Response to Comments

City of Simi Valley
Simi Valley Water Quality Control Plant
Tentative NPDES Permit

This Table describes all significant comments received from interested persons with regard to the above-mentioned tentative permit. Each comment has a corresponding response and action taken.

Commenter	#	Comment	Response	Action Taken
Comments received from the City of Simi Valley on April 3, 2014				
City of Simi Valley	1	Page 8, section IV. A. 1. E Wording should read: "For the purposes of this requirement, the wastes shall be considered adequately disinfected if the median number of total coliform bacteria at some point in the treatment process..." Please remove the word effluent.	Staff agree to change the language as proposed by the Discharger.	Revisions were made to the permit.
City of Simi Valley	2	Page 8, section IV.A.2 Interim Effluent Limits should be maintained. The Metals, OC Pesticides, and PCB limits have no testing methods that are able to drop low enough to meet final limits. So, how can existing data indicate that Simi meets final effluent limitations?	This comment is already addressed in section I.H of the MRP which states that, "If the effluent limitation is lower than all the MLs in Appendix 4, SIP, the Discharge must select the method with the lowest ML for compliance purposes."	None necessary.
City of Simi Valley	3	Page 9, section V Please remove the altering of 5 degrees above natural temp. Simi has a stream dominated effluent.	The receiving water temperature limitation, prohibiting the discharge from changing the receiving water temperature by more than five degrees, cannot be removed because it is an	None necessary.

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			existing receiving water limitation contained in the current 2003 Order and is based on the Basin Plan objective. However, the current limitation already allows flexibility: "Natural conditions shall be determined on a case-by-case basis. If the receiving water temperature, downstream of the discharge, exceeds 86°F as a result of the following: a. High temperature in the ambient air; or, b. High temperature in the receiving water upstream of the discharge, then the exceedance shall not be considered a violation." The Regional Water Board is not aware of a definition of natural conditions that equates it to a receiving water flow of less than 6 cfs. Perhaps if there was a study that was conducted to document historical receiving water conditions, the Regional Water Board might reconsider modifying the requirement.	
City of Simi Valley	4	Page 28, section VII.O Are the wet weather flows based on a daily average, instantaneous peak, or monthly average? How is this determined? Needs more clarification.	The determination of the wet- and dry-weather flow is based on the average flow of the stream. A clarifying word "average" was added to the sentence in the permit.	Revisions were made to the permit.
City of Simi Valley	5	Page 28, section VII.O Change the Madera Bridge stream gauge (Station ID 803) to Calleguas Creek at CSUCI (Station ID 805). Madera Bridge only has data available up to 2012. The Calleguas Creek station website is more user-friendly and has data available up to the previous day.	Staff agree to change the language as proposed by the Discharger.	Revisions were made to the permit.
City of Simi Valley	6	Page E-12, section IV.A.2 Further explanation of increased grab sampling requirements if continuous monitoring of total residual chlorine is exceeded. At what time have we exceeded the limit? How long after 15 and 1-minute time intervals do we need to sample because the Plant is not staffed 24/7? Needs more clarification.	The following are the triggers for increased grab sampling for total residual chlorine: 1. When the total residual chlorine concentration excursions of up to 0.3 mg/L lasting greater than 15 minutes. 2. When the total residual chlorine concentration peaks in excess of 0.3 mg/L lasting greater than 1 minute.	None necessary.

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			When triggered, the Discharger shall collect the sample as soon as possible.	
City of Simi Valley	7	Page E-12, section IV.A.3 We need a better explanation of where we locate this sample point? It also states that it must be stipulated in the initial monitoring report. Does this mean our first report, or the first time we exceed the mercury and TSS?	The sampling location for sediment analysis shall be the same effluent sampling station EFF-001, as described in the MRP.	None necessary.
City of Simi Valley	8	Page F-4, section II.A.3 Remove: Disinfectant agent added to treated effluent prior to the filters. Add: disinfectant is dosed prior to the serpentine chlorine contact chamber and occasionally added prior to the filters to minimize algae growth.	The Fact Sheet has been revised to reflect changes.	Revisions were made to the permit.
City of Simi Valley	9	Page F-4, section II.A.5 Remove nitrogen and add nitrification/denitrification process for NDN acronym.	The Fact Sheet has been revised to reflect changes.	Revisions were made to the permit.
City of Simi Valley	10	Page F-10, sectionII.D Include corrections made to selenium limits. See attached pdf sent from the Regional Board to Simi Valley.	The following language has been added to the Fact Sheet, and the effluent limitation for selenium has been corrected: The prior permit for this facility, Order No. R4-2003-0081, included an effluent limitation for selenium of 1.6 µg/L as monthly average. This limit appears to have been calculated in error. The City of Simi Valley did not identify the error at the time of permit adoption or at the time the Regional Water Board issued the settlement offers for violations of the limit in 2010 and 2011. The City of Simi Valley accepted responsibility for the violations and waived its right to a hearing. The effluent limitation for selenium has been corrected in this Order.	Revisions were made to the permit

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Comments received from the City of Simi Valley on April 15, 2014 The City of Simi Valley failed to submit the written comments on time specified on the tentative permit. The tentative permit states, "To be fully responded to by staff and considered by the Regional Water Board, the written comments were due at the Regional Water Board office by 5:00 p.m. on April 14, 2014." On April 15, 2014, the Regional Water Board staff placed a phone call to the City of Simi Valley requesting to send an electronic version of their comments. The electronic version was received at 10:00 am on April 15, 2014. The Regional Water Board received the (hard copy) written comments on April 16, 2014.				
Submitted by the City as a Comment Letter				
City of Simi Valley	C-1	**TMDL-based effluent limits and associated compliance schedules** The Tentative Order contains final effluent limits for Salts equivalent to final Waste Load Allocations from the Calleguas Creek Watershed (CCW) Salts TMDL. Section IV.A.2.c. of the Tentative Order acknowledges that the WQCP cannot consistently comply with the final chloride effluent limit. However, this infeasible chloride limit is being included in the permit ostensibly because the TMDL was not approved pursuant to Section 303(c) of the Clean Water Act. Therefore, interim chloride limits and a compliance schedule are proposed to be included for chloride in a Tentative Time Schedule Order (TSO). As discussed below, providing compliance schedules based on an approved TMDL in a TSO, rather than in the permit, contradicts established policies and laws. In addition, this practice ignores the outcomes of a robust and complex stakeholder process to develop a watershed solution to water quality concerns in the Calleguas Creek Watershed. Interim limits and compliance schedules should be placed in the permit and the compliance schedule should be the same as that established for the TMDL. Otherwise, an adequate explanation must be added regarding why interim limits and in-permit compliance schedules are not	The Regional Water Board agrees that the State Water Board's Compliance Schedule Policy can authorize inclusion of a compliance schedule for achieving effluent limitations for chloride derived from the TMDL WLAs, so long as the compliance schedule is consistent with the TMDL implementation plan (i.e., the compliance schedule cannot exceed the maximum time that the implementation allows, and must be as short as feasible), the Compliance Schedule Policy, and federal regulations. For non-California Toxics Rule (CTR) constituents, compliance schedules in NPDES permits are only authorized pursuant to the State Water Board's 2008 Compliance Schedule Policy (Resolution No. 2008-0025). Pursuant to the Compliance Schedule Policy, any discharger seeking a compliance schedule in the permit must demonstrate to the satisfaction of the Regional Water Board that the discharger needs time to implement actions to comply with a more stringent permit limitation and must provide the Regional Water Board with specific documentation pursuant to Section 4 of the Policy. Based on the City's monitoring data and limited documentation submitted, the City has not justified inclusion of a compliance schedule for chloride in the permit. The City's request falls short of the application requirements in Section 4. The actions and milestones proposed by the City as justification for a compliance	None necessary.

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		included. Because TSOs do not amend the permit, the City could still be subject to liability for failure to comply with final effluent limitations if the interim limits are not included or referenced in the permit. To avoid this unnecessary liability, the permit should be modified to include all interim limits and compliance schedules within the Permit. Compliance schedules are allowed if a State has clearly authorized them in its water quality standards or indicated in its implementing regulations that it intends to allow them. See In the Matter of Star-Kist Caribe, Inc., 3 E.A.D. 172, 175-77 (1990); see also May 10, 2007 EPA Memo from James Hanlon, EPA Office of Wastewater Management to Alexis Strauss, Water Division, EPA Region 9 at pg.1. For these reasons, interim limits and compliance schedules associated with TMDLs must be included in the Permit instead of in a separate TSO. A failure to do so unreasonably subjects the City to federal enforcement (by EPA or citizen groups) for non-compliance with final effluent limitations that should be deferred under the TMDL.	schedule for salts are vague and do not demonstrate that the requested schedule is as short as possible. Further, compliance schedules may only be used in situations where time is needed for a permittee to come into compliance with the effluent limitation in the permit. The City has therefore not made the appropriate demonstration to the Regional Water Board at this time that a compliance schedule in the permit for salts is warranted. The Compliance Schedule Policy and 40 C.F.R. § 122.47 requires an applicant for a compliance schedule to demonstrate that the permittee needs time to implement actions to comply with a more stringent permit limitation specified to implement a new, revised, or newly interpreted water quality objective, and: a. Diligent efforts have been made to quantify pollutant levels in the discharge and the sources of the pollutant in the waste stream, and the results of those efforts; b. Source control efforts are currently underway or completed, including compliance with any pollution prevention programs that have been established; c. A proposed schedule for additional source control measures or waste treatment; d. Data demonstrating current treatment facility performance to compare against existing permit effluent limits, as necessary to determine which is the more stringent interim permit effluent limit to apply if a schedule of compliance is granted; e. The highest discharge quality that can reasonably be achieved until final compliance is attained; f. The proposed compliance schedule is as short as possible, given the type of facilities being constructed or programs being implemented, and industry experience with the time typically required to construct similar facilities or implement similar programs; and g. Additional information and analyses to be determined by the Regional Water Board on a case-by-case basis. The determination of whether a compliance schedule is appropriate is a discretionary determination to be made by the	

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			Regional Water Board. Factors that are relevant to whether a compliance schedule is appropriate under federal regulations and the Compliance Schedule Policy include: 1. How much time the discharger has already had to meet the WQBEL under prior permits; 2. The extent to which the discharger has made good faith efforts to comply with the WQBEL in the prior permits; and 3. Whether there is a need to modify treatment facilities, operations or measures to meet the WQBEL, and if so, how long it would take to implement the modifications to treatment facilities, operations or measures. The water quality standard for chloride was first set at its current level (150 mg/L) in 1978, which was significantly higher than the prior objective of 50 mg/L. Since that time various drought relief measures have been granted to the permittee as detailed in the Fact Sheet at F-27, 28. The current water quality standard of 150 mg/L was reestablished by EPA's TMDL in 2002, and the permittees were only granted relief from WQBELs for chloride through extraordinary measures by the State Water Board in granting a stay with respect to that limitation in the permit. The Salts TMDL adopted by the Regional Water Board became effective in 2008, but the water quality standard for chloride did not change. Therefore, in the least, the permittee has been subject to the current water quality standard for twelve years, and is still unable to comply with the associated WQBELs for chloride. The Regional Water Board understands that the current drought circumstances may temporarily impact the permittee's ability to meet the salts WQBELs, and is willing to work with the permittees to provide appropriate relief. But the Regional Water Board does not find a compliance schedule for the chloride effluent limitation to be appropriate, because the permittees have not developed an adequate plan to comply with the limit, and have had adequate time in the past decade to do so.	

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			Where the Regional Water Board cannot include a compliance schedule in the permit, the Board may be able to issue a MMP-shielding TSO assuming the permittee qualifies under Water Code section 13385(j)(3). A TSO for chloride has been proposed for adoption in conjunction with the proposed Order.	
City of Simi Valley	C-2	**Wet weather limits for Salts** The wet weather effluent limitations for chloride in Table 4 should be deleted because there is no reasonable potential for the effluent to cause or contribute to a water quality exceedance for chloride during wet weather. Section F.IV.C.2.b.viii. on pg. F-27 states that, during wet weather, the limit for chloride is based on the water quality objectives found in Basin Plan Table 3-8. However, as noted in the dry weather definition found in Section VII.O., "Any discharges from the Facility during wet weather would be assimilated by these large storm flows and would not cause exceedances of water quality objectives." Therefore, no reasonable potential exists during wet weather for the chloride water quality objective to be exceeded and no effluent limitation for chloride is required in wet weather. 40 C.F.R. §122.44(d)(1)(i) and (iii). Additionally, the CCW Salts TMDL specifically identified that only dry weather allocations were needed to address any identified impairments. Therefore, only dry weather chloride effluent limitations are needed to implement the Salts TMDL WLAs.	The wet- and dry-weather effluent limitation provide all-year coverage to protect the beneficial uses of the receiving water. The wet weather limit for chloride is the same as the limitation that was in the 1996 NPDES permit, prior to the incorporation of the USEPA-promulgated TMDL WLA-based limit. Those limits apply because they correspond to discharges to Calleguas Creek above Potrero Road, as specified in Basin Plan Table 3-8 on page 3-12. Since none of the backsliding exemptions apply, there is no justification for removal of those limits.	None necessary.
City of Simi Valley	C-3	**Impact of drought on ability to comply with effluent limits for Salts** Section IV.A.2.c of the Tentative Order states that the WQCP can meet final effluent limits for TDS, sulfate and boron. However, as a result of the drought, salts levels in the water supply and the effluent have increased and are expected to increase further. Recent communications from Calleguas Municipal Water District indicated that	While the Regional Water Board understands concerns about the drought, the Discharger has not provided data quantifying the changes/increase in salt concentrations that will result from the increased amount of water they expect to receive from the Colorado River, nor have they provided any type of mass-balance calculation regarding the volumes of water from the	None necessary.

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		Colorado River water was being combined with State Water Project water starting in mid-March 2014. Colorado River water has higher levels of salts. Therefore, it is likely that the City will have difficulty complying with effluent limits while drought conditions persist. This was recognized in previous drought resolutions, and must be recognized now in the Tentative Order. Based on the increasing salts effluent concentrations due to changing water supply and for consistency with the CCW Salts TMDL, the City requests a compliance schedule be included in the permit for chloride, TDS and sulfate.	varying supply sources that would constitute the blended potable water supply (i.e., local groundwater, State Water Project water, and Colorado River water). Without this type of information, Regional Water Board staff cannot assess the applicability of the Compliance Schedule Policy because they have not demonstrated the need of, and justification for, a compliance schedule in the NPDES permit. To this end, Board staff mailed a letter to the City requesting that the City submit water supply changing information and a schedule to the Board by April 25, 2014 for further consideration. On April 25, 2014, Simi Valley WQCP submitted additional information regarding the change in its water supply. Regional Water Board staff evaluated this information and determined, based on best professional judgment that revising the interim effluent limitation for chloride and providing compliance schedule for total dissolved solids and sulfate is not warranted. The new data submitted by the Permittee did not show exceedance of any salts interim effluent limitation and final effluent limitations due to change in water supply source. Based on the City's monitoring data and limited documentation submitted, the City has not justified inclusion of a compliance schedule for TDS, sulfate, and boron in the permit. The City's request falls short of the application requirements in Section 4. The actions and milestones proposed by the City as justification for a compliance schedule for salts are vague and do not demonstrate that the requested schedule is as short as possible. Further, compliance schedules may only be used in situations where time is needed for a permittee to come into compliance with the effluent limitation in the permit. Notably, the City has not proposed a deadline to come into compliance with the final effluent limits for salts in the permit. The City proposes to "Implement Phase 4 of the RWRMP" by December 2023, but does not indicate a completion date of Phase 4 and ultimate compliance with the final effluent limits for chloride in the permit. The City has therefore not made the appropriate demonstration to the Regional Water Board at this time that a compliance schedule in the permit for salts is warranted.	

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			See Response to Comment C-1. The Regional Water Board will work with the City to prevent the accrual of mandatory minimum penalties for violations of effluent limitations caused by unavoidable drought response measures. Water Code section 13385(j)(3)(B)(iii) allows a discharger to avoid mandatory minimum penalties for effluent violations if the waste discharge is in compliance with a time schedule order; the effluent violations are caused by unanticipated changes in the quality of the municipal water supply; and certain other requirements are met. The City may request a Time Schedule Order that would protect the City from mandatory minimum penalties for violations of the effluent limitations for TDS, sulfate, and boron. The City must supply sufficient evidence that each of the required elements of Water Code section 13385(j)(3) are met, including documentation that unanticipated changes in the quality of the municipal water supply are the cause of the City's inability to comply with the effluent limitation for TDS, sulfate, and boron.	
City of Simi Valley	C-4	**Toxicity effluent limits** Chronic toxicity effluent limitations are listed in Table 4 on p. 8 of the Tentative Order as 'Pass' as a Median Monthly Effluent Limitation (MMEL) and 'Pass or <50% effect' as a Maximum Daily Effluent Limitation (MDEL). These terms are defined in Provision VII.J. (i.e., Compliance Determination, Chronic Toxicity) on pg. 29 of the Tentative Order and are said to be determined based on the Test of Significant Toxicity (TST) approach. As discussed below, these effluent limitations are not consistent with the Toxicity TMDL and the City requests that they be removed and replaced by a narrative toxicity effluent limitation consistent with State Board precedential orders and with the Toxicity TMDL.	The numeric effluent limitation for chronic toxicity in this Order employs the Test of Significant Toxicity (TST). The TST is recommended by the most recent USEPA guidance as an appropriate and preferred test for chronic toxicity. USEPA, this Regional Board, and other regional boards are using the TST to determine compliance with numeric effluent limitations for toxicity. Additional information about and the basis for utilizing a TST-based limit is included in the fact sheet on pages F-42 and F-55. The commenter raises two issues regarding the effluent limitation for chronic toxicity. First, whether the limit should serve as a numeric effluent limitation or, rather, as a trigger for additional evaluation of toxic constituents in the effluent. Second, whether the TST is the appropriate test to	None necessary.

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		In conclusion, for all the reasons cited in this comment letter, the effluent limits for chronic toxicity in Table 4 should be changed back to the language contained in the last permit with a narrative chronic toxicity limitation and a numeric trigger for additional investigations (e.g., TIE/TRE). No authority exists for a chronic toxicity effluent limitation and particularly not one of Pass, or % effect <50. As stated on above, the Basin Plan Amendment incorporating the TMDL for Toxicity expressly states that the "WLAs would be implemented as a trigger. Furthermore, as stated above, the inclusion of a numeric chronic toxicity effluent limitation violates the current binding precedent from State Water Resources Control Board Order No. WQ 2003-0012. Finally, Section VII.J., Compliance Determination for Chronic Toxicity, should be removed since the Toxicity TMDL requires that chronic toxicity be regulated as a trigger, not a limit. Further, since the TST is not an approved Part 136 methodology, this method should not be utilized for compliance purposes unless promulgated as a rule by EPA or the State Water Board.	determine compliance with the numeric limit, whether that limit be a numeric effluent limitation or a trigger for further analysis. This Order must include effluent limitations that will achieve and maintain compliance with water quality standards in Calleguas Creek. (Clean Water Act § 301(b)(1)(C); 40 C.F.R. § 122.44(d)). The Basin Plan for the Los Angeles Region includes a narrative water quality standard for toxicity that requires all surface waters to "be maintained free of toxic substances in concentrations that are toxic." Effluent limitations in this Order must assure that the discharge will not cause or contribute to a violation of this standard. Federal regulations establish an explicit presumption that a numeric effluent limit – rather than a non-numeric limit – is required by the Clean Water Act to make reasonable further progress toward the goal of eliminating pollutants into the nation's waters. Non-numeric effluent limits may only replace numeric effluent limits in an NPDES permit if a numeric limit is "infeasible." (40 C.F.R. § 122.44). This presumption applies to effluent limitations for toxicity: "A limit on whole effluent toxicity refers to a numeric effluent limitation ...." 54 Fed. Reg. 23868, 23871. Because a numeric limit for chronic toxicity is feasible, a numeric limit must be included in this Order. The State Water Board has declined to make a determination regarding the propriety (and feasibility) of numeric effluent limitations for chronic toxicity. (See WQ Orders 2003-0012 and 2003-0013). The State Water Board declared in the 2003 Orders that the issue would be better addressed through a modification to the SIP. The State Water Board replaced the numeric effluent limits for toxicity in the permits at issue with narrative effluent limits (i.e., a series of actions performed by the permittee intended to address effluent toxicity), with the expectation that the SIP would soon be modified. More than ten years and two NPDES permit cycles have since passed, and no such modification has been made. (See draft Policy for Toxicity Assessment and Control, SWRCB, October 2012). Concerns about the application of mandatory minimum penalties for	

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			violations of a numeric toxicity effluent limitation have also been statutorily corrected. (See Water Code § 13385(h)(2)(i)(1)(D)).This Regional Water Board must therefore exercise its own discretion to determine whether numeric effluent limitations for chronic toxicity are feasible and appropriate at this time. But an even more compelling reason for inclusion of a numeric effluent limitation for toxicity in this Order is this Board's prior determination that numeric limitations for toxicity are appropriate in the 2005 Calleguas Creek Watershed Toxicity TMDL. The TMDL imposes numeric WLAs for chronic toxicity on POTWs in the watershed. These numeric WLAs were approved by the State Water Board and USEPA under CWA section 303(d). Where a waste load allocation has been established for a particular discharger and pollutant pursuant to a TMDL, any effluent limitation in a permit for the discharge must be consistent with the assumptions and requirements of the available waste load allocation. (40 C.F.R. § 122.44(d)(1)). The Implementation Plan for the TMDL states that the WLAs for toxicity established for the major point sources, including POTWs, will be implemented through NPDES permit effluent limits in accordance with USEPA, State Board, and Regional Board resolutions, guidance and policy at the time of permit issuance or renewal. The Implementation Plan explains that "[c]urrently, these WLAs would be implemented as a trigger for initiation of the TRE/TIE process as outlined in USEPA's 'Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program' (2000) and current NPDES permits held by dischargers to [Calleguas Creek Watershed]." This approach was consistent with the State Board's then-recent determination that a definite instruction regarding effluent limitations for chronic toxicity would soon be provided by the SIP. Today, almost two permit cycles later, numeric testing methods for chronic toxicity are endorsed by USEPA. The TST simplifies interpretation of toxicity test results and increases confidence in the results as compared to prior	

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			methods. The “trigger” approach referenced in the TMDL implementation plan was not approved by USEPA under CWA section 303(d). Moreover, it has been criticized by USEPA in public comments (2008 letter regarding) and during quality reviews of California’s NPDES program (2008 final report, 2014 draft report). USEPA’s current criticism of this approach is not new. More than 25 years ago, in the 1989 preamble to 40 CFR 122.44(d)(1) [NPDES rules governing water quality based permitting], responding to public comment requesting that whole effluent toxicity (WET) not be used as an enforceable effluent limit, USEPA stated: “EPA requires [WET] limits where necessary to meet water quality standards. EPA does not believe that a whole effluent toxicity trigger alone is fully effective because it does not by itself, restrict the quantity, rate, or concentrations of pollutants in an effluent.” 54 Fed. Reg. 23868, 23875. Later, in response to comments on the GLI that permits should include monitoring with a TRE trigger and any limit should serve only as the objective for a TRE, USEPA replied: “While EPA agrees that TREs are valuable tools in identifying and eliminating whole effluent toxicity, EPA does not agree that TREs can be used as a substitute for WET limits in permits.” The Regional Board concurs with USEPA’s criticism of the “trigger” approach. USEPA’s updated guidance regarding whole effluent toxicity in the “National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document” (June 2010), describes the TST as a feasible method to implement numeric WLAs as numeric effluent limitations. USEPA formally endorsed the TST as an improved hypothesis testing tool to evaluate data collected using WET methods following an extensive external peer review process. This approach has undergone a “test drive” in California and been published in peer reviewed toxicological journals. In 2014, in response to the State Water Board’s request to use the TST hypothesis testing approach in NPDES permits, USEPA determined—based on the evidence presented in the State Water Board’s request—that the results of TST tests and NOEC-LOEC tests—are	

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			acceptably equivalent under the ATP process at 40 CFR 136 for all NPDES permits issued by State and Regional Water Boards. USEPA explained that the TST improves understanding of the discharge condition by correctly identifying toxic and non-toxic samples more often than when using the NOEC-LOEC. The permit's proposed numeric effluent limits for chronic toxicity, expressed in terms of the TST hypothesis test, are equivalent to the NOEC hypothesis test. They are equivalent to and unambiguously achieve the approved TMDL WLA of 1.0 TUc and requirements for NPDES effluent limits under the CWA and its implementing regulations. Because of the availability of toxicity testing methods and applicable EPA guidance endorsing these methods, the Regional Board finds that numeric effluent limits for toxicity are both feasible and appropriate to protect water quality standards. This permit is not the first in the state to adopt a numeric effluent limitation for chronic toxicity, or to utilize the TST. (See, e.g., R9-20013-0026 (General NPDES Order for discharges from boatyards); R8-2012-0035 (NPDES Order for Orange County Sanitation District)). The State's Ocean Plan also sets numeric limits for chronic toxicity that have been incorporated into NPDES permits as numeric effluent limitations. This Regional Board has already endorsed the TST and has begun implementing it in the Los Angeles MS4 permit, wastewater permits, and individual industrial stormwater permits, to fully integrate chronic toxicity testing programs and their results across the Region. A numeric chronic toxicity effluent limitation utilizing the TST was also included in NPDES permit Order No. R4-2013-0172 (NPDES permit for the University of Southern California, adopted by the Regional Water Board on November 7, 2013) and NPDES permit Order No. R4. 2014-0033 (NPDES permit for the Calleguas Municipal Water District Regional Salinity Management Pipeline).	
City of Simi Valley	C-5	**Sediment Monitoring for Mercury** The requirement for sediment monitoring in Section E.IV.3. (pg. E-12) should be deleted. Sediment	The Board is unable to remove the sediment toxicity monitoring requirements because the TMDL Technical Report	None necessary.

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		monitoring is not required by the metals TMDL and it is not possible to monitor in effluent. TSS and water column total mercury samples are sufficient to address the TMDL requirements. It is conservative to assume that the total water load is equal to the suspended sediment load and to assume that suspended sediment is not the same makeup as bottoms sediments. Finally, the Regional Board has failed to justify the need to include sediment monitoring pursuant to Water Code section 13267(b) and 13225(c). TSS and total mercury in water is all that is needed to meet the TMDL requirements.	contemplates monitoring of sediment under certain conditions to determine compliance with the Sediment Toxicity component of the Toxicity TMDL. Note that this monitoring requirement is only triggered if the TSS and mercury limits are exceeded simultaneously. A similar requirement was included in the NPDES permit Order No. R4-2013-0157 adopted by the Regional Water Board on October 3, 2013 for Tesoro Wilmington Calciner, to determine compliance with the sediment toxicity component of the TMDL for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbors Waters (Harbor Toxics TMDL). In addition, the monitoring and reporting requirements in the permit are required pursuant to Water Code sections 13383 and 13267, not 13325. In accordance with Water Code section 13267, the Regional Water Board has justified the need to include sediment monitoring in the fact sheet.	
City of Simi Valley	C-6	**Effluent limit for MBAS** An effluent limit for MBAS is included in Table 4 that is set equal to the MCL of 0.5 mg/L. MBAS was not detected during the time frame for which data was evaluated for this permit. Section IV.C.2.b.x. of the Fact Sheet (pg. F-28), states that this effluent limitation "was developed based on the Basin Plan incorporation of Title 22 Drinking Water Standards… to protect the surface water MUN beneficial use." However, MUN is not applicable to the surface receiving waters as is stated in footnote 1 of Table F-3 (pg. F-13) of the Tentative Order. MBAS is discussed in Chapter 3 of the Basin Plan in the section covering Regional Objectives for Inland Surface waters, which clearly states that this objective only applies to [surface] waters designated MUN. Therefore, for all these reasons, the District requests that the effluent limit for MBAS be removed as unnecessary.	See Response to Comment A3-11. The effluent limitation for MBAS cannot be removed. Because the GWR beneficial use is an existing use in receiving waters downstream of the discharge, USEPA (Letter from USEPA dated October 17, 2006, regarding the revised tentative NPDES permit to the Burbank WRP dated October 10, 2006) believes that it is reasonable for the permit to include WQBELs for these pollutant parameters, as reasonable potential is determined by the Regional Water Board. Such requirements will ensure that the effluent discharged from the facility will not degrade the quality of downstream receiving waters currently providing recharge of groundwater for the purposes of future extraction and/or maintenance of water quality. Reasonable potential can be determined by considering all sources of information, it does not necessarily have to be as a result of a calculation. NPDES regulations require the use of all relevant information and all available factors in determining	None necessary

Commenter	#	Comment	Response	Action Taken
			whether or not a discharge has reasonable potential (RP) to cause or contribute to an exceedance. This is usually referred to Tier 3 RP, or "little bpj". Section 1.3, Step 7 of the SIP lists the type of information, which under the permit writer's "best professional judgment," can be used to determine RP. The SIP, at page 7, states: "Information that may be used to aid in determining if a water quality-based effluent limitation is required includes: the facility type, the discharge type, solids loading analysis, lack of dilution, history of compliance problems, potential toxic impact of discharge, fish tissue residue data, water quality and beneficial uses of the receiving water, CWA 303(d) listing for the pollutant, the presence of endangered or threatened species or critical habitat, and other information." Simi Valley has Tier 3 RP because it receives MBAS and other soaps in its influent from multiple sources.	
City of Simi Valley	C-7	**Effluent limits for chlorinated pesticides and PCBs.** Table 4 of the Tentative Order contains effluent limits for chlordane, 4,4-DDD, 4,4-DDE, 4,4-DDT, dieldrin, PCBs and toxaphene. These effluent limits are based on the WLAs set forth in the Calleguas Creek Watershed Organochlorine Pesticides, PCB and Siltation TMDL established in 2005 by the Regional Water Board. However, except for one detected value of DDE, none of these constituents were detected at all during the time frame for which data was evaluated for this permit. Therefore, there is no reasonable potential for these constituents to cause or contribute to a water quality exceedance and the effluent limits should be removed from Table 4. To address any concern associated with the TMDL, a detected value of one of these constituents at a level near the applicable WLA could be a trigger for a source investigation and detection at or above the applicable WLA would trigger reasonable potential and the related reopener clause.	The proposed effluent limitations for all TMDL constituents will not be removed. The watershed is impaired by PCBs and Chlorinated Pesticides, and the TMDL assigns WLAs to Simi Valley WQCP for these pollutants. Federal regulations at 40 CFR section 122.44(d)(1)(vii)(B) require that NPDES permits include effluent limitations developed consistent with the assumptions and requirements of any wasteload allocation that has been assigned to the discharge. Section 1.3 of the SIP does not require a reasonable potential analysis for any pollutant that has a TMDL waste load allocation.	None necessary.

Commenter	#	Comment	Response	Action Taken
City of Simi Valley	C-8	**Effluent limit for halomethanes** A monthly average effluent limit for halomethanes of 80 µg/L is included in Table 4 of the Tentative Order (pg. 7). There is no discussion of the rationale for this effluent limit in Section IV.C.2. of the Fact Sheet or elsewhere. The only reference to a possible reason for this effluent limitation is in Table F-2, which compares historic effluent limitations to monitoring data between 2008-2013. The maximum effluent concentration of 90.8 µg/L exceeded 80 µg/L. This exceedance occurred in 2008, or more than 5 years ago. All other effluent halomethane concentrations since 2008 have been measured at or below 25.5 mg/L. One historic data point is insufficient to trigger reasonable potential. Therefore, the effluent limit for halomethanes has no regulatory basis and should be removed. Removal of these limits for halomethanes would not violate anti-backsliding requirements because one or more of the exceptions to backsliding would apply, including modifications to the treatment system since the last permit, new information (lack of reasonable potential or removal of an MCL from Title 22] or mistake. 33 U.S.C. §1342(o)(2)(A), (B)(i), or (B)(ii).	Staff reviewed the halomethanes data and determined that maximum effluent concentration (MEC) of 90.8 µg/L that triggered reasonable potential, occurred beyond the last 5 years of data. The facility has been in compliance with halomethanes for the last 5 years with the MEC of 25.5 µg/L. In addition, the facility has completed the NDN process in 2004 and modified in 2008 to include sequential chlorination. This process reduces the amount of halomethanes in the effluent water, thus, reducing the mass of halomethanes being discharged in the receiving water. Therefore, staff removed the effluent limitations for halomethanes.	Revisions were made to the permit.
City of Simi Valley	C-9	**Monitoring Program** The CCW stakeholder group has been implementing a coordinated monitoring program for TMDL implementation for over 5 years. However, Section I.N. and IX.C of the Monitoring and Reporting Program requires submittal of quarterly progress reports regarding the implementation of a watershed monitoring program. The watershed TMDL monitoring program is already established and there is no need to submit progress reports detailing efforts to establish the monitoring program.	Regional Water Board staff met with the stakeholders on April 22, 2014, to discuss the watershed monitoring program. It was agreed that it would be beneficial to integrate the NPDES monitoring program with this existing program, as well as with the stormwater and agricultural waiver program monitoring. Board staff will be working together with the interested stakeholders over the next year.	None necessary.

Commenter	#	Comment	Response	Action Taken
Comments received from the City of Simi Valley on April 15, 2014 Submitted as Attachment A1				
City of Simi Valley	A1-1	Page 5 & 6, section IV.A.1 Salt limits should be granted the approved TMDL compliance schedule. Further, final limits should be placed in the findings since the schedule exceeds 5 years.	Please see response to comments C-1 and C-3 above.	
City of Simi Valley	A1-2	Page 6, section IV.A.1.a Table 4 MBAS should not have effluent limits. The only criterion is a Title 22 secondary MCL which does not apply to the GWR use, and the effluent data were all non-detected.	Please see response to comment C-6 above.	
City of Simi Valley	A1-3	Page 7, section IV.A.1.a Table 4 Halomethanes should not have effluent limits. The effluent maximum (90.8 µg/L shown in Table F-2, page F-10) which triggered reasonable potential was detected over 5 years ago (February 12, 2008), is an outlier, and should be removed from the dataset as not representative of current data since the treatment plant upgrades. See Tentative Order, pg. F-10, Section II.E. In addition, there is no applicable water quality objective for halomethanes to perform an appropriate reasonable potential analysis or to set effluent limits.	Please see response to comment C-8 above.	
City of Simi Valley	A1-4	Page 5-7; F-40, Table 4; Fact Sheet IV.C.4.e. All of the mass limits (even those from TMDLs) need to be calculated based on design flow to allow for growth. 40 C.F.R. §122.45(b); 44 Fed. Reg. 32864 (June 7, 1979)(when previously numbered 122.16). Not all of the current mass limits have a reference to footnote 1 to Table 4, but need to in order to be consistent with EPA regulations. See also City of Moscow, Idaho, NPDES Appeal No. 00-10, 2001 WL 988721 (July 27, 2001) citing	The mass limits were calculated using the design flow. The chloride effluent limitation now carries footnote #1 to be consistent with all mass limits in the Table. Some TMDLs are written taking into account critical conditions in the receiving water, and mass-based limits are not necessarily based upon the design flow of a POTW. In the case of the mass TMDL WLA-based limits for metals, the mass	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		40 C.F.R. 122.45(b) and 122.44(d)(1)(vii)(approving the use of design flow rather than the number referenced in the TMDL because although the regulations require consistency with the WLAs in a TMDL, "they do not require that the permit limitations that will be finally adopted in a final NPDES permit be identical to any of the WLAs that may be provided in a TMDL."	based limitation is set to protect the sensitive habitat in Mugu Lagoon. If conditions and assumptions change in the future, after a TMDL has been established, the TMDL should be reopened to account for changes in those conditions. In the NPDES Appeal cited by the commenter, the Environmental Appeals Board concluded that "TMDLs are by definition maximum limits; permit-specific limits like those at hand, which are more conservative than the TMDL maxima, are not inconsistent with those maxima, or the WLA upon which they are based." Here, increase in the mass-based limit would exceed the TMDL "maxima" and therefore be inconsistent with the WLAs upon which it is based.	
City of Simi Valley	A1-5	Page 7, section IV. A. 1 and elsewhere Toxicity limit should be changed to a trigger and test methods should be the same as those prescribed in the 2003 permit.	Please see response to comment C-4 above.	
City of Simi Valley	A1-6	Page 8, section IV. A. 2 Simi has historically exceeded Sulfate and TDS during the drought years. This was especially true in 2005. The TMDL compliance schedule and interim limits should be placed in the permit, since these are approved and in effect until 2027.	Please see response to comment C-3 above.	
City of Simi Valley	A1-7	Page 8, section IV. A. 2 The statement that USEPA did not approve the salt TMDL pursuant section 303(c) of the Clean Water Act does not justify ignoring the approved TMDL compliance schedule and interim limits.	Please see response to comment C-1 above.	
City of Simi Valley	A1-8	Page 9, section IV.C The "Recycling Specifications" section should state "Not Applicable" and no language should follow in the permit.	The Regional Water Board agrees. This information will be moved to the Fact Sheet.	Information moved to

Commenter	#	Comment	Response	Action Taken
		The discussion of the recycling activities and the requirements of a separate WRR can go in the Fact Sheet for background. This permit regulates discharge, not recycling activities.		Fact Sheet.
City of Simi Valley	A1-9	Page 9, section V.A.1 Simi discharges to an effluent dominated waterbody. The upstream temperature is not representative of natural conditions Please remove the altering of 5 degrees above natural temp.	Please see response to comment #3 on page 1.	
City of Simi Valley	A1-10	Page 11, V.B The Groundwater Limitations should be deemed "Not Applicable" since there are no direct discharges to groundwater and all potential incidental discharges are adequately protected by the effluent and receiving water limitations. Groundwater requirements are strictly state law requirements only and do not belong in a federal NPDES permit that does not directly regulate groundwater.	This Order functions as both an NPDES permit under the federal Clean Water Act and WDRs under the Porter-Cologne Water Quality Control Act. This portion of the Order is pursuant to the Regional Water Board's authority under state law. A similar requirement is contained in Section I.B.8 of the current NPDES permit Order R4-2003-0081, "To protect underlying ground water basins, pollutants shall not be present in the wastes discharged at levels that pose a threat to ground water quality."	None necessary.
City of Simi Valley	A1-11	Page 14, section VI.A.2.cc. The update of the recycling feasibility study is not necessary. Not only has the City already conducted the study but as noted in IV.C., the City is already recycling a portion of its effluent and a project to expand this effort is already underway.	The State Water Board's Recycled Water Policy requires the Regional Boards to encourage the use of recycled water. The purpose of the Study is to provide information regarding the feasibility of maximizing the beneficial reuse of tertiary treated effluent in order to encourage the use of recycling.	None necessary.
City of Simi Valley	A1-12	Page 17, section VI.C.2.b. The Special Study for CECs should be removed. Since no "approved" analytical methods exist for the testing of these constituents, language should be included in the permit that says results from these unapproved methods are estimations and cannot be considered for compliance	The special study for CECs will not be removed. In recent years, the Los Angeles Regional Water Board has incorporated monitoring of a select group of man-made chemicals, particularly pesticides, pharmaceuticals and personal care products, known collectively as CECs, into permits issued to	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		purposes. Language contained in E.IV.A.3 should be added here or in E.IX.B.1. stating: "Analysis under this section is for monitoring purposes only. Analytical results obtained for this study will not be used for compliance determination purposes, since the methods have not been incorporated in 40 CFR part 136."	publicly-owned treatment works (POTWs) to better understand the propensity, persistence and effects of CECs in our environment. Based on feedback we have received from permittees and our review of the results of a recent CEC-related study by the Southern California Coastal Water Research Project (SCCWRP) and the State Water Resources Control Board, we have modified our CEC monitoring program to respond to feedback while proceeding to fill identified data gaps without overly burdening any one permittee. The Regional Water Board has considered the burden, including costs, of the required monitoring and reporting and has determined that there is a reasonable relationship to the need for and benefits to be obtained from collection of information regarding the presence of CECs in POTW discharge. However, the suggested language by the Discharger was inserted in the MRP section IX.B.1, for compliance determination purposes.	
City of Simi Valley	A1-13	Page 26, section VII.J The paragraph related to compliance with Chronic Toxicity limits must be removed since chronic toxicity is to be regulated as narrative effluent limit and a trigger, not a numeric pass/fail limit.	Please see response to comment C-4 above.	
City of Simi Valley	A1-14	Page 27-28, section VII.O Remove chloride from the TSO and place in the permit with the TMDL compliance schedule.	Please see response to comment C-1 above.	
City of Simi Valley	A1-15	Page 27, section VII.O Please provide additional explanation of how the 86th percentile flow is determined. Daily or monthly average, or instantaneous peak?	Please see response to comment #4 on page 2.	
City of Simi	A1-16	Page 28, section VII.O		

Commenter	#	Comment	Response	Action Taken
Valley		Change the Madera Bridge stream gauge (Station ID 803) to Calleguas Creek at CSUCI (USGS 11106550). Madera Bridge only has data available up to 2012. The USGS gauge at the CSUCI provides more reliable and current flow data. Please, change the reference to 'USGS 11106550' here and elsewhere in the permit.	Please see response to comment #5 on page 2.	
City of Simi Valley	A1-17	Page 28, section VII.O The Tentative Order states that any discharge from a Facility during wet weather would be assimilated by these large storm flows and would not cause exceedances of water quality objectives. Therefore, there should be no wet weather effluent limit for chloride in Table 4.	Please see response to comment C-2 above.	
City of Simi Valley	A1-18	Page E-11, MRP, Table E-3 The sampling requirements for 2,3,7,8-TCDD are more than is required by the SIP, which only required one wet and one dry season sample annually for three years. Instead, the Permit requires semiannual sampling. Additional justification is needed for this sampling as these samples are very expensive.	The Regional Water Board exercised its discretion granted by Section 3 of the SIP (page 29) pertaining to 2,3,7,8-TCDD: "Based on the monitoring results, **the RWQCB may, at its discretion, increase the monitoring requirement (e.g., increase sampling frequency) to further investigate frequent or significant detections of any congener** (emphasis added). At the conclusion of the three-year monitoring period, the SWRCB and **RWQCBs will** assess the data (a total of six samples each from major POTWs and industrial dischargers, and a total of two samples each from minor POTWs and industrial dischargers), and **determine whether further monitoring is necessary** (emphasis added)." The Regional Water Board staff found some erroneous TCDD reporting in their annual report. The Discharger claimed that the results of TCDD analysis should have been "non-detect." However, the laboratory report indicated otherwise. Continued monitoring of TCDD at the same frequency as proposed, will verify the validity whether the TCCD is not detected in the effluent.	None necessary.

