

Response to Comments

City of Los Angeles
Hyperion Treatment Plant (HTP)
Waste Discharge Requirements and 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 Los Angeles on September 29, 2016.				
City of Los Angeles	1	<p>Tentative Order, Section IV.A, Page 6</p> <p>LASAN requests that the less stringent Performance Goals (PG) from the 2010 Permit be retained.</p> <p>The tentative permit requires that “<i>Permittee shall maintain, if not improve, the effluent quality at or below the performance goal concentrations. Any exceedance of the performance goals shall trigger an investigation into the cause of the exceedance.</i>”</p> <p>The tentative permit has significant changes in many of the PGs (orders of magnitude in some cases) that are more stringent than the 2010 Permit. For example, PG for mercury went down from 0.02 ug/l to 0.009 ug/l; lead from 10 ug/l to 0.91 ug/l; Gross Beta from 27.5 pCi/L to 11 pCi/L, etc. The adverse effect of the more stringent PGs is that it will trigger more unnecessary investigations. By the way PG is calculated, there</p>	<p>Section III.F.1. of the 2015 Ocean Plan allows for the Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) to establish more restrictive water quality objectives and effluent limitations than those set forth in the Ocean Plan, as necessary for the protection of the beneficial uses of the ocean waters. This approach is consistent with federal and state antidegradation policies (State Water Resources Control Board Resolution 68-16 and 40 CFR 131.12) in that it requires the discharger to maintain its level of treatment and effluent quality, recognizing normal variations in treatment efficiency and sampling and analytical techniques. The Performance Goals and Mass Emission Benchmarks are based on performance and are calculated using the 95th percentile of the final effluent monitoring data from 2010 through 2015. Performance Goals and Mass Emission Benchmarks are not enforceable final effluent limitations and are designed to encourage consistent treatment</p>	Revisions were made to the permit.

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		<p>is always a built-in 5% chance that the PG will be exceeded, especially if the PGs are already low, such as the case for the pollutants above. As a result, the tentative permit will add more burdensome requirements that appear to be unnecessary, unreasonable and counterproductive instead of rewarding the plant for making great strides in reducing the pollutant concentrations. This will likely force LASAN to perform additional investigation, monitoring, sampling and analysis, and reporting. LASAN requests to retain the PGs of the constituents for mercury, lead, