 2. Evaluation of all receiving water toxicity will be conducted to determine if discharged ammonia was a likely cause of any observed toxicity. If it is determined that observed receiving water toxicity is caused by discharged ammonia and discharged ammonia levels were below the SSO adjusted ammonia water quality objective, the Discharger shall develop and submit a plan for reevaluating the SSO to the Executive Officer. 3. Compare downstream ammonia measurements with calculated objectives to ensure adequate protection of beneficial uses. If it is determined that downstream receiving water ammonia objectives are not being met, the Discharger shall evaluate if discharged ammonia concentrations below the SSO adjusted ammonia water quality objective are responsible for the downstream objective exceedances."	
1.11	LACSD	**Monitoring to Verify Continued Applicability of the SSOs Should Follow Existing Procedures** Although the Sanitation Districts support monitoring to ensure the SSOs continue to be appropriate for the water body, we have concerns with the proposed changes to monitoring in the resolution. Given the	The Regional Board finds the confirmatory monitoring proposed for adoption in the TMDL provides necessary safeguards to ensure the SSOs remain protective of beneficial uses. In particular, the use of *Hyallela azteca* in toxicity tests must be required in the SSO confirmatory

		vast amount of monitoring currently being performed, the requirement for additional monitoring seems unwarranted. As part of the adoption of the ammonia SSO, provisions were included in the Basin Plan to require the collection of monitoring data to allow evaluations that would ensure the SSO remained protective of beneficial uses. In the 2009 renewals of the NPDES permits for the San Jose Creek and Whittier Narrows WRPs, Sanitation Districts' staff worked with Regional Board staff to develop receiving water monitoring requirements to address this Basin Plan requirement. The monitoring program was considered by the Regional Board and adopted at a public hearing, with no opposition, on June 4, 2009. The receiving water monitoring program was determined to be appropriate for ongoing assurance that the SSOs remain protective of beneficial uses. Since that time, the Sanitation Districts have been conducting the monitoring and submitting reports to Regional Board staff. These reports have been accepted and no indication or evidence has been provided that this monitoring program is not adequate to ensure the protectiveness of the SSOs. Since there is already an existing monitoring protocol that has been established to meet the Basin Plan requirements for confirming the SSOs, the Sanitation Districts request this monitoring program replace the proposed monitoring requirements in the TMDL resolution.	monitoring. U.S. EPA's "1999 Update of Ambient Water Quality Criteria for Ammonia" identifies *H. azteca* as the most sensitive genus to ammonia. The 2003 WER study derives the ammonia SSOs based solely on toxicity tests with *Hyalella azteca.* Confirmation that the conditions underlying the SSO remain necessitates confirmatory testing with the species most sensitive to ammonia. However, in response to the other changes requested by this comment, the proposed confirmatory monitoring requirements have been revised as follows: Tillman, LA-Glendale, Burbank, and Whittier Narrows POTWs must conduct confirmatory receiving water monitoring to verify that water quality conditions are similar to those of the 2003 ammonia WER study period. Confirmatory monitoring will include concurrent chemistry* and toxicity receiving water monitoring. The toxicity monitoring will be supplemental to three species toxicity testing required in the NPDES permits and must utilize *Hyallela azteca* as the test organism. Temperature, pH, and ammonia receiving water data will be collected at the time and location of collection of the toxicity samples. Monitoring of chemistry and toxicity testing should include a minimum of three sample events per year for three years. Monitoring sites should be representative of

			those investigated in the Los Angeles River during the SSO study, as well as one location in the reach immediately downstream of where the SSO is applied. Two of the three sample events should be conducted during dry weather. Following the first three-year monitoring cycle, if there is no increase in toxicity attributable to ammonia, monitoring may be reduced to once per year at each site, as appropriate. The number and type of events during the year should be as described above. <u>If confirmatory monitoring indicates toxicity due to ammonia or a change in the waterbody that could impact the calculation or application of the SSOs, including either its chemical characteristics or the aquatic species present, including early life stages of fish,</u> the POTW shall develop and submit a plan for reevaluating the SSOs to the Executive Officer. *Chemistry monitoring to include all nitrogen species, including total ammonia, pH, hardness, temperature, sodium, potassium, calcium, BOD, sulfate, total dissolved solids, and chloride. This proposed language is in conformance with the language in the Basin Plan requiring monitoring to implement ammonia SSOs.
1.12	LACSD	**Monitoring to Verify Continued Applicability of the SSO Is Unnecessary Under Some Circumstances**	The Regional Board agrees that confirmatory monitoring is not necessary if the SSO will not be applied. Language has been added to the Basin

		Confirmatory monitoring should not be required when ammonia effluent limits are lower than those provided for through SSOs. The purpose of the proposed confirmatory monitoring in the TMDL is to "verify that water quality conditions are similar to those of the 2003 ammonia WER study period." As such, it is unnecessary to verify this information if the SSO is not being used to set the effluent limit. This monitoring is costly and would provide no additional information or water quality benefits. Similarly, when ammonia concentrations are consistently below thresholds that would be set without use of the SSO, then monitoring to confirm the SSOs is also not necessary.	Plan Amendment to exclude confirmatory monitoring from permitting requirements if the SSO is not applied.
2.1	City of LA	The City of Los Angeles, Bureau of Sanitation (Bureau) thank you for this opportunity to comment on the proposed amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to revise the Total Maximum Daily Load (TMDL) for Nitrogen Compounds and Related Effects in the Los Angeles River (Nitrogen TMDL).	Comment noted.
2.2	City of LA	While we appreciate the effort to incorporate the currently effective Basin Plan ammonia water quality objectives into the TMDL, we have significant concerns with the proposed amendment. The Bureau believes that all participants, along with the Los Angeles Regional Water Quality Control Board (Regional Water Board), should be celebrating a great and historic example of water quality improvement through delisting the waterbody rather than modifying the TMDL.	The Regional Board does not believe a finding of non-impairment is appropriate at this time. The Los Angeles River Nitrogen Compounds and Related Effects TMDL encompasses impairments for ammonia, nitrate, nitrite and related effects including algae, pH, odor, and scum. While the ammonia concentration has been reduced since the effective date of the TMDL, related effects impairments still exist. As long as uncertainty remains as to the direct causes of the algae, pH,

		Through the installation and implementation of advanced nitrification/denitritication (NDN) treatment facilities and process optimization by the three main Publicly Owned Treatment Works (POTWs) discharging to the Los Angeles (LA) River watershed, the quality of the water can now be demonstrated to be fully attaining the applicable water quality objectives for ammonia. The message from the City and the Regional Water Board (and U.S. EPA) should be that the TMDL process worked and that the applicable water quality standards are now being attained. Instead, the TMDL revision ignores the water quality improvement and contains requirements that could place additional burden on the cities of Burbank and Los Angles, which has spent approximately $75 million to construct advanced treatment facilities to address ammonia, and approximately $6 million per year to operate those facilities, and will be required to meet the Basin Plan ammonia objective regardless of whether a TMDL, is in place or not. As a result, the Bureau requests that the TMDL include a finding of non-impairment for ammonia and remove the ammonia wasteload allocations from the TMDL. The Bureau's POTWs will continue to operate its facilities to protect the LA River watershed from ammonia as the Basin Plan objective will still be in place and will still be incorporated into our NPDES permits. However, should the Regional Water Board decide to maintain the ammonia TMDL, the Bureau requests the following modifications:	odor and scum impairments in the Los Angeles River, in which ammonia may play a role, the Los Angeles River Nitrogen Compounds and Related Effects TMDL should remain in place. Furthermore, once the constituents in the TMDL meet water quality standards, the TMDL will remain in effect to ensure that discharges continue to attain water quality standards.

2.3	City of L.A.	**The bureau requests the following language be removed from page 5 and 7 of the Draft Basin Plan Amendment (BPA):** "Regardless of the SSO and SSO-derived WLAs, for discharges with concentrations below site-specific water quality objectives, effluent limitations shall ensure that effluent concentrations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies existing at the time of permit issuance, reissuance, or modification. Regional Water Board staff may consider recommendations from a Regional Water Board-led workgroup that will be charged with evaluating alternative methodologies for calculating effluent limitations for discharges with concentrations below site-specific water quality objectives. Permit compliance with anti-degradation and anti-backsliding requirements shall be documented in permit fact sheets."	The Regional Board does not agree that this language should be removed. See responses to individual points presented in appendix to City of L.A. and Burbank's comment letters (comments 4.1 to 4.11).
2.4	City of L.A.	**Revise the receiving water monitoring requirements on page 5 from weekly to monthly and replace the new monitoring requirements on page 9 of the Draft Basin Plan Amendment with the following language:** Tillman, LA-Glendale, Burbank, and Whittier Narrows POTWs must conduct confirmatory receiving water monitoring to verify that water quality conditions are similar to those of the 2003 ammonia WER study period. Confirmatory monitoring will consist of the following: a. On an annual basis, receiving water hardness and	Discussion is absent in this comment or in the appendix to support the request to revise receiving water monitoring requirements from weekly to monthly. Regarding the request to revise the monitoring requirements on page 9 of the amendment, see response to comment 1.11.

		alkalinity will be evaluated and compared to conditions observed from 2000 through 2007. If the current year's annual mean hardness and alkalinity is 25% lower than the 2000 through 2007 mean, the Discharger will initiate quarterly receiving water chronic testing using the invertebrate Ceriodaphnia dubia at the downstream receiving water location 100 feet below the outfall. Results from this toxicity testing will be evaluated to determine if waste discharged ammonia is causing toxicity. b. Evaluation of all receiving water toxicity will be conducted to determine if waste discharged ammonia was a likely cause of any observed toxicity. If it is determined that observed receiving toxicity is caused by waste discharged ammonia and discharged ammonia levels were below the SSO adjusted ammonia water quality objective, the Discharger shall develop and submit a plan for reevaluating the SSO to the Executive Officer. c. Compare downstream ammonia measurements with calculated objectives to ensure adequate protection of beneficial uses. If it is determined that downstream receiving water ammonia objectives are not being met, the Discharger shall evaluate if waste discharged ammonia concentrations below the SSO adjusted ammonia water quality objective are responsible for the downstream objective exceedances.	
2.5	City of L.A.	Attachment A provides more details to support these two primary comments and recommended revisions and information on other requested changes to the	Comment noted.

		draft BPA.	
2.6	City of L.A.	The Bureau has worked proactively with the Regional Water Board since 2000 on addressing ammonia in the LA River, including the construction of new treatment facilities and the development of a site-specific objective. That site-specific objective was approved by the Regional Water Board over 5 years ago and by USEPA over 3 and a half years ago, making them the currently effective ammonia objectives for the LA River watershed. While the Bureau has supported updating the Nitrogen TMDL to incorporate the current Ammonia Basin Plan Objectives, the Bureau believes the critical changes listed above are necessary to make the draft BPA consistent with the intent of the Basin Plan ammonia objectives and avoid additional requirements for the Bureau which has already achieved the Basin Plan objectives.	Comment noted. The Regional Board commends the City of Los Angeles Bureau of Reclamation for its successful efforts to upgrade its treatment facilities to reduce ammonia concentrations.
3.1	City of Burbank	The City of Burbank (City) thanks the Los Angeles Regional Water Quality Control Board (Regional Water Board) for the opportunity to comment on the proposed amendment to the *Water Quality Control Plan for the Los Angeles Region* (Basin Plan) to revise the Total Maximum Daily Load (TMDL) for Nitrogen Compounds and Related Effects in the Los Angeles River (Nitrogen TMDL).	Comment noted.
3.2	City of Burbank	While we appreciate the effort to incorporate the currently effective Basin Plan ammonia water quality objectives into the TMDL, we have significant concerns with the proposed amendment. The City	The Cities of Los Angeles and Burbank along with the County of Los Angeles completed an SSO study which they submitted to the Regional Board. This study has been used as the basis for a Basin

		believes, along with the Regional Water Board, that we should be celebrating a great and historic example of water quality improvement through delisting the waterbody rather than modifying the TMDL. Through the installation and implementation of advanced nitrification/denitrification (N/DN) treatment facilities and process optimization by the three main Publicly Owned Treatment Works (POTWs) discharging to the Los Angeles (LA) River watershed, the quality of the water can now be demonstrated to be fully attaining the applicable water quality objectives for ammonia. The message from the Cities and the Regional Water Board (and USEPA) should be that the TMDL process worked and that the applicable water quality standards are now being attained. Instead, the TMDL revision ignores the water quality improvement, ignores delisting the waterbody, and contains requirements that could place additional, unnecessary burdens on the cities of Burbank and Los Angeles. Approximately $75 million dollars have been spent to construct these advanced treatment facilities to address ammonia, approximately $6 million per year to operate those facilities, and the Cities are still required to meet the Basin Plan ammonia objective regardless of whether a TMDL is in place or not.	Plan Amendment to create site-specific objectives (SSOs) for ammonia in the Los Angeles River, San Gabriel River, and Santa Clara River. For the SSOs to be applied to the Los Angeles River they must also be incorporated into the Los River Nitrogen Compounds and Related Effects TMDL. The TMDL is being reconsidered at this time in order to incorporate the results of the SSO study completed by the municipalities. The achievements that have been made in ammonia reduction by installation of nitrification/denitrification treatment facilities are being acknowledged and protected by the inclusion of footnotes ensuring that "effluent concentrations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies…" The Regional Board does not agree that unnecessary burdens are being placed on the cities of Burbank and Los Angeles through the revisions to this TMDL. Confirmatory monitoring, while an added expense, is necessary to ensure that the SSOs remain protective of water quality. However, language has been added to the Basin Plan Amendment to exclude confirmatory monitoring from permitting requirements if the SSO is not applied.
3.3	City of Burbank	The City requests that the TMDL include a finding of non-impairment for ammonia and remove the ammonia wasteload allocations from the TMDL. The three POTWs in the watershed will continue	See response to comment 2.2.

		facility operations to protect the LA River watershed from watershed will continue facility operations to protect the LA River watershed from ammonia as the Basin Plan objective will still be in place and will still be incorporated into each POTWs' NPDES permits.	
3.4	City of Burbank	However, should the Regional Water Board decide to maintain the ammonia TMDL, the Cities request the following modifications: 1. The Cities request the following language be removed from page 5 and 7 of the Draft Basin Plan Amendment (BPA): "Regardless of the SSO and SSO-derived WLAs, for discharges with concentrations below site-specific water quality objectives, effluent limitations shall ensure that effluent concentrations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies existing at the time of permit issuance, reissuance, or modification. Regional Water Board staff may consider recommendations from a Regional Water Board-led workgroup that will be charged with evaluating alternative methodologies for calculating effluent limitations for discharges with concentrations below site-specific water quality objectives. Permit compliance with anti-degradation and anti-backsliding requirements shall be documented in permit fact sheets.	See response to comment 2.3
3.5	City of Burbank	2. The Cities request the following modification to the monitoring program: Revise the receiving water monitoring requirements	See response to comment 2.4 and 1.11.

		on page 5 from weekly to monthly and replace the new monitoring requirements on page 9 of the Draft BPA with the following language: Tillman, LA-Glendale, Burbank, and Whittier Narrows POTWs must conduct confirmatory receiving water monitoring to verify that water quality conditions are similar to those of the 2003 ammonia WER study period. Confirmatory monitoring will consist of the following: 1. On an annual basis, receiving water hardness and alkalinity will be evaluated and compared to conditions observed from 2000 through 2007. 2. Evaluation of all receiving water toxicity will be conducted to determine if waste discharged ammonia was a likely cause of any observed toxicity. If it is determined that observed receiving toxicity is caused by waste discharged ammonia and discharged ammonia levels were below the SSO adjusted ammonia water quality objective, the Discharger shall develop and submit a plan for reevaluating the SSO to the Executive Officer. 3. Compare downstream ammonia measurements with calculated objectives to ensure adequate protection of beneficial uses. If it is determined that downstream receiving water ammonia objectives are not being met, the Discharger shall evaluate if waste discharged ammonia concentrations below the SSO adjusted ammonia water quality objective are responsible for the downstream objective exceedances	
3.6	City of	The City has worked proactively with the Regional	Comment noted. The Regional Board commends

	Burbank	Water Board since 2000 on addressing ammonia in the LA River, including the construction of new treatment facilities and through the development of a site-specific objective. That site-specific objective was approved by the Regional Water Board over 5 years ago and by USEPA over 3 and a half years ago, making them the currently effective ammonia objectives for the LA River watershed. While the City has supported updating the Nitrogen TMDL to incorporate the current Basin Plan ammonia objectives, the City believes the critical changes listed above are necessary to make the draft BPA consistent with the intent of the Basin Plan ammonia objectives and avoid unnecessary requirements for the regulated community that has already achieved the Basin Plan objectives.	the City of Burbank for its successful efforts to upgrade its treatment facilities to reduce ammonia concentrations.
4.1	Cities of L.A. and Burbank	**Waterbody Impairments No Longer Exist for Ammonia in the Los Angeles River** The Draft Staff Report and TMDL do not recognize the discussion in the 1994 Basin Plan allowing for adoption of SSOs nor do they recognize that by adopting the SSOs into the Basin Plan, they are now the applicable ammonia water quality objectives for the LA River and Burbank Western Channel (BWC). It is important to acknowledge these facts in the TMDL documents as they inform significant policy concerns the City of Los Angeles, Bureau of Sanitation (Bureau) has with the TMDL revisions. Given the SSO is now the applicable ammonia water quality objective, it should be utilized in a	See response to comment 2.2. As the language in the 1994 Basin Plan was revised by Resolution 2002-011, Regional Board staff does not agree that a discussion regarding the history of the 1994 Basin Plan should be included in the Staff Report. The staff report supporting the TMDL states, "Both the U.S. EPA 1999 update and the Basin Plan amendment incorporating the update allow for the development of water effects ratios (WERs) to account for site-specific conditions that affect ammonia toxicity."

		manner consistent with all other Basin Plan objectives during TMDL development. As a first step in almost all TMDLs that have been developed in the Los Angeles Region, the Regional Water Board staff has evaluated the current status of the impairment. The Cities request the same evaluation for this TMDL. The Cities have invested $75 million to build facilities to reduce the discharge of ammonia and other nitrogen compounds to the watershed. These improvements have resulted in the LA River and BWC consistently meeting the ammonia Basin Plan objectives since 2008. The data would support delisting of ammonia in the LA River and BWC. A TMDL is not required where waters are not impaired. *(See 40* C.F.R. §130.7(c)(1) stating TMDLs need only be established for "water quality limited segments.") The State has no obligation to perform or maintain a TMDL for non-impaired waters. However, the State does have an express obligation to de-list waters that are no longer impaired. (Cal. Water Code §13193.3; State Water Resources Control Board (SWRCB), Water Quality Control Policy For Developing California's Clean Water Act Section 303(d) List (303(d) List Policy) and Resolution No. 2004-0063 (Adopted September 2004).)	Language has been added to the Staff Report stating that by adopting the SSOs into the Basin Plan, they are now the applicable ammonia water quality objectives for the waterbodies covered in the study. The Regional Board commends the Cities for their successful efforts to upgrade its treatment facilities to reduce ammonia concentrations. Regional Board staff is aware that the City of Los Angeles submitted data supporting a delisting to the State Water Board during the latest data solicitation cycle for the California's Clean Water Act Section 303(d) List. The State Board is currently reviewing these data. Regardless of the State Board's review, the TMDL would remain in effect even if ammonia was delisted to ensure that discharges continue to attain water quality standards. The Los Angeles River Nitrogen Compounds and Related Effects TMDL encompasses impairments for ammonia, nitrate, nitrite and related effects including algae, pH, odor, and scum. While the ammonia concentration has been reduced since the effective date of the TMDL, related effects impairments still exist. As long as uncertainty remains as to the direct causes of the algae, pH, odor and scum impairments in the Los Angeles River, in which ammonia may play a role, the Los

			Angeles River Nitrogen Compounds and Related Effects TMDL should remain in place. Furthermore, once the constituents in the TMDL meet water quality standards, the TMDL will remain in effect to ensure that discharges continue to attain water quality standards.
4.2	Cities of L.A. and Burbank	**Performance-Based Limits for Ammonia are Not Applicable or Necessary** Should the Regional Water Board continue to maintain WLAs, the Cities have significant concerns about inclusion of effluent limits that are more stringent than the revised WLAs incorporating the Basin Plan ammonia objectives. No technical or legal basis exists for the provisions in the Draft Staff Report and tentative resolution purporting to require limits more stringent than any calculated final effluent limits using the SSOs. In fact this is exactly backwards of the Clean Water Act's permitting scheme where water quality-based effluent limits were intended to supplement the basic technology-based limits. See accord 33 U.S.C. §1311(b)(1)(B) and (C); 40 C.F.R. §131.2 (purpose of water quality standard is to "serve as the regulatory basis for the establishment of water-quality-based treatment controls and strategies beyond the technology-based levels of treatment required by sections 301(b) and 306 of the Act."). Except in the case of interim limits authorized by a compliance schedule, no authority exists for performance-based limits. The implementation provisions included in the Basin Plan amendments	See responses to comments 1.4 and 2.2 The requirement to ensure that effluent limitations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies, where such water quality is better than necessary to achieve the water quality standards, is wholly consistent with Congress' intent in initially ratifying the Clean Water Act and in amending the CWA in 1987. The CWA's goal is clearly stated in section 101(a)(1), "it is the national goal that the discharge of pollutants into the navigable waters be eliminated…" And, the intent of the 1987 Amendments, incorporating sections 402(o) and 303(d)(4)(B), was to preserve present pollution control levels achieved by dischargers by prohibiting the adoption of less stringent effluent limitations than those already in their NPDES permits, except in limited circumstances. The 2010 NPDES Permit Writers' Manual states, "[o]ne of the major strategies of the CWA in making 'reasonable further progress toward the national goal of eliminating discharge of all pollutants' is to require effluent limitations based on the

		for ammonia criteria contain no such authority. The Regional Water Board has not and cannot demonstrate that the more stringent limits being proposed are necessary to protect beneficial uses, or are required by law.	capabilities of the technologies available to control those discharges" (p. 5-1). Specifically, federal antibacksliding requirements, section 402(o)(1) of the Clean Water Act, and federal and state antidegradation policies, CWA sections 101(a) and 303(d)(4)(B), 40 CFR section 131.12 and the *Statement of Policy with Respect to Maintaining High Quality Waters in California* (SWRCB Resolution No. 68-16) both restrict any revision of effluent limitations that would result in less stringent effluent limitations than those in current NPDES permits unless certain exceptions apply. Neither the statute nor the regulations indicate a preference - - i.e., choosing entirely between limits based on water quality standard versus limits based on treatment technologies – both must be addressed when establishing effluent limitations. Furthermore, water quality standards include the federal antidegradation policy and corresponding state policy. Effluent limits based on ammonia concentrations that can be reliably maintained are necessary to ensure there is no degradation of existing water quality and thus are necessary to ensure attainment of water quality standards. Antidegradation requirements are one of the three components of water quality standards (beneficial uses + water quality objectives + antidegradation requirements). Permitting regulations also require the Board to ensure that permits adhere to anti-backsliding provisions.