Commenter	#	Comment	Response	Action Taken
City of Simi Valley	A1-19	Page E-10, section IV. A.3; Table E-3 Inadequate justification has been provided for additional 'PCBs as congeners' monitoring using an unapproved method (1668c). This appears to be monitoring "strictly for monitoring purposes" with no other purpose. PCBs as Arochlors using EPA method 608 provides the needed information but it is duplicative of the monitoring requirement for the 'remaining EPA priority pollutants'. In accordance with State Water Board direction in its Resource Alignment/Cost of Compliance Initiative to minimize excessive monitoring on municipalities. Both PCBs as congeners and PCBs as Arochlors should be removed from Table E-3.	The proposed permit includes final effluent limitations for PCBs. It is imperative to include monitoring requirements for PCBs in order to verify compliance with the final effluent limitations. As stated in the proposed permit, USEPA recommends that until USEPA proposed method 1668c for PCBs is incorporated into 40 CFR 136, Permittees should use for discharge monitoring reports/State monitoring reports: (1) USEPA method 608 for monitoring data, reported as arochlor results, that will be used for assessing compliance with WQBELs established using the WLAs, and (2) USEPA proposed method 1668c for monitoring data, reported as 41 congener results, that will be used for informational purposes for the established TMDL. USEPA Method 608 yields relatively high detection limits when arochlors are analyzed. Due to this high detection limits, method 608 was not able to quantify the actual results at low concentration. In order to provide the data gap at the low range concentration, USEPA Method 1668c will be used because this method will provide a much lower detection limits. Lower concentrations that we have not detected when analyzed by method 608 will now be detected and quantified using method 1668c. Further, USEPA's letter dated April 14, 2014, recommends that PCB monitoring be added to the Facility's monitoring and reporting program. The purpose of the monitoring is to be able to determine all possible concentrations of PCBs present, including aroclors and congeners. A similar approach is recommended in more recent PCBs TMDLs issued for San Francisco Bay by the San Francisco Bay Regional Water Board, and Santa Monica Bay by USEPA. The San Francisco Bay and Los Angeles Regional Water Boards NPDES permits issued to implement these TMDLs incorporate this approach.	None necessary

Commenter	#	Comment	Response	Action Taken
City of Simi Valley	A1-20	Page E-12, section IV.A.2 Further explanation is needed for increased grab sampling requirements if continuous monitoring of total residual chlorine is exceeded. At what time have we exceeded the limit? How long after 15-minutes do we need to sample because the Plant is not staffed 24/7?	Please see response to comment #6, page 2 above.	
City of Simi Valley	A1-21	Page E-12, section IV.A.3 This requirement for sediment monitoring is unnecessary, inadequately justified, and confusing. Additionally, this monitoring is not required for evaluating compliance with the Metals TMDL and should be deleted.	Please see response to comment C-5 above.	
City of Simi Valley	A1-22	Page E-14, section V.A.5.a Remove the TST approach from the Tentative Order.	Please see response to comment C-4 above.	
City of Simi Valley	A1-23	Page E-14, section V.A.5.f Please add the phrase 'by the laboratory' to read: Chlorine shall not be removed from effluent sample by the laboratory prior to toxicity testing.	The language on page E-14, section V.A.5.f is correct and does not need to be changed. If we specify that the "Chlorine shall not be removed from effluent sample **by the laboratory** prior to toxicity testing." it means the Discharger or any person can remove chlorine. The intent of the language in this section is to prohibit removal of chlorine and ammonia by any individual or entity.	None necessary.
City of Simi Valley	A1-24	Page E-14, section A.7 Replace this language with language from previous permit for toxicity accelerated monitoring	Please see response to comment C-4 above.	
City of Simi Valley	A1-25	Page E-16, section A. 9. a & d Remove toxicity test results for the TST approach	Please see response to comment C-4 above.	

Commenter	#	Comment	Response	Action Taken
City of Simi Valley	A1-26	Page E-16, section V.C Please add the phrase 'by the laboratory' to read: Chlorine shall not be removed by the laboratory from bioassay samples.	Please see response to comment A1-23 above.	None necessary.
City of Simi Valley	A1-27	Page F-5, Fact Sheet, II.B. There is no evidence to support the allegation that "underlying sediments are highly transmissive to water as well as pollutants." This finding needs to be adequately supported with evidence in the record, or removed.	The language was modified to: "Groundwater recharge may occur~~s~~ incidentally in these unlined areas of Arroyo Simi, Arroyo Las Posas, and Calleguas Creek, where the underlying sediments ~~are highly~~ may be transmissive to water as well as pollutants."	Revisions were made to the permit.
City of Simi Valley	A1-28	Page F-10, section II.D Please add to the compliance summary the following paragraph: "In a letter dated April 6, 2012, from the Los Angeles Regional Water Board Executive Officer, it was stated that the Regional Water Board staff agreed with the City's assertion that the average monthly selenium effluent of 1.6 µg/l was a typographical error. The average monthly effluent limit was corrected to 4.1 µg/L." This modification is justified under 40 C.F.R. §122.63(a) and 33 U.S.C. §1342(o)(2)(B)(ii).	Please see response to comment #10 on page 3.	
City of Simi Valley	A1-29	Page F-16, Fact Sheet, III.C.3 The last sentence in this section on the SIP is incorrect since this permit is not properly implementing the SIP provisions for chronic toxicity, as interpreted by State Board orders cited previously. This sentence would be correct if the permit included a narrative effluent limitation for chronic toxicity and a numeric trigger as requested and legally authorized by the State Board.	The last two sentences in Section III.C.3 of the Fact Sheet read as follows: "The SIP establishes implementation provisions for priority pollutant criteria and objectives and provisions for chronic toxicity control. Requirements of this Order implement the SIP." That is consistent with the introduction section of the SIP (page 3): "This Policy establishes: (1) implementation provisions for	None necessary.

Commenter	#	Comment	Response	Action Taken
			priority pollutant criteria promulgated by the U.S. Environmental Protection Agency (USEPA) through the National Toxics Rule (NTR) (promulgated on December 22, 1992 and amended on May 4, 1995) and through the California Toxics Rule (CTR), and for priority pollutant objectives established by Regional Water Quality Control Boards (RWQCBs) in their water quality control plans (basin plans); (2) monitoring requirements for 2,3,7,8-TCDD equivalents; and (3) chronic toxicity control provisions." Section 4 of the SIP - TOXICITY CONTROL PROVISIONS states, "This section establishes minimum toxicity control requirements for implementing the narrative toxicity objectives for aquatic life protection in RWQCB basin plans. These provisions are intended to supplement basin plan requirements and do not supersede existing RWQCB toxicity requirements. The SIP provides a minimum standard for chronic toxicity effluent limitations to determine compliance with chronic aquatic life toxicity objectives. To the extent that this Order incorporates a more stringent standard, that is not inconsistent with the SIP. The SIP does not prohibit the imposition of a numeric effluent limitation for chronic toxicity. The Toxicity TMDL for the Calleguas Watershed establishes a water column toxicity target of 1.0 TUc to address toxicity in reaches where the toxicant has not been identified through a TIE. The TMDL establishes a WLA of 1.0 TUc for POTWs in the watershed. The 1.0 TUc WLA is protective of the aquatic life beneficial use and implements the narrative standard for toxicity in the Basin Plan. The narrative effluent limits with accelerated monitoring and toxicity reduction evaluation triggers that have been used in NPDES permits in this Region have not adequately addressed the impairment in significant portions of the Calleguas Creek watershed from toxicity. The narrative approach is an oversight-driven model that essentially requires the Regional Water Board to manage dischargers' efforts to reduce and control toxicity. USEPA has strongly criticized this type of permitting approach, because in the most practical sense, it results in a regulatory practice which authorizes toxic effluent discharges under an NPDES permit as long as the discharger follows a series of steps to address the toxicity.	

Commenter	#	Comment	Response	Action Taken
			Numeric WQBELs for toxicity not only prompt proactive efforts by dischargers to comply with the effluent limits, but also are clear to the discharger, the permitting authority, and the public, and are the most effective and efficient CWA regulatory tool used to protect water quality standards because the measurement of compliance is clearly defined. The Toxicity TMDL grants the Regional Water Board flexibility to determine the appropriate method to implement the WLAs based on USEPA, State Board, and Regional Board resolutions, guidance, and policy at the time of permit issuance. While the Regional Water Board agrees that one step to achieving compliance with a water quality-based WET requirement can be a toxicity reduction evaluation to identify the constituents of concern, on its own, it is not enough to serve as the required NPDES WQBEL. This Order requires numeric chronic toxicity WQBELS and the TIE/TRE process if the numeric effluent limit is exceeded. Please see response to comment C-4 above.	
City of Simi Valley	A1-30	Page F-47, Fact Sheet Table F-9 The fact that an effluent limitation is existing is not adequate authority for maintaining that limit. A new reasonable potential analysis must be run to justify inclusion of the effluent limitations. 40 C.F.R. §122.44(d)(1)(i) and (iii). For example, halomethanes and MBAS and several other constituents do not have "reasonable potential."	Please see response to comment C-6 and C-8 above.	
Comments received from the City of Simi Valley on April 15, 2014 Submitted as Attachment A2				
City of Simi Valley	A2-1	Page 5, section IV.A.1.a Table 4 The TDS mass limit should be 88,610 lbs/day, not 86,610 lbs/day. All other mass limit calculations appear correct	The staff corrected the typo.	Revisions were made

Commenter	#	Comment	Response	Action Taken
		where based on design flow. 40 C.F.R. §122.45(b).		to the permit.
City of Simi Valley	A2-2	Page 8, section IV.A.1.e Wording should read: "For the purpose of this requirement, the wastes shall be considered adequately disinfected if the median number of total coliform bacteria at some point in the disinfected effluent treatment process..." Remove the words "disinfected effluent."	The suggested changes have been made.	Revisions were made to the permit.
City of Simi Valley	A2-3	Page E-4, MRP, I.M. References to detection methods for enterococcus should be removed because there are no requirements to monitor for this bacteria. Alternatively, this should reference E. Coli, which is the appropriate bacteria for fresh waters.	Enterococcus was replaced with E.coli. Change was made to the permit.	Revisions were made to the permit.
City of Simi Valley	A2-4	Page E-11, Table E-3, footnote 17 What should say "Dioxin concentration in effluent" is a jumbled word "Dioxinconcentrationineffluent." This needs to be corrected in the final version.	Staff has corrected the formatting.	Revisions were made to the permit.
City of Simi Valley	A2-5	Page F-4, section I.B The second paragraph in this section is the same as paragraph 9 on p. F-17. The paragraph under I.B. should be deleted.	The duplicated paragraph was deleted on page F-4, section I.B. Below is the deleted paragraph which is a duplicate and cited on page F-17. "Prior to making any change in the point of discharge, place of use, or purpose of use of treated wastewater that results in a decrease of flow in any portion of a surface or subterranean stream, the Permittee must file a petition with the State Water Board (State Water Board), Division of Water Rights, and receive approval for such a change. The State Water Board retains the jurisdictional authority to enforce such requirements under CWC section 1211."	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
City of Simi Valley	A2-6	Page F-4, section I.C Add the site visit date or remove the reference to the site visit in this paragraph.	The tentative permit was sent out for public comment before the site visit was conducted. Therefore, the site visit date was not available at that time. However, the site visit date was added upon completion of the site visit.	Revisions were made to the permit.
City of Simi Valley	A2-7	Page F-4, section II.A.3 Remove: Disinfectant agent added to treated effluent prior to the filters. Add: Disinfectant is dosed prior to the serpentine chlorine contact chamber and occasionally added prior to the filters to minimize algae growth	Please see response to comment #8, page 3.	
City of Simi Valley	A2-8	Page F-4, section II.A.5 Remove nitrogen and add nitrification/denitrification process for the NDN acronym.	Please see response to comment #9 page 3.	
Comments received from the City of Simi Valley on April 15, 2014 Submitted as Attachment A3				
City of Simi Valley	A3-1	Page 1, first sentence Make the following change: "The following ~~Discharger~~ entity is subject to waste discharge requirements (WDRs) set forth in this Order:	The word Discharger was replaced with entity.	Revisions were made to the permit.
City of Simi Valley	A3-2	Page 1, Table 3 Please note that in accordance with the Memorandum Of Agreement between the U.S. EPA and State Water Board, this permit's effective date should be 50 days after the adoption date. (See NPDES Memorandum of Agreement between the U.S. Environmental Protection Agency and the California State Water Resources Control Board at 22, section I.F.2.a. (Sept. 22, 1989)(NPDES	In USEPA's draft Program Quality Review (2014), USEPA expressed concern that some NPDES permits contained terms greater than five years in duration, contrary to the federal requirements. Therefore, Regional Board staff and USEPA agreed to address the issue by making the effective date fall on the first of the month following the 50 day period post NPDES permit adoption. However, USEPA has not made an issue of	None necessary.

Commenter	#	Comment	Response	Action Taken
		permits adopted by the Regional Water Board "shall become effective on the 50th day after the date of adoption, if EPA has made no objection to the permit; if there has been significant public comment").) Therefore, the Regional Water Board should ensure that the permit includes a 50-day delay in the effective date. To be consistent with the SWRCB's 1989 MOU with EPA on NPDES permitting, the permit must be effective 50 days from the adoption date, or June 27th, not July 1st.	permit effective dates that comply with applicable NPDES regulations (generally, 30 days). USEPA issued a new guideline on "effective date" of permits. The guideline states that staff shall make all permit effective date and expiration date the first day of the month, no less than 30 days following Board adoption. For example, if an order is adopted on November 7, 2013, it should become effective on January 1, 2014 and expire on December 31, 2018. This practice has been agreed upon by USEPA and the State Water Board and helps prevents permits issued for five years plus one day.	
City of Simi Valley	A3-3	Page 4,section II.A The last sentence needs to be modified as follows: "It The legal requirements mandated by federal law shall serve as an National Pollutant Discharge Elimination System (NPDES) permit for point source discharges from this facility to surface waters."	In California, an NPDES permit also serves as waste discharge requirements under state law. Therefore no change is necessary.	None necessary.
City of Simi Valley	A3-4	Page 4, section II. To be consistent with other permits in the state, add new finding that states: "**Provisions and Requirements Implementing State Law**. Many of the provisions/requirements in this Order and the MRP are included to implement state law only. These provisions/requirements are not mandated or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies available for NPDES violations." Specific provisions implementing state law may be identified or the above text can be inserted.	The following provision has been added to address this comment: "**Provisions and Requirements Implementing State Law**. Some of the provisions/requirements in this Order and the MRP are included to implement state law only. These provisions/requirements are not mandated or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies available for NPDES violations."	Language added.
City of Simi	A3-5	Page 5,11, section III.E; VI.A.2.a		

Commenter	#	Comment	Response	Action Taken
Valley		This Discharge Prohibition is unnecessary as it duplicates VI.A.2.a. on page 12. Duplicative provisions should be avoided because it can create two violations of the permit for a single act. For this reason, and to streamline the permit, all instances of duplication should be removed.	While the requirements look similar they are not. Section II.E discusses disposal of waste and is more encompassing, while Section VI.A.2.a refers to discharge of pollutants. Further, the prefacing paragraph clarifies that in the event there is any conflict, duplication, or overlap between provisions specified in the Order, the more stringent provision shall apply. To the extent that any terms prohibit identical violations, only one of the provisions will apply to avoid duplication.	None necessary.
City of Simi Valley	A3-6	Page 5, 10, section III.E, V.A.7 This prohibition is unnecessary as there is already a parallel receiving water limitation in Provision V.A.7. The duplicative discharge prohibition should be removed as unnecessary.	Please see response to comment A3-5 above.	
City of Simi Valley	A3-7	Page 5, section IV.A.1.a – Table 4 There is no justification for daily limits for BOD, TSS, oil & grease or settleable solids. These limits are inconsistent with federal law (40 C.F.R. §122.44(d)(if no reasonable potential) , 122.45(d)(2)(no daily limits generally for POTWs) and Part 133) and cannot be justified by the aquatic life protection portions of the SIP. Thus, these limits need to be removed. (See accord Order No. R1-2013-0001 at 8 (no daily limits for conventionals).) The Fact Sheet at F-23 states "daily maximum limits cannot be removed because none of the anti-backsliding exceptions apply." This is incorrect because several provisions would justify removal of these daily limits, including but not limited to CWA, 33 U.S.C. §1342(o)(1)(compliance with 1314(d)(4)(B)), or (o)(2)(A)(substantial alterations to plant since last permit), or (o)(2)(B)(ii)(mistake of law).	Page F-24 of the Fact Sheet explains that the limits for BOD, TSS, pH are consistent with the State Water Board precedential decision, State Water Board Order No. WQ 2004-0010 for the City of Woodland. Conclusion III.5 of WQO 2004-0010 held that the "Regional Board properly exercised its discretion in requiring Woodland to meet tertiary treatment requirements." Here, tertiary treatment requirements are necessary to achieve compliance with water quality standards and prevent degradation of the receiving waters. The following language has also been added to the Fact Sheet: "The principal design parameter for wastewater treatment plants is the daily BOD and TSS loading rates and the corresponding removal rate of the system. In applying 40 CFR Part 133 for weekly and monthly average BOD and TSS limitations, the application of tertiary treatment processes results in the ability to achieve lower levels for BOD and TSS than the secondary standards. In addition to the average weekly and average monthly effluent limitations, a daily maximum effluent limitation	None necessary.

Commenter	#	Comment	Response	Action Taken
			for BOD and TSS is included in the Order to ensure that the treatment works are not organically overloaded and operate in accordance with design capabilities." Page F-26 of the fact sheet contains justification for the daily maximum effluent limitation for oil and grease. The numeric limits are empirically based on concentrations at which an oily sheen becomes visible in water. It is impracticable to use a 7-day average limitation, because spikes that occur under a 7-day average scheme could cause a visible oil sheen. A 7-day average scheme would not be sufficiently protective of beneficial uses. The monthly average and the daily maximum limits cannot be removed because none of the anti-backsliding exceptions apply. Both limits were included in the previous permit (Order No. R4-2003-0081 (as revised by Order No. R4-2004-0121)) and the Simi Valley WQCP has been able to meet both limits.	
City of Simi Valley	A3-8	Page 5-7; F-40, section IV.A.1.a – Table 4; Fact Sheet IV.C.4.e. No need exists for both mass limits and 85% removal requirements as both are not required by either federal or state law. Under federal law, mass limits are specifically not required for Technology-Based Limits, such as BOD and TSS. The federal regulations only require concentration-based effluent limits and 85% removal requirements. (See 40 C.F.R. §133.102(a)(1)-(3) and (b)(1)-(3); see e.g., Order No. R2-2012-0051, Table 6 (monthly and weekly conventional pollutant limits only with no mass limits required).) The only way that mass limits for BOD and TSS are authorized by the federal regulations is where **substituting** the percent removal requirements with a mass loading limit for less concentrated influent wastewater for separate sewers. (40 C.F.R. §133.103(d).) Since the Regional Water Board is not substituting mass limits for percent removal requirements that are contained in Provision IV.A.3.a., the mass limits in Table 4 are not	The use of mass limits is technically justified in the findings of the permit and the Fact Sheet. The use of mass limits is legally justified by 40 CFR section 122.45(f)(1), which requires that, except under certain conditions, all permit limits, standards, or prohibitions be expressed in terms of mass units. Pursuant to 40 CFR section 122.45(f)(2), pollutants may also be limited in terms of other units of measurement (e.g., concentration units). Where limits are expressed in more than one unit, the permittee must comply with both. Furthermore, USEPA supports the use of mass-based effluent limits in this permit.	None necessary.

Commenter	#	Comment	Response	Action Taken
		justified under federal law.		
City of Simi Valley	A3-9	Page 5-7; F-40 section IV.A.1.a – Table 4; Fact Sheet IV.C.4.e. The Fact Sheet at page F-40 states that "40 CFR §122.45 (f)(1) requires that except under certain conditions, all permit limits, standards, or prohibitions be expressed in terms of mass units. 40 CFR § 122.45(f)(2) allows the permit writer, at its discretion, to express limits in additional units (e.g., concentration units)." This statement ignores that 40 C.F.R. section 122.45(f)(1) *does not require* and exempts mass-based effluent limitations for: i) pH, temperature, radiation, or other pollutants which cannot be appropriately expressed by mass, and ii) "<u>when applicable standards and limitations are expressed in terms of other units of measurement</u>." (Emphasis added.) Further, Table 4 includes all limits expressed initially in concentration; therefore, additional mass limits are not needed or required. Because the technology-based limits and most water quality-based limits and criteria are expressed in concentration (i.e., "other units of measure" besides mass), the exception to the requirement for mass limits has been met and mass limits are not required under federal law. (*See accord* Order No. R1-2013-001 at F-26 ("Because secondary treatment standards for BOD^5 and TSS are expressed in terms of concentration and percent removal, mass-based effluent limitations for these parameters are not required. Mass-based effluent limitations for BOD5 and TSS were included in the previous Order, but have been removed from this Order…").)[1]	The Regional Water Board may include daily maximum effluent limitations in the permit to protect against acute water quality effects, and may impose both concentration and mass interim limits for the same pollutant. The inclusion of mass limitations is necessary to ensure that the discharge of pollutants will not exceed the level that has been deemed necessary for a particular situation. Since compliance with mass limits can be achieved by reducing flow while increasing the concentration of a pollutant, it is also necessary to limit concentrations to prevent toxic effects from occurring. Conversely, mass limits prevent dischargers from meeting their concentration limits by diluting their effluent. The federal regulations express a preference for mass limitations, but do not expressly preclude the imposition of both to ensure the attainment of water quality objectives. The State Water Board has affirmed this approach. (State Water Board Order WQO 2002-0012 (East Bay Municipal Utility District)).	None necessary.

[1] *See id.* at F-53 and F-54 ("The previous Order contained mass-based effluent limitations for BOD5 and TSS that applied when the Permittee was discharging treated effluent to any of its authorized surface water discharge points. The draft Order removes mass limitations for discharges of treated wastewater because <u>Regional Water Board staff misinterpreted the exception in 40 CFR 122.45(f)(2)</u>, which states that mass limitations are not required for (1) pH, temperature, radiation, or other pollutants which cannot be appropriately expressed by mass, and (2) when applicable standards and limitations are expressed in terms of other units of measure." Staff should have granted exception No. 2, because secondary treatment standards for BOD^5 and TSS in 40 CFR 133.102, on which the effluent limitations in previous permits were based, are expressed in concentration and percent removal (i.e., "other units of measure"). The relaxation of effluent limitations for BOD^5 and TSS in this Order is permissible under CWA section

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City of Simi Valley	A3-10	Page 5-7; F-39, section IV.A.1.a -Table 4; Fact Sheet IV.C.4.e. All mass limits should be removed since not required by federal law, or additional analysis under Water Code section 13263/13241 must be undertaken for these limits more stringent than federal law. If being imposed under state law, or the discretionary ability to include mass limits in addition to concentration based limit under section 122.45(f)(2), then these requirements are more stringent than required by federal law and have not been adequately justified and nor have all of the considerations under Water Code section 13263 and 13241 been satisfied. (See City of Burbank v. State Water Resources Control Board, 35 Cal. 4th 613, 629 (2005).) No evidence has been cited that mass-based limits are necessary ensure to ensure proper treatment of a tertiary treatment plant, or that Thousand Oaks has potable or other water available to dilute its effluent in order to comply with the final effluent concentration limits as suggested on page F-40. In fact, Thousand Oaks meets concentration-based limits much more stringent than those proposed under federal secondary treatment requirements. Without evidence to support the findings of necessity for these limits and without the Water Code section 13241 analysis required for these limits that are more stringent than required by federal law, including the mass limits for BOD and TSS, must be removed.	Note that this permit is for Simi Valley WQCP. The Discharger's comment is directed to Thousand Oaks. The use of both concentration- and mass-based effluent limits in the tentative permit is recommended by EPA and consistent with NPDES regulations at 40 CFR 122.45(f) which govern the use of mass-based effluent limits. The mass-based limits are necessary to achieve compliance with water quality standards and prevent degradation of the receiving waters. To the extent that these mass-based limits were included in the prior permit, the anti-backsliding provision in section 402(o) of the Clean Water Act and 40 C.F.R. section 122.44, prevent removal of these provisions without adequate justification. The Regional Water Board has determined that none of the exceptions to the rule against backsliding apply for these constituents. The effluent characteristics of the Simi Valley WQCP, as reported in their Report of Waste Discharge (ROWD), is consistently meeting the effluent limitations for BOD and TSS. The facility is not expected to have to install any capital improvement project in order to comply with the effluent limitations for BOD and TSS.	None necessary.
City of Simi Valley	A3-11	Page 9, section IV.A.1.d An effluent limitation for general radioactivity is not warranted as there is no demonstrated reasonable potential and this unnecessarily duplicates the discharge	Page F-32 of the fact sheet contains adequate justification for retaining the radioactivity limitation which is currently contained in the Facility's 2003 permit and was also contained in the	None necessary.

402(o)(2)(B), because Regional Water Board staff has determined that mass limitations for BOD^5 and TSS were applied in the previous permit as a result of a mistaken interpretation of law when issuing the previous permit.") (emphasis added).