4.3	Cities of L.A. and Burbank	**Performance-based limits are not necessary for the protection of beneficial uses** When the SSOs were adopted, the Regional Water Board made findings that the SSOs are derived to afford the same level of protection to aquatic life as the established regional objective. The United States Environmental Protection Agency's (USEPA) approval of the ammonia SSOs also recognized that "portions of this amendment which establishes ammonia criteria [are] as protective as those currently applicable for these water bodies in the Los Angeles Region," and that "given available data and expert opinion, the SSOs are protective of aquatic life." Thus, there is no water quality need to require artificially and arbitrarily low performance-based limits to protect beneficial uses.	See response to comment 1.4
4.4	Cities of L.A. and Burbank	**Performance-based limits were not discussed or envisioned during adoption of the SSOs** Unlike most of the Basin Plan objectives, the ammonia objectives adopted by the Regional Water Board in 2007 established specific procedures for the calculation of effluent limitations. These calculation procedures were not modified or qualified when the SSOs were adopted. Given that the Basin Plan included implementation procedures for the ammonia objectives, if there was concern or a projected need to establish performance-based effluent limitations to implement the SSOs, they would have been adopted into the Basin Plan during the SSO adoption. However, there is no	See response to comment 1.3 and 1.4.

		indication in the administrative record of the SSO BPA that a different effluent calculation procedure was needed for the SSOs or that the adopted procedures should be set aside for potentially lower effluent limitations based on treatment process performance. In their approval letter USEPA found that the SSOs met their guidance and commended the work of the Regional Water Board.	
4.5	Cities of L.A. and Burbank	**Performance-based limits are counter to the purpose and intent of the SSOs** The Regional Water Board acknowledged the need to develop and include ammonia SSOs in the Basin Plan to support operation of treatment plants with N/DN through the addition of section VIIIB to the SSO BPA Final Staff Report. In this section of the Final Staff Report, the Regional Water Board staff acknowledged the need for the SSOs due to the complexities of the disinfection treatment process and the variability associated with the biological N/DN processes. Furthermore, performance based limits are counter to the stated intent of the SSOs allowing the treatment plants to optimize their processes to address all constituents of concern, not just ammonia. Applying the SSOs without performance-based requirements will not result in the modification of treatment processes or the discharge of ammonia at levels that will cause beneficial use impacts. Additionally, setting effluent limitations based on the	Variability due to fluctuating influent flows, the nature of the biological processes utilized in N/DN treatment, and from optimizing the process to minimize other pollutants will be accounted for in the averaging period over which effluent limitations are determined. The SSOs are proposed to be implemented into permits as fixed numbers calculated from three years of pH and temperature data (the three-year averaging period is employed to maintain consistency with the original TMDL). How the effluent limits for discharges with concentrations below SSOs will be calculated is subject to the outcome of the stakeholder workgroup discussed in the response to comment 1.5. Establishment of effluent limits for discharges with concentrations below SSOs should inherently require no additional cost to the WRPs as such limits are designed to insure the WRPs operate at a level which they have reliably attained in the past. Such limits do not impose requirements to alter

		optimal performance of N/DN could result in additional costs and requirements for the treatment plants that were not addressed during the SSO adoption. Finally, the August 12, 2012 Draft Staff Report for the TMDL revision provides no justification for the use of performance limits in lieu of the adopted SSOs that demonstrates a change in the regulatory requirements or treatment processes since the SSO adoption that would necessitate consideration of performance-based limits.	current treatment; but rather, the limits require that the performance of current treatment facilities be maintained. This maintenance would be necessary whether or not technology-based limits were imposed and thus does not result in any additional cost. See also response to comment 1.3
4.6	Cities of L.A. and Burbank	**Performance-based limits have not been utilized to incorporate the SSOs into other POTW permits** The ammonia SSOs have already been incorporated into three POTW permits in the San Gabriel River Watershed without consideration of performance-based limits. The SSOs were incorporated into the Whittier Narrows Water Reclamation Plant (WRP), Pomona WRP, and San Jose Creek WRP NPDES permits in 2009 consistent with the implementation procedures outlined in the Basin Plan. In addition, the Whittier Narrows WRP has discharge locations that drain to the Los Angeles River watershed: The 2009 Whittier Narrows WRP permit recognizes the SSO cannot be incorporated for that discharge point until the Los Angeles River TMDL is revised. However, the Fact Sheet contains a discussion of the envisioned calculation of the effluent limits for the Whittier Narrows WRP after the TMDL revision. Therefore, the inclusion of performance-based	See response to comment 1.3 TMDL implementation can vary from that required directly by Basin Plan objectives. A possible topic of discussion for the stakeholder group mentioned in the response to comment 1.5 is how effluent limits for discharges with concentrations below SSOs will be applied both for waters subject to and not subject to TMDLs.

		effluent limits for the Whittier Narrows WRP would result in the treatment plant having to meet different requirements for ammonia for the discharge points to the Los Angeles River. The Draft TMDL Staff Report does not include any justification to demonstrate that performance-based effluent limits may now be necessary when they were not considered during the adoption of the current permit for Whittier Narrows in 2009 or provide justification why they would be necessary for one portion of the discharge when other discharge locations have effluent limitations using the SSO without consideration of performance-based limits. Note that the language in the Whittier Narrows permit was developed by Regional Water Board staff in conjunction with USEPA staff who did not object to the permit language.	
4.7	Cities of L.A. and Burbank	**Performance-based limits are not justified for anti-degradation reasons** The ammonia Basin Plan objectives were set at a level of water quality necessary to protect and maintain the existing uses of the Los Angeles River. The State Water Board has found that the SSOs meet the State's Antidegradation Policy requirements, and EPA has found that the SSOs meet the federal antidegradation requirements at 40 C.F.R. §131.12. Therefore, there is no reason to impose performance-based effluent limits below the SSOs for anti-degradation reasons. Such performance-based limits merely punish good performance since a POTW discharging at or just below the SSO based limit would not be subject to a	See response to comment 1.8 The proposed TMDL contains language that the change in water quality objectives through SSO implementation does not equate to permission to elevate ammonia concentrations above levels which are being reliably attained.

		more stringent limit. Performance-based limits also unnecessarily place the Cities in enforcement jeopardy for arbitrarily set limits below the scientifically derived level of protection necessary for protection of beneficial uses. Thus, the Cities could be subject to enforcement actions or Mandatory Minimum Penalties that they would not be otherwise subjected to had the limits been correctly based on the applicable water quality objectives.	
4.8	Cities of L.A. and Burbank	*Antibacksliding exceptions apply to the current POTW limits* The Cities meet both the antidegradation requirements, and the antibacksliding requirements. Under the exceptions to the antibacksliding rule contained in §402(o), the first way a discharger may relax the effluent limitations contained in its NPDES permit is to demonstrate compliance with an antidegradation rule found in CWA §303(d)(4). The Act's antidegradation rule is two-pronged depending on whether or not applicable water quality standards have been met in the receiving waters. Where the applicable water quality standard has not yet been attained, §303(d)(4)(A) provides that any effluent limitation based on a TMDL or other WLA may be relaxed if the cumulative effect of all revised effluent limitations based on the TMDL or WLA will assure the attainment of the applicable water quality standard, This could be used in the current situation since the standards are likely already being attained. Alternatively, if the water quality standard is being attained, then effluent limitations may be revised only	When the permits are reissued, it must be shown that the revised effluent limitation based on the SSO and WLA meets one of the exceptions under federal anti-backsliding requirements, including a consideration of water quality standards and anti-degradation requirements. The requirement that effluent limits be based on treatment levels that can be reliably attained is not arbitrary. The Regional Water Board is in the process of convening a workgroup to evaluate alternative methodologies for calculating effluent limitations for discharges with concentrations below site-specific water quality objectives, in order to ensure compliance with anti-degradation and anti-backsliding requirements. The cities will have the opportunity to cooperatively develop calculation methods and demonstrate compl;iance with antibacksliding and antidgradation as part of the workgroup. The Regional Board agrees that antibacksliding

		if such revision is subject to and consistent with the state's antidegradation policy. (33 U.S.C.§1313(d)(4)(B), CWA §303(d)(4)(B).) As stated above, the revised standards, and thus effluent limitations to meet those standards have been found to be consistent with the state and federal antidegradation policies. Thus, the Cities' permits meet the antidegradation requirements and more stringent performance-based limits are not required. *Backsliding Under the Statutory Exceptions to the Antibacksliding Rule* Under §402(o)(2), a permit may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if any of the statutory exceptions contains in section 402(o)(2)(A)-(E) are met. (33 U.S.C. §1342(o)(2), CWA §402(o)(2).) Either of the first two exceptions would apply in this instance. Under section 402(o)(2)(A), backsliding would be allowed since "material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation. Also, under section 402(o)(2)(B)(i), backsliding would be allowed since "information is available which was not available at the time of permit issuance ...which would have justified the application of a less stringent effluent limitation at the time of permit issuance." As acknowledged by the Draft Staff Report at pg. 14, Section 5, "the WER based SSOs provide new information and therefore the POTWs	exceptions may apply to the current permits and this is stated in the Staff Report. The cities can demonstrate that they have met one of the antibacksliding exceptions and complied with anti-degradation requirements at the time of permit issuance, reissuance or modification.

		may meet the backsliding exception under CWA section 402(o)(2)." *(See also* SWRCB Order No. WQO 2003-0012 at pgs. 15-17.) Thus, under the antibacksliding rules, less stringent limits, up to the water quality standard are authorized. 24 (33 U.S.C. §1342(o)(3), CWA §402(o)(3).) Arbitrarily ratcheting back relaxed effluent limits to limits based on performance, rather than water quality, would be contrary to the existence of and need for these statutory exceptions.	
4.9	Cities of L.A. and Burbank	**Requested Changes** 1. Delete the paragraph after the starred paragraph from page 5 and 7 of the Draft Basin Plan Amendment. 2. On page 5 and 7 of the Draft Basin Plan Amendment, add the underlined language to the starred paragraph: - * … The procedure for translation of objectives into effluent limits specified in Chapter 3 of this Basin Plan, as amended by Resolution R02-011 and R04-022, as <u>utilized to calculate ammonia effluent limitations for the 2009 Waste Discharge Requirements</u> <u>for the Pomona and San Jose Creek WRPs</u> shall be used to translate WLAs into permit effluent limitations. 3. Delete the following language from page 10, 12 and 13 of the Draft Staff Report: "...as will be discussed later, regardless of the WER, POTW effluent limitations must ensure that effluent concentrations do not exceed the level of water quality	Regarding requested changes 1 and 3: See response to comment 1.2. Regarding requested change 2: The Regional Board does not agree that it is appropriate to reference 2009 Waste Discharge Requirements for the Pomona and San Jose Creek WRP within this Basin Plan Amendment. Rationale has not been presented which warrants this link to 2009 WDRs.

		that can be reliably maintained by the facility's applicable treatment technologies." "The effluent limitations for the Tillman, Burbank and LA-Glendale POTWs shall ensure that effluent concentrations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies existing at the time of permit issuance, reissuance, or modification."	
4.10	Cities of L.A. and Burbank	**Establish Receiving Water Monitoring Consistent with Past Decisions** The monitoring program for the NPDES permits for the San Jose Creek and Whittier Narrows Water Reclamation Plants was considered by the Regional Water Board on June 4, 2009 and was adopted with no opposition. This receiving water monitoring program was determined to be appropriate for the ongoing assurance that the SSOs remain relevant and protective of the beneficial uses. Since the permit adoption, the Districts have been conducting the monitoring and submitting reports to Regional Water Board staff. These reports have been accepted and no information has been provided that this monitoring program is not meeting the Basin Plan requirements. The Draft Staff Report for the TMDL provides no justification for the monitoring requirements included to meet the Basin Plan requirements for the SSO. There is no discussion of the reasoning for the requirements or acknowledgement of the existing monitoring program being conducted by the Districts in the San Gabriel River to meet the same requirements.	See response to comment 1.11