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		prohibition for radiological waste in III.G. In addition, if maintained, the words "or subsequent revisions" must be removed as these would unlawfully modify the permit's requirements without compliance with the state and federal notice and comment requirements. See 40 C.F.R. §122.62(a)(3) and §124.5(c). In addition, prospective incorporation by reference has been held to be "of dubious validity." (See May 10, 1995, Office of Administrative Law, Notice of Approval and Disapproval, and Reasons for Approval and Disapproval of Parts of a Rulemaking Action on the 1994 Basin Plan Amendments (OAL File No. 95-0328-01) at pg. 10, which determined that "[a] prospective incorporation-by-reference (one that automatically incorporates future changes to an incorporated document) is of dubious validity"; see also California Assn. of Nursing Homes v. Williams (1970) 4 Cal.App.3d 800, 813-815 (court recognized that prospective incorporation by reference necessarily would have "dubious validity.")	previous permit, Order No. 96-043. Section 301(f) of the CWA contains the following statement with respect to effluent limitations for radioactive substances: "Notwithstanding any of other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent, any high-level radioactive waste, or any medical waste, into the navigable waters." Chapter 4.4 of the CWC contains a similar prohibition under section 13375, which reads as follows: "The discharge of any radiological, chemical, or biological warfare agent into the waters of the state is hereby prohibited." The effluent limitation for radioactivity of the discharge applies more broadly than the prohibition on radiological warfare agents and high-level radioactive waste. The limit is based on the Basin Plan incorporation of Title 22, CCR, *Drinking Water Standards,* by reference, to protect the surface water GWR beneficial use and the groundwater MUN beneficial use. Therefore, the accompanying Order will retain the limit for radioactivity to protect the GWR beneficial use. An additional notice and comment period is not necessary to incorporate future revisions to the Maximum Contaminant Levels as effluent limitations in this Order. Adequate notice has been provided that these limits are to be incorporated prospectively. A California Appellate Court rejected the argument against prospective incorporation of MCLs into the Basin Plan in *Cal. Ass'n of Sanitation Districts v. State Water Resources Control Board* (2012) 208 Cal.App.4th 1438. The Court explained that the Legislature had granted to the California Department of Public Health the responsibility to administer "all … provisions relating to the regulation of drinking water to protect public health," and the MUN beneficial use designation is inextricably tied to California drinking water standards. And unlike the prospective incorporation at issue in *California Assn. of Nursing Homes*, the drinking water standards adopted by CDPH must be adopted pursuant to the Administrative Procedures Act, which provides for public participation. Prior to any change in an MCL that would affect this Order, the discharger would have an opportunity to	

Commenter	#	Comment	Response	Action Taken
			participate in the public process in which CDPH determines whether the limit is necessary to protect the public health. USEPA's letter dated February15, 2002, fully approved the Basin Plan's criterion for Chemical Constituents, which states, "Surface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated use. Waters designated for use as Domestic or Municipal Supply (MUN) shall not contain concentrations of chemical constituents in excess of the limits specified in the following provisions of Title 22 of the California Code of Regulations which are incorporated by reference into this plan: Table 64431-A of Section 64431 (Inorganic Chemicals), Table 64431-B of Section 64431 (Fluoride), and table 64444-A of Section 6444 (Organic Chemicals). This incorporation by reference is prospective including future changes to the incorporated provisions as the changes take effect. (See Tables3-5, 3-6, and 3-7)". USEPA's letter states. "This Chemical Constituents criterion functions as a numeric criterion which relies on MCLs in the State's Title 22 regulations to protect waters with the MUN use designation. Consequently, no further information is required under 40 CFR 131.11(a)(2) and this criterion is fully approved."	
City of Simi Valley	A3-12	Page 9, section V.A. Clarification of the need for and purpose of Receiving Water Limitations should be added as follows: "Receiving water limitations are based on site-specific interpretations of water quality objectives contained in the Basin Plan and are a required part of this Order. However, a receiving water condition not in conformance with the limitation is not necessarily a violation of this Order. The Regional Water Board may require an investigation to determine cause and culpability prior to asserting a violation has occurred. The discharge shall not cause the following in Conejo Creek: (See e.g., Order No. R2-2013-0042 at 17, Section V; R5-2011-0005 at 30, Section C.1.)	Regional Water Board staff does not believe that the suggested language clarifies the need for and purpose of Receiving Water Limitations. No change is necessary.	None necessary.

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City of Simi Valley	A3-13	Page 5-7, 9-10, section IV.A.1.a -Table 4, IV.A.1.c., e., f.; V.A.1., 2., and 6. Both an effluent limitation and a receiving water limitation for temperature, pH, total residual chlorine, and turbidity are not required. If the discharge has a reasonable potential for any constituents for which receiving water limitations are proposed, then the appropriate regulation is an effluent limit. If there was no reasonable potential, then no regulation of these substances is required. Similarly, where an effluent limit is being proposed, as in the case of temperature, pH and turbidity, a duplicative receiving water limitation is unnecessary. A similar comment would apply to the receiving water limitations for toxicity, ammonia, and chlorine.	As stated previously, effluent and receiving water limits are not duplicative. Even though there are effluent limitations for temperature, pH, total residual chlorine, and turbidity in the tentative Order, a receiving water limit is still needed to ensure that the Basin Plan WQO is met in the downstream receiving water. Once the effluent and the ambient receiving waters mix, the water quality of the resulting mixture must meet the Basin Plan WQO. Changes in the quantity of downstream flow may affect the quality of the receiving water even when effluent limitations are being met.	None necessary
City of Simi Valley	A3-14	Page 11-14, section VI.A.2. The Regional Board's "Standard Provisions" implement state law and many are inappropriate for inclusion in a federally enforceable NPDES permit. In particular, sections t. through z. merely restate state law or the Enforcement Policy, which are independently applicable, and do not need to be inserted in the permit. Subsection bb. , related to Water Code section 1211 compliance, is also independently applicable and should not be included as a permit requirement since this is separately required by law and enforceable by the Water Boards. Section 1211 can be referenced in the Fact Sheet, but should not be a provision in an NPDES permit.	Please see response to comment A3-3.	None necessary
City of Simi Valley	A3-15	Page 11, section VI.A.2.c. There is no authority listed for this 100 year storm protection requirement under state or federal law. Without such authority, the inclusion of this and other unjustified "Standard Provisions" constitutes an abuse of discretion.	The 100 year storm is commonly used as a requirement for this standard provision.	None necessary.

Commenter	#	Comment	Response	Action Taken
City of Simi Valley	A3-16	Page 11, section VI.A.2.d. This provision states: "Collection, treatment, and disposal systems shall be operated in a manner that precludes public contact with wastewater." Taken to the extreme, this provision could mandate that all manhole covers be locked to prevent public access, which could be a large and largely unnecessary expense. Thus, this language should be removed, or modified as follows: "Collection, treatment, and disposal systems shall be operated in a manner that precludes or impedes public contact with wastewater."	The Standard Provision was modified as follows:. "Collection, treatment, and disposal systems shall be operated in a manner that precludes <u>or impedes</u> public contact with wastewater."	Revisions were made to the permit.
City of Simi Valley	A3-17	Page 11, section VI.A.2.h. This provision should clarify that section 311 of the CWA relates to "Oil and hazardous substance liability" so it is not confused with section 1311.	The provision has been revised to state: "Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities or penalties to which the Permittee is or may be subject to under section 311 of the CWA, <u>related to oil and hazardous substances liability</u>."	Revisions were made to the permit.
City of Simi Valley	A3-18	Page 12, section VI.A.2.i. It is inappropriate in a separate NPDES permit, unrelated to stormwater discharges, to mandate compliance with local rules and ordinances. If applicable to the Permittee, it will be separately required to comply with those laws and it does not need to be included in an NPDES permit for those requirements to be separately enforceable. These local rules do not belong in a federally enforceable NPDES permit and must be removed. Further, section A.2.l. should cover this requirement to comply with other laws without making it a mandate under this permit.	This provision has been removed from the permit.	Revisions were made to the permit.
City of Simi Valley	A3-19	Page 4, 12, section III.A; VI.A.2.j. This section unnecessarily duplicates the requirements in Provision III.A. and must be removed. This section also determines what will constitute a "violation" without a	The two sections are not duplicative because they are slightly different. Section III.A prohibits discharge of "treated wastewater" (to which final effluent limitations apply) at a	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		hearing and due process or consideration of potential defenses (e.g., upset/bypass).	different location from what is described in the Order, while Section VI.A.2.j. prohibits any "discharge," which could be referring to raw sewage, or partially-treated effluent. The language has been modified to read: "Discharge of wastes to any point other than specifically described in this Order is prohibited."	
City of Simi Valley	A3-20	Page 14, section VI.B. Remove reference to ", and future revisions thereto," from this sentence since the MRP cannot be modified without a formal permit modification (40 C.F.R. §122.63, §124.5(c); S.F. Baykeeper v. SFRWQCB, San Francisco Superior Court Case No. 500527, Order Granting Petition for Writ of Mandate and Statement of Decision (Nov. 14, 2003)("Because these are changes to the Permit[], the notice and comment requirements must be complied with"), and once modified, the new requirements will be applicable. Thus, this extra language is unnecessary.	The Regional Water Board has delegated some authority to the Executive Officer which allows him to make some modifications to the MRP without having to take the permit before the Board for future modification. 40 C.F.R. § 122.63 allows minor modifications of permit, including a requirement for more frequent monitoring or reporting by the permittee, without a public notice and comment period.	None necessary.
City of Simi Valley	A3-21	Page 15. Section VI.C.1.d. This provision needs several qualifiers added, as follows: "The Board may modify, or revoke and reissue this Order if present or future investigations demonstrate that the discharge(s) governed by this Order will cause, have the reasonable potential to cause, or will substantially contribute to adverse impacts on water quality and/or beneficial uses of the receiving waters.	This provision has been revised to state: "The Board may modify, or revoke and reissue this Order if present or future investigations demonstrate that the discharge(s) governed by this Order have or will have a reasonable potential to cause or contribute to adverse impacts on water quality or beneficial uses of the receiving waters."	Revisions were made to the permit.
City of Simi Valley	A3-22	Page 15, section VI.C.1.h. The first sentence, which states a prohibition "The discharge shall not cause a violation of any applicable water quality standard for receiving waters" is not appropriate to include in this section related to reopeners and must be removed.	The first sentence was removed from the reopener section as follows: ~~"The discharge shall not cause a violation of any applicable water quality standard for receiving waters.~~ If more stringent applicable water quality standards are promulgated or approved pursuant to section 303 of the CWA, or amendments, thereto,	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
			the Regional Water Board will revise and modify this Order in accordance with such standards."	
City of Simi Valley	A3-23	Page 15, section VI.C.1.I. This section should just state "effluent limitations" and not be limited to just toxicity and chlorine residual. This should cover any limits that should be revised based on new precedential decisions, laws or regulations. The phrase "new policies" should be removed as new guidance should not be enough to reopen a permit.	Added language to include the long awaited state-wide plan as follows: "This Order may be reopened and modified to revise the chronic toxicity effluent limitation and/or total residual chlorine limitations, to the extent necessary, to be consistent with State Water Board precedential decisions, new policies, a new state-wide plan, new laws, or new regulations."	Revisions were made to the permit.
City of Simi Valley	A3-24	Page 16, section VI.C.2.a. The language related to the TMDL monitoring requirements should be moved to the Fact Sheet and only substantive requirements, relevant to this Permit, should remain in this section.	The Order includes an appropriate discussion of all applicable monitoring in order to provide context for the requirements.	None necessary.
City of Simi Valley	A3-25	Page 17-19, section VI.C.3.b. This Spill Clean-up Contingency Plan duplicates the requirements of the SSMP and the burden of preparing this duplicative report has not been justified under Water Code section 13267. Alternatively, this could be modified to only relate to non-sewage spills to avoid duplication.	The tentative NPDES SCCP requirement is slightly different and more encompassing than the SSMP, in that the tentative NPDES permit pertains to both spills in the collection system and at the facility. Within 90 days of the effective date of this Order, the Permittee is required to submit a SCCP, which describes the activities and protocols to address clean-up of spills, overflows, and bypasses of untreated or partially treated wastewater from the Permittee's **collection system or treatment facilities** (emphasis added) that reach water bodies, including dry channels and beach sands.	None necessary.
City of Simi Valley	A3-26	Page 17-19, section VI.C.3. and 4. Both of these sections relate to state law requirements related to the preparation of PMP/PPP as required by the	As stated in section VI.C.3.c, Reporting protocols in MRP section X.B.4 regarding sample results that are to be reported	None necessary.

Commenter	#	Comment	Response	Action Taken
		Water Code, spill prevention plans, operator certification, and alternative electrical supply. None of these should be federally enforceable requirements under an NPDES permit and must be identified as state law only requirements.	as Detected but Not Quantified (DNQ) or Not Detected (ND) are used in determining the need to conduct a PMP. The Facility has reported sampling results as DNQ and ND.	
City of Simi Valley	A3-27	Page 19, F-17, section VI.C.5.a.ii. and iii.; Fact Sheet, III.C.13. These sections appear to make biosolids compliance part of this NPDES permit when there are separate regulatory documents that control and regulate those activities. Therefore, the following edits should be made to section ii: "The Permittee shall ensure compliance is separately required to comply with the requirements in State Water Board Order No. 2004-10-DWQ,…"; and iii) "The Permittee shall separately comply, if applicable,…" The Regional Board and third parties in a citizen suit should not be allowed to challenge compliance with these separate state permits through this federal NPDES permit, particularly when the Fact Sheet recognizes that the "state has not been delegated the authority to implement this program." For these reasons, biosolids related items should be pared down or removed from the Permit entirely.	Page F-17 of the Fact Sheet explains: The state has not been delegated the authority to implement this program; therefore, USEPA is the implementing agency. This Order contains sewage sludge/biosolids requirements pursuant to 40 CFR part 503 that are applicable to the Permittee. Pursuant to 40 C.F.R. 122.44(b), an NPDES permit must contain standards for sewage sludge use or disposal. Because the State is not delegated the authority to implement the program, these provisions must be included in the permit. However, the suggested wordings by the Discharger have been added to the paragraph mentioned in the comment.	Inserted the words suggested by the Discharger.
City of Simi Valley	A3-28	Page 20-24, section VI.C.6. It should be made clear that this section on spills only relates to non-sewage spills, since sewage spills are regulated by the State Water Board's Sanitary Sewer Overflow (SSO) WDRs, which discourages Regional Boards from issuing different requirements in NPDES permits. Therefore, the last sentence in section a. should state: "For certain spills, overflows and bypasses, not including sewage spills, the Permittee shall make notifications as required below:" Then all other references to sewage in this section should be removed, as follows: a.i. "unauthorized release of sewage or other waste	This section applies to sewage spills both at the POTW and in the collection system. As stated on page F-19 of the Fact Sheet, the requirements of the SSO WDR are considered the minimum thresholds (see Finding 11 of State Water Board Order No. 2006-0003-DWQ). Although it is the State Water Board's intent that the SSO WDRs be the primary regulatory mechanism for sanitary sewer systems statewide, Regional Water Boards may issue more stringent or more prescriptive WDRs for sanitary sewer systems. As directed by the State Water Board in the SSO	None necessary.

Commenter	#	Comment	Response	Action Taken
		other than sewage" a.ii. – This section is unnecessary and should be removed as it is implemented through the SSO WDR. a.iii. "The Permittee shall notify the Regional Water Board of any unauthorized release or spill at of sewage from its POTW…" a.iii.(3) "An estimate of the amount of sewage or other waste released…" c.i. "As soon as possible, but not later than twenty-four hours after becoming aware of an unauthorized discharge of sewage or other waste…" c.ii. "Submission to the Regional Water Board of the California Integrated Water Quality System (CIWQS) Sanitary Sewer Overflow (SSO) event number shall satisfy this requirement. Within 30 days after submitting the preliminary report, the Permittee shall submit the final written report to this Regional Water Board. (A copy of the final written report, for a given incident, already submitted pursuant to a statewide General WDRs for Wastewater Collection System Agencies (SSO WDR), may be submitted to the Regional Water Board to satisfy this requirement.)…" d. "The Permittee shall develop and maintain a record of all spills, overflows or bypasses of raw or partially treated sewage from its collection system or at its treatment plant or from its operations . Remove section 6.d.viii as unrelated to non-sewage spills.	WDRs, this Order coordinates its requirements with the requirements in the SSO WDRs and provides consistency with reporting. The Order clarifies that the Regional Board will accept documentation prepared by the Permittee under the SSO WDR for compliance purposes as satisfying certain requirements in section VI.C.3.b, VI.C.4, and VI.C.6 provided the more stringent provisions are also addressed. The provisions of this Order superseded those of the SSO WDR for all purposes, including enforcement, to the extent the requirements may be duplicative. The permit makes it clear in Section VI.C.6.c.ii that a "copy of the final written report, for a given incident, already submitted pursuant to a statewide General WDRs for Wastewater Collection System Agencies (SSO WDR), may be submitted to the Regional Water Board to satisfy this requirement." Regardless of the coverage obtained under the SSO WDRs, the Permittee's collection system is part of the POTW that is subject to this NPDES permit. As such, pursuant to federal regulation, the Permittee must properly operate and maintain its collection system (40 C.F.R. § 122.41(e)), report any non-compliance (40 C.F.R. 122.41(l)(6) and (7)), and mitigate any discharge from the collection system in violation of the NPDES permit (40 C.F.R. § 122.41(d)). The Regional Water Board has discretionary authority in enforcement actions and therefore it will choose the appropriate course of action as authorized by the CWA and CWC.	
City of Simi Valley	A3-29	Page 23, section VI.C.6.e. This paragraph about the Water Board's "expectations" should be moved into the findings to avoid it being interpreted as a requirement for coordination.	Stakeholders in the Calleguas Creek Watershed are used to working collaboratively and we would like to encourage continued collaboration to make more efficient use of limited resources. The following has been added prior to this provision to clarify that the expectation is not a requirement of this Order: "Although not required by this Order, …"	None necessary.
City of Simi	A3-30	Page 23-24, F-19, section VI.C.6.f.; Fact Sheet, III.E.5.		

Commenter	#	Comment	Response	Action Taken
Valley		Paragraph 9 of the SSO WDR states: "Both uniform SSO reporting and a centralized statewide electronic database are needed to collect information to allow the State Water Board and Regional Water Quality Control Boards (Regional Water Boards) to effectively analyze the extent of SSOs statewide and their potential impacts on beneficial uses and public health." Paragraph 11 also states that "it is the State Water Board's intent that this Order be the primary regulatory mechanism for sanitary sewer systems statewide." Regional Water Boards would need to include findings of necessity for more stringent or differing requirements than the SSO WDR, supported by substantial evidence. The Los Angeles Regional Board has failed to demonstrate why its region needs more stringent requirements. Therefore, the requirements from other regions should be used in lieu of the proposed section 6. f., as follows: "The Permittee has coverage under, and is separately subject to, the requirements of State Water Board Order No. 2006-003-DWQ, Statewide General WDRs for Sanitary Sewer Systems. As such, the Permittee provides notification and reporting of SSOs in accordance with the requirements of Order No. 2006-003-DWQ and WQ 2008-0002-EXEC and any revisions thereto for the operation of its wastewater collection system." See accord Order No. R2-2013-0042 at 27, section VI.A.5.a.i.; R5-2012-0115 at 29, section VI.C.5.d.	The following language was added to the Fact Sheet to justify the SSO Spill Reporting Requirements: "In the past, the Los Angeles Regional Water Board has experienced loss of recreational use in coastal beaches and in Arroyo Conejo as a result of major sewage spills. The SSO requirements are intended to prevent or minimize impacts to receiving waters as a result of spills." This rationale was included in page F-52 of the Fact Sheet under section VI.B.5.c. Spill Reporting Requirements.	Revisions were made to the permit.
City of Simi Valley	A3-31	Page 18, 25, section VI.C.4.c. and c.; VI.C.6.g There are duplicative requirements related to standby or emergency power. In fact, sections 4.c. and 6.g. are exactly the same: "The Permittee shall provide standby or emergency power facilities and/or storage capacity or other means so that in the event of plant upset or outage due to power failure or	The duplicative requirement on page 24, section VI.C.6.g will be removed since it is already included in a previous section.	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		other cause, discharge of raw or inadequately treated sewage does not occur." The duplicative requirements should be removed and the requirements should be streamlined since this is another state law only requirement.		
City of Simi Valley	A3-32	Page 24, section VI.C.7. The Compliance Schedule section erroneously claims that compliance schedules for TMDL pollutants cannot be included in the permit because these schedules have not been approved under 303(c). Implementation is a state obligation under the Continuing Planning process of CWA section 303(e), which requires EPA approval upon submittal. 33 U.S.C. 1313(e). Further, California possesses adequate compliance schedule authority as discussed elsewhere to justify inclusion of time schedules in the permit. Water Code §13242(b), §13263(c).	Please see response to comment C-1.	None necessary.
City of Simi Valley	A3-33	Page 24-25, section VII.C. The word "violation" in this section should be changed to "exceedance." Violations are only determined after hearing and adequate due process.	The purpose of this provision is to provide assurance to the Permittee that an exceedance of the AMEL for a given parameter over a calendar month will represent a single violation for purposes of assessing penalties, including mandatory minimum penalties. Because penalties are imposed for violations, this language will be retained to provide adequate assurance that multiple penalties will not be assessed.	None necessary.
City of Simi Valley	A3-34	Page A-4, Definitions The definition of "Source of Drinking Water" should read "Any water unconditionally designated…" Due to litigation many years ago, the conditionally designated MUN waters in the Basin Plan are not considered to fall under this definition.	Additional clarification is not necessary since the conditionally designated potential municipal and domestic water supply beneficial use (p*MUN) has already been explained on Fact Sheet page F-12 in section III.C.1 and on page F-13 in Footnote 1.	None necessary.
City of Simi Valley	A3-35	Page D-1, Provision I.A.1.		

Commenter	#	Comment	Response	Action Taken
		As previously stated, the Permit needs to recognize that many of its requirements are based on State law, not the Clean Water Act. Thus, a finding to this effect needs to be included in the Permit, such as those from the North Coast region that state: "Provisions and Requirements Implementing State Law. The provisions/requirements in subsections … of this Order, and sections … of the MRP are included to implement state law only. These provisions/requirements are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are available for NPDES violations." Then, this Provision I.A.1. needs to be modified to say "Any noncompliance may constitute a violation of the Clean Water Act" since not all non-compliance would violate federal law. Further, some non-compliance may be excused (e.g., upset or bypass).	Refer to response to Comment A3-3.	None necessary.
City of Simi Valley	A3-36	Page E-37, MRP X.C.7.b. The phrase "clearly identify violations" should be changed to "clearly identify instances of non-compliance or exceedances of effluent limitations." Violations are only determined after a hearing and due process, and considering any defenses. The last sentence should also be modified to read: "A description of all identified instances of non-compliance should be included in the cover letter, including a discussion of the particular permit requirement at issue."	Suggested language was included in the MRP.	Revisions were made to the permit.
City of Simi Valley	A3-37	Page E-28, MRP, X.E.4. This technical report is just another version of the spill prevention plan, SSMP, and other reports already required. The Regional Water Board should avoid requiring duplicative and overlapping reporting	Section X.E.4 of the MRP requires that the Permittee **file**/submit the technical report to the Regional Water Board prior to having a spill take place. While the SSO only requires that agencies **develop** sanitary sewer management plans (SSMPs) not that	None necessary.

Commenter	#	Comment	Response	Action Taken
		requirements that have not been adequately justified under Water Code section 13267 or section 13225(c).	the plan be submitted, as discussed on page F-52 of the Fact Sheet.	
City of Simi Valley	A3-38	Page F-5 to F-10, Fact Sheet, Table F-2 From the data provided, there does not appear to be reasonable potential for many constituents. A reasonable potential analysis is required for all pollutants, whether conventional, nonconventional, or toxic pollutants (see 40 C.F.R. §122.44(d)(1)(i)), so the Fact Sheet must contain data demonstrating that a reasonable potential analysis was conducted for all pollutants and that only those pollutants with demonstrated reasonable potential have associated effluent limitations. All pollutants without reasonable potential should not have effluent limitations.	Reasonable potential analysis does not have to be done for pollutants with a TMDL, as indicated in section 1.3 Determination of Priority Pollutants Requiring Water Quality-Based Effluent Limitations of the SIP: "The RWQCB shall conduct the analysis in this section for each priority pollutant with an applicable criterion or objective, **excluding priority pollutants for which a Total Maximum Daily Load (TMDL) has been developed** (emphasis added), to determine if a water quality-based effluent limitation is required in the discharger's permit." Reasonable potential does not have to be conducted for technology-based limits either.	None necessary.
City of Simi Valley	A3-39	Page F-16, Fact Sheet, III.C.5. There are no promulgated TBELs for oil and grease, settleable solids, pH, and turbidity so the statement in the first paragraph is legally inaccurate. There are TBELs for BOD, TSS, and percent removal contained in the secondary treatment regulations at 40 C.F.R. Part 133, but those are not being used in this permit. The permit includes more stringent water quality based effluent limitations for these constituents and yet fails to address the holding in the case of City of Burbank v. State Water Resources Control Board, 35 Cal. 4th 613 (2005). Although the permit contains limits "more stringent than the minimum," and the Fact Sheet at F-22 states that the "Regional Water Board has considered the factors specified in CWC section 13241," such an analysis was not evident. Without express findings supported by evidence in the record, the findings are legally insufficient. C.C.P. §1094.5(c); 40 C.F.R. §124.8(b)(4); Topanga Association for a Scenic Community v. County of Los	The limits imposed in the WDR/NPDES permit are required in order to protect the beneficial uses designated in the Basin Plan for the given waterbodies. They are not more stringent than federal law requires, insofar as federal law requires protection of beneficial uses. Clean Water Act section 301(b)(1)(C) requires permits to contain "any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations. . . ." (33 U.S.C. § 1311(b)(1)(C). The statement in the Order that "Collectively, this Order's restrictions on individual pollutants are no more stringent than required to implement the requirements of the CWA," is accurate. To the extent that this permit includes terms or provisions that are authorized or required by state rather than federal authority, the Regional Water Board considered the factors specified in Water Code section 13241. Additional information has been provided in the Fact Sheet regarding the Board's consideration	None necessary.

Commenter	#	Comment	Response	Action Taken
		Angeles, 11 Cal.3d 506, 515 (1974); California Edison v. SWRCB, 116 Cal. App. 751, 761 (4th Dt. 1981); see also In the Matter of the Petition of City and County of San Francisco, et al., State Board Order No. WQ-95-4 at 10 (Sept. 21, 1995). This section should recognize the other numerous effluent limitations more stringent than required by federal law, including numeric limits (40 C.F.R. §122.44(d) and (k)(3); Communities for a Better Environment v. State Water Resources Control Board (2003) 109 Cal. App. 4th 1089, 1104-5; In the Matter of the Petition of Citizens for a Better Environment, Save San Francisco Bay Association, and Santa Clara Valley Audubon Society, Order No. WQ 91-03, May 16, 1991), mass in addition to concentration-based limits (40 C.F.R. §122.45(f)(ii)), daily maximum limits without adequate impracticability analysis (40 C.F.R. §122.45(d)(2)), and tertiary treatment requirements (40 C.F.R. Part 133). Since this paragraph is legally and factually flawed, it and its conclusion that "Collectively, this Order's restrictions on individual pollutants are no more stringent than required to implement the requirements of the CWA" should be removed or corrected prior to adoption of the final permit.	of these conditions. Refer to response to Comment A3-7.	
City of Simi Valley	A3-40	Page F-17, Fact Sheet, III.C.9. As previously stated, state Water Rights provisions are not appropriate for inclusion in a federally enforceable NPDES permit. Water Code 1211 applies to all discharges whether or not that code section is mentioned here. Therefore, this provision needs to be removed from the Permit.	Refer to response to comment A3-14. This provision has been removed from the Order, but remains in the Fact Sheet.	Deleted finding from WDR but retained in the Fact Sheet.
City of Simi Valley	A3-41	Page F-19, Fact Sheet, III.E.2. Nowhere in the Basin Plan are MCLs applied to the Groundwater Recharge (GWR) use. Application of MCLs end of pipe is ultra vires and more stringent than	Clean Water Act section 301(b)(1)(C) states that permits must contain "any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or	None necessary.