		As there is already an existing monitoring protocol that has been established to meet the Basin Plan requirements for confirming the SSOs, the Bureau requests this existing monitoring program replace the proposed monitoring requirements in the TMDL.	
4.11	Cities of L.A. and Burbank	**Requested Changes** 1. Replace the new monitoring requirements on page 9 of the Draft Basin Plan Amendment with the following language: Tillman, LA-Glendale, Burbank, and Whittier Narrows POTWs must conduct confirmatory receiving water monitoring to verify that water quality conditions are similar to those of the 2003 ammonia WER study period. Confirmatory monitoring will consist of the following: On an annual basis, receiving water hardness and alkalinity will be evaluated and compared to conditions observed from 2000 through 2007. If the current year's annual mean hardness and alkalinity is 25% lower than the 2000 through 2007 mean, the Discharger will initiate quarterly receiving water chronic testing using the invertebrate *Ceriodaphnia dubia* at the downstream receiving water location 100 feet below the outfall. Results from this toxicity testing will be evaluated to determine if waste discharged ammonia is causing toxicity. Evaluation of all receiving water toxicity will be conducted to determine if waste discharged ammonia was a likely cause of any observed toxicity. If it is determined that observed receiving	See response to comment 1.11

		toxicity is caused by waste discharged ammonia and discharged ammonia levels were below the SSO adjusted ammonia water quality objective, the Discharger shall develop and submit a plan for reevaluating the SSO to the Executive Officer. Compare downstream ammonia measurements with calculated objectives to ensure adequate protection of beneficial uses. If it is determined that downstream receiving water ammonia objectives are not being met, the Discharger shall evaluate if waste discharged ammonia concentrations below the SSO adjusted ammonia water quality objective are responsible for the downstream objective exceedances. Additionally, corresponding revisions to the Draft Staff Report to discuss and support the proposed revision to the Draft Basin Plan Amendment are requested.	
5.1	U.S. EPA	The U.S. Environmental Protection Agency (EPA) appreciates the opportunity to comment on the proposed revised Los Angeles River Nitrogen Compounds and Related Effects TMDL. EPA supports the revision of these TMDLs, based on the technical approach and the implementation plan to reduce nitrogen compound loading into the Los Angeles River watershed.	Comment noted.
5.2	U.S. EPA	The proposed TMDL includes revisions based on site-specific objectives for ammonia within select waterbodies of the Los Angeles River. In 2007, The Regional Board amended the Water Quality Control Plan to incorporate these site-specific objectives and	Comment noted.

		the State Board approved in 2005. EPA reviewed and approved the site-specific ammonia amendments in 2009. See letter from Alexis Strauss to Dorothy Rice, dated March 30, 2009. The revised TMDL contains the appropriate site-specific amendments for both acute and chronic numeric criteria to address aquatic life protection.	
5.3	U.S. EPA	More specifically, we note the proposed Resolution includes the following paragraph regarding major and minor point sources in the watershed: *Regardless of the SSO and SS0-derived WLAs, for dischargers with concentrations below site-specific water quality objectives, effluent limitations shall ensure that effluent concentrations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies existing at the time of permit issuance, reissuance or modification…Permit compliance with anti-degradation and anti-backsliding requirements shall be [analyzed and] documented in permit factsheets. (pp 7-9)* EPA strongly supports this language to be included in the final TMDL report and the final Basin Plan Amendment, since it provides clarification on how wasteload allocations will be implemented via NPDES permits.	Comment noted.
5.4	U.S. EPA	We urge the Regional Board to adopt the TMDL at the next Board meeting to meet California's TMDL commitments to EPA.	Comment noted.
6.1	HTB	On behalf of Heal the Bay, we submit the following comments on the Proposed Amendment to	The scientific validity and protectiveness of the ammonia SSOs is not under consideration by the

		the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to revise the Total Maximum Daily Load (TMDL) for Nitrogen Compounds and Related Effects in the Los Angeles River. As we have stated numerous times in the past, utilizing water-effects ratios (WERs) to modify water quality standards is not a protective approach. Through limited monitoring, it is extremely difficult to capture variability in the system and develop an appropriate WER value. Thus, there is little assurance that the WER will actually be protective of the beneficial uses of the waterbody. Of note, there has never been a WER study pursued that resulted in tougher water quality objectives. The results of the site-specific objectives (SSOs) study for ammonia performed for Los Angeles River, San Gabriel River, and Santa Clara River is no exception. None of the WER values that resulted from the study are below the default value of 1.0 (Staff Report Table 5 at Page 7).	Regional Board in this action. The Regional Board previously considered and adopted the ammonia SSOs. The ammonia SSOs were subsequently approved by the State Water Board, Office of Administrative Law, and the USEPA.
6.2	HTB	In addition, we are concerned by the lack of consistency in the studies used to set SSOs. To address this, the Regional Board should develop guidelines for performing SSO studies in the Los Angeles Region. In April 2008 the Regional Water Board issued a Proposed Amendment to the Water Quality Control Plan – Los Angeles Region to Incorporate a Policy for Developing Water Effect Ratios for Metals in the Inland Surface Waters of Los Angeles and Ventura Counties. The Regional Board pursued this Policy to ensure that SSOs would be	Approaches to the development of SSOs in the Los Angeles Region are not under consideration by the Regional Board in this action. As stated by the commenter, this was previously considered by the Regional Board and the Regional Board chose to not pursue a regional policy, finding that existing guidance on developing water-effect ratios was fully adequate.

		protective of water quality and that the procedure to adjust WERs would be consistent throughout the Region. Soon after, staff brought this item before the Regional Board and recommended that the Board not adopt such a policy because the site-specific nature of such studies precludes them from being consistent. We disagree. We believe some basic minimum guidelines for WER studies could be feasibly applied to all sites. For instance, deciding a minimum number of years of data to collect, what type of data to collect, and how to evaluate the data to come up with the appropriate value could be consistent regardless of site. Without such a policy, we are concerned that WERs will result in significant increases in the amount of pollution allowed into our waterways, which in turn, will have serious ramifications on beneficial uses.	
6.3	HTB	Regarding the proposed revision, there are a number of measures staff included to prevent water quality degradation that must be retained if this proposal moves forward. We support the inclusion of a 10% explicit margin of safety in the revised limits. This margin accounts for some uncertainties and non-conservative assumptions applied in the development of the limits. There are precedents for applying explicit margins of safety to a TMDL within the Los Angeles Region. Staff also included language within the Basin Amendment that states "Regardless of the SSO and SSO-derived WLAs, for dischargers with concentrations below site-specific water quality objectives, effluent limitations shall ensure that	Comment noted.

		effluent concentrations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies existing at the time of permit issuance, reissuance, or modification." This language provides an important backstop for water quality protection. At a minimum, these protective measures should be retained in the Basin Plan Amendment.	
6.4	HTB	In addition, we are supportive of the inclusion of confirmatory monitoring of chemistry and toxicity, temperature, and pH within the Basin Plan amendment to ensure that the revised limits would not result in increased toxicity. We support the monitoring frequency of three sample events per year. However, we are concerned that this monitoring can be reduced after the first three-year cycle to one event every three years. The three-sample-per-year frequency should remain in perpetuity. At the very least, this frequency should not be reduced below one sampling event per year. Also, it is critical that species most sensitive to ammonia be used for confirmatory testing of the new limits. It is our understanding that a fish species would be more appropriate than an amphipod for this reason.	The accelerated monitoring schedule during the first three years of the SSO application is intended to provide confirmation that the conditions under which the SSO was designed persist in the Los Angeles River. Once these conditions are confirmed, more limited monitoring is sufficient to detect changes that may arise. *Hyallela azteca* is identified in U.S. EPA's "1999 Update of Ambient Water Quality Criteria for Ammonia" as the most sensitive invertebrate species and is the species that was used during the 2003 WER study. The SSO is applied only to invertebrates while the fish WER remains equal to 1.0.
6.5	HTB	In summary, as we have commented many times in the past, the use of WERs to modify water quality standards is not a protective approach. However, since the Regional Board is proceeding to include WERs in this revision, the Regional Board should retain the requirement for performance-based limits, the explicit 10% margin of safety, and confirmatory	Comment noted.

		monitoring in the Basin Plan Amendment. Also, it is critical that the Regional Board create guidance for consistent and protective SSO studies within our region.	
7.1	LAC & LACFCD	Thank you for the opportunity to comment on the proposed reconsideration for the Los Angeles River Nitrogen Compounds Total Maximum Daily Load (TMDL). This letter is being submitted on behalf of the County of Los Angeles and the Los Angeles County Flood Control District. While the County of Los Angeles and the Los Angeles County Flood Control District generally support the revision of the TMDL based on new scientific information, we are concerned with the manner in which the TMDL is being revised and its implications on stormwater agencies.	Comment noted.
7.2	LAC & LACFCD	As currently proposed, the ammonia numeric targets and WLAs for the Los Angeles River reaches 1 and 2 would remain unchanged, and as a result, the targets and WLAs for lower reaches of the Los Angeles River (reaches 1 and 2) would become half of the corresponding targets and WLAs for the upper reaches 3, 4, and 5. This approach would create inconsistencies across the watershed and make compliance more difficult in the lower reaches. According to the 2003 study, the WER values for the Los Angeles River reaches 3, 4, and 5 are essentially the same, or about 1.97. The similarity of the WER value of these three effluent-dominated reaches indicates that this WER value can be reasonably extrapolated to other effluent-dominated reaches of	The WER study on which the SSOs are based did not include any samples in Reach 1 or 2 of the Los Angeles River. Without direct investigation of these reaches it is not appropriate to assign them an SSO at this time. As discussed in the Staff Report, the regulatory actions to achieve the revised TMDL must ensure that downstream standards will also be achieved. Thus, monitoring is required to ensure that downstream standards are achieved.

		the Los Angeles River. Specifically, the same WER value of 1.97 should be used for the lower reaches of the Los Angeles River (reaches 1 and 2), which are located downstream of the POTWs discharges. It is unreasonable to require more stringent compliance at downstream reaches while allowing less stringent compliance upstream. Because it is not reasonable for the Regional Board to allow upstream discharges that would contribute to exceedances of water-quality standards downstream, the ammonia numeric targets and WLAs for reaches 1 and 2 of the Los Angeles River should be adjusted using a WER value of 1.97.	
8.1	Joyce Dillard	The increase in Point Source levels increase considerably without an explanation as to inconsistency.	The revised waste load allocations are based on recently adopted site-specific objectives for ammonia.
8.2	Joyce Dillard	What monitoring language do you include that may cover illicit discharges from other than these Point Sources to pinpoint increases in levels.	Monitoring of illicit discharges is required under the MS4, which is assigned waste load allocations in this TMDL; illicit dischargers are subject to enforcement by the Regional Board.
8.3	Joyce Dillard	There is an assumption that all discharges are from the POTWs. You need to identify illicit dischargers to keep Beneficial Uses in conformity with a Basin Plan.	A source analysis was conducted during the creation of the original TMDL. This source analysis, the results of which can be found in the Basin Plan Amendment of Resolution R03-009, found discharges from the Donald C. Tillman WRP, Los Angeles Glendale WRP, and Burbank WRP to be the principal source of nitrogen compounds to the Los Angeles River. The TMDL assigns waste-load allocations to both major and minor point sources.