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		necessary to protect groundwater since there is dilution, dissipation, and adsorption of pollutants in the surface water and underground soils and aquifer. Further, there is no evidence whatsoever to indicate that Hill Canyon WWTP's discharge contains "substances in concentrations that cause nuisance or adversely affect beneficial uses." Without that evidence, it is beyond the Regional Board's authority to impose MCLs on any use besides a surface water MUN use.	schedules of compliance, established pursuant to any State law or regulations. . . ." (33 U.S.C. § 1311(b)(1)(C), [emphasis added].) The final effluent limits are necessary to meet water quality standards and serve to protect the designated beneficial uses. Table F-4 on page F-14 of the Fact Sheet lists all of the beneficial uses of the receiving waters, among which GWR is included. The issue of using MCLs as the basis for establishing final effluent limitations in an NPDES permit, to protect the GWR beneficial use of surface waters and the MUN beneficial use of the groundwater basins, has been addressed by the State Board in its WQO No. 2003-0009, in the *Matter of the Petitions of County Sanitation District No. 2 of Los Angeles and Bill Robinson for Review of Waste Discharge Requirements Order No. R4-2002-0142 and Time Schedule Order No. R4-2002-0143 for the Whittier Narrows Water Reclamation Plant*. The Regional Board is legally required to include any effluent limitations in the permit that are necessary to protect the GWR use of surface waters. The groundwater recharge (GWR) beneficial use is premised on a hydrologic connection between surface waters and groundwater, where the groundwater in this case is designated with an existing MUN beneficial use. Since there are no criteria or objectives specific to the GWR beneficial use, the Los Angeles Regional Water Board's Basin Plan, staff based effluent limitations for the GWR use on the groundwater MUN objectives. By doing so, the Regional Water Board ensures that the use of surface waters to recharge groundwater used as an existing drinking water source is protected. The fact that there are no criteria or objectives specific to the GWR beneficial use does not deprive the Regional Water Board the ability to protect the use. The CWA contemplates enforcement of both beneficial uses as well as criteria in state water quality standards. In California, an NPDES permit also serves as waste discharge requirements under state law. The Permittee has not submitted necessary data and studies for the Regional Board to give credit for dilution and attenuation in the underlying groundwater in establishing the effluent	

Commenter	#	Comment	Response	Action Taken
			limitations. The Regional Board would consider such information if submitted.	
City of Simi Valley	A3-42	Page F-24 to F-33, Fact Sheet, IV.C. Many of the justifications for effluent limitations state that there are no backsliding exceptions, which ignores that each of these plants has been upgraded since the last permit (see Fact Sheet, II.E), which qualifies as an exception to the general rule against backsliding along with lack of reasonable potential. 33 U.S.C. §1342(o)(2)(A) or (B).	Regional Water Board staff did not ignore the fact that the POTW underwent the nitrification/denitrification (NDN) upgrade or the chloramination process change. However, those upgrades were not designed to remove all pollutants from the effluent. NDN was intended to convert ammonia N to nitrate and nitrite nitrogen and then reduce inorganic nitrogen concentrations present in the effluent. The chloramination process change was intended to reduce the formation of disinfection byproducts such as total trihalomethanes (bromoform, bromodichloromethane, chloroform, and chlorodibromomethane). Moreover, backsliding considerations were evaluated one parameter at a time. The Commenter has not identified the parameters for which the plant upgrades or new information would justify relaxation of effluent limitations.	None necessary.
City of Simi Valley	A3-43	Page F-33-F-34, Fact Sheet, IV.C.3. The section on "Determining the Need for WQBELs" erroneously states that where there was a TMDL, "effluent limitations… were established regardless of whether or not there is reasonable potential…" This finding is contrary to the federal regulations requiring a reasonable potential analysis to determine if limits are necessary. 40 C.F.R. §122.44(d)(1)(i) and (iii). Only after reasonable potential is determined do you reach the portion of this section requiring that "when developing water quality based effluent limits under this paragraph the permitting authority shall ensure that: (B) Effluent limits … are consistent with the assumptions and requirements of any available wasteload allocation…" The Regional Board's interpretation that TMDL-based limits are automatic whether or not the pollutants are detected or have RP is not logicial and is unsupported by the plain language of the regulations. Furthermore, the SIP does not provide	The section is not erroneous as it is consistent with the SIP, the Clean Water Act, and federal regulations. Limits based on WLAs will be included in the NPDES independent of reasonable potential analysis, since section 1.3 of the SIP allows it: "The RWQCB shall conduct the analysis in this section for each priority pollutant with an applicable criterion or objective, excluding priority pollutants for which a Total Maximum Daily Load (TMDL) has been developed to determine if a water quality-based effluent limitation is required in the discharger's permit." Refer to response to comment A2-8.	None necessary.

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		automatic RP, it merely states that the SIP RPA does not apply – the federal RPA does.		
City of Simi Valley	A3-44	Page F-46 – F-49, Fact Sheet, Table F-8 The fact that an effluent limitation is existing is not adequate authority for maintaining that limit. A new reasonable potential analysis must be run to justify inclusion of the effluent limitations. 40 C.F.R. §122.44(d)(1)(i) and (iii).	According to Chapter 7 of the USEPA NPDES Permit Writers' Manual (EPA-833-K-10-001, September 2010), "the permit writer must determine the final effluent limitations that will be included in the National Pollutant Discharge Elimination System (NPDES) permit for each pollutant or pollutant parameter. For reissued permits, that determination must also include an assessment of whether the revised effluent limitations are consistent with the Clean Water Act (CWA) requirements and NPDES regulations related to anti-backsliding." Existing effluent limitations were retained where none of the anti-backsliding exceptions applied.	None necessary.
City of Simi Valley	A3-45	Page F-49- F-50, V.B. The Basin Plan provides no authority for imposing MCLs as end-of-pipe effluent limitations to protect a Groundwater Recharge (GWR) use, which is not a use mandated by the Clean Water Act. If the Regional Board would like to apply MCLs to this use, in addition to the MUN use, then a Basin Plan amendment or new implementation plan under Water Code section 13242 is required to provide the proper legal authority to do so.	Please refer to response to Comment A3-41.	None necessary.
Comments received from the California Association of Sanitation Agencies (CASA) on April 14, 2014				
CASA	1	**The Proposed Effluent Limitations are Not Consistent with the Toxicity TMDL** Federal regulations require that effluent limitations "be consistent with" adopted TMDLs. In citing guidance as the justification for the limitations, the Fact Sheet for the tentative order ignores the language of the Basin Plan Amendment incorporating the TMDL for Toxicity, which	See Response to Comment C-4.	None necessary.

Commenter	#	Comment	Response	Action Taken
		states that the WLAs are to be “implemented as a trigger” for initiation of the toxicity identification evaluation/toxicity reduction evaluation (TIE/TRE) process.” 1 The adopted resolutions and policies at the time of this Permit issuance all mandate narrative effluent limitations for chronic toxicity and a trigger for initiation of the TIE/TRE process. These cannot be overruled by EPA guidance in determining an effluent limitation. As cited in the City’s comments, the current policy in effect for toxicity effluent limitations specifies inclusion of narrative effluent limitations with triggers for initiation of TIE/TRE procedures. This policy has been established in no less than three precedential orders and in the 2003 permit for Hill Canyon. The 2003 permit adopted by the regional board contained numeric effluent limitations for chronic toxicity. In 2004, these permits were amended to replace the numeric chronic toxicity limits with narrative limits to be consistent with the precedential State Water Board Order WQO 2003-0012. The State Water Board order recognized that the applicability of final numeric effluent limitations in permits for wastewater treatment plants discharging to inland waters, bays and estuaries is an issue of statewide importance that should be addressed in the statewide implementation plan (SIP). The State Water Board has been developing revised toxicity provisions for inclusion in a statewide water quality control plan through a public process, and release of a revised draft is expected soon for public comment. A main driver for this plan is to replace the current patchwork of regional water board practices with a consistent and standardized approach to toxicity. The precise relationship of the plan requirements to waters where a toxicity TMDL is in place is not yet determined. However, at a minimum the permits must implement the adopted TMDL. If the final statewide plan establishes new or different requirements applicable to the Calleguas watershed, the TMDL can be reopened and the effluent limitations revised as appropriate.		

Commenter	#	Comment	Response	Action Taken
CASA	2	**The Test of Significant Toxicity is not an Approved Method** The permit requires the use of the test of significant toxicity (TST) test method is also inconsistent with existing policies and regulations. The Regional Water Board lacks authority to impose the TST until that method has been promulgated as an approved method under Part 136. The proposed Monitoring and Reporting Program for the tentative order provides that, for specific constituents (i.e., PCBs, MRP at E.IV.3.), analytical results obtained by running a nonpromulgated method will not be used for compliance determination purposes, since that method has not been incorporated in 40 CFR part 136.	Regional Board staff disagrees. In 2014, in response to a request by the State Water Board, USEPA Region IX determined that the TST is an acceptable equivalent under the ATP process, in lieu of the NOEC-LOEC hypothesis testing approach, recommended in 40 CFR 136.5. It is available for use in California's NPDES permits and complies with 40 CFR 136.3 and 136.5. See Response to Comment C-4.	None necessary.
CASA	3	**Narrative Effluent Limitations for Toxicity Are Protective of Beneficial Uses** Toxicity is not a pollutant, but an effect. Toxicity tests are diagnostic tools designed to identify toxicity and allow a discharger to investigate and, in the best case, ultimately identify the toxicant. The current approach of using narrative effluent limits with prescriptive accelerated monitoring and toxicity reduction evaluation (TRE) triggers has been effectively utilized in California for over a decade, including in the Los Angeles region. The USEPA Technical Support Document (TSD) recommends that a discharger conduct a toxicity identification evaluation (TIE) in response to whole effluent toxicity test failures and that chemical-specific limits on the identified constituent be applied along with continued toxicity monitoring. The TSD further recommends that if toxicity is observed subsequently, this process should be repeated. According to USEPA Region 9 and 10 WET guidance, "the principal mechanism for bringing a discharger into compliance with a water quality-based WET requirement is a toxicity reduction evaluation."2	The Toxicity TMDL for the Calleguas Watershed establishes a water column toxicity target of 1.0 TUc to address toxicity in reaches where the toxicant has not been identified through a TIE. The TMDL establishes a WLA of 1.0 TUc for POTWs in the watershed. The 1.0 TUc WLA is protective of the aquatic life beneficial use and implements the narrative standard for toxicity in the Basin Plan. The narrative effluent limits with accelerated monitoring and toxicity reduction evaluation triggers that have been used in NPDES permits in this Region have not adequately addressed the impairment in significant portions of the Calleguas Creek watershed from toxicity. The narrative approach is an oversight-driven model that essentially requires the Regional Water Board to manage dischargers' efforts to reduce and control toxicity. USEPA has criticized this type of permitting approach, in part because it authorizes the discharge of toxic effluent as long as the discharger follows a series of steps following the occurrence. Numeric WQBELs for toxicity not only prompt proactive efforts by dischargers to comply with the effluent	None necessary.

Commenter	#	Comment	Response	Action Taken
			limits, but are clear to the discharger, the permitting authority, and the public. USEPA and this Regional Water Board have found that numeric effluent limitations are the most effective and efficient regulatory tool under the Clean Water Act to protect water quality standards because the measurement of compliance is clearly defined. The Toxicity TMDL grants the Regional Water Board flexibility to determine the appropriate method to implement the WLAs based on USEPA, State Board, and Regional Board resolutions, guidance, and policy at the time of permit issuance. While the Regional Water Board agrees that one step to achieving compliance with a water quality-based WET requirement can be a toxicity reduction evaluation to identify the constituents of concern, on its own, it is not enough to satisfy federal regulatory requirements. This Order requires numeric chronic toxicity WQBELS and the TIE/TRE process if the numeric effluent limit is exceeded.	
Comments received from the Heal the Bay on April 14, 2014				
Heal the Bay	1	Heal the Bay has long advocated for the development and implementation of the State Water Resources Control Board toxicity policy. Although the statewide toxicity policy has yet to be adopted, the Regional Board's inclusion of numeric water quality based effluent limits for chronic toxicity in the Permits is a necessary step to protect coastal waters and comply with the Calleguas Creek Toxicity TMDL. We support the Regional Board's inclusion of chronic toxicity effluent limits in the Permits as it is critical for NPDES permittees to ensure that their discharge does not have toxic impacts. Furthermore, we support the inclusion of the Test of Significant Toxicity ("TST") approach in the Permits. The TST method is superior to previous WET methods as it is a more powerful statistical approach resulting in greater confidence for WET conclusions.	We thank the Heal the Bay for their comments in support of the tentative permit.	None necessary.

Commenter	#	Comment	Response	Action Taken
Comments received from the United States Environmental Protection Agency (USEPA) on April 14, 2014				
USEPA	1	**Chronic Toxicity** EPA strongly supports the proposed numeric WQBELs for chronic toxicity, which implement the numeric toxicity wasteload allocations (WLAs) for chronic toxicity in the EPA-approved Calleguas Creek watershed toxicity TMDL .	We thank the USEPA for their comments in support of the tentative permit.	None necessary
USEPA	2	**Permit Compliance Schedules** We support the proposed final WQBELs implementing EPA-approved TMDL WLAs for non-California Toxics Rule constituents. For these pollutants, where compliance schedule authority can be exercised by the Regional Water Boards in accordance with 40 CFR 122.47 and the 2008 Compliance Schedule Policy, the permit fact sheets evidence that all applicable regulatory requirements to receive a compliance schedule in an NPDES permit have not been meet. Therefore, based on this documentation, we agree that permit compliance schedules are not appropriate. In this light, the Simi permit (page 8, final paragraph, re. chloride) and Camarillo permit (page F-55, first paragraph, re. TDS, chloride, and sulfate) should be corrected to state that the permits do not incorporate compliance schedules because the applicable regulatory requirements are not met.	We thank the USEPA for their comments in support of the tentative permit. The paragraph was revised to include the suggested changes.	None necessary Revisions were made to the permit.
USEPA	3	**Effluent Monitoring** To further facilitate TMDL implementation for PCBs, mercury, and salts, we recommend the following revisions to the permit monitoring and reporting programs. Following the Simi permit, we recommend adding effluent monitoring for PCB congeners using draft EPA method 1668c to the Thousand Oaks and Camarillo permits. Also, please ensure that all three permits require EPA method 1631E for mercury effluent compliance monitoring (40	The mercury effluent monitoring on page E-9 of the MRP, footnote no. 9 was revised to include the EPA method 1631E.	Revisions were made to the permit.

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		CFR 136). Lastly, we recommend explicitly requiring monthly dry and wet effluent monitoring for salts WQBELs, as this is necessary for evaluating the TMDL.	New Table E-4 – Salts Monitoring and Reporting Requirement was added in the MRP on page E-12.	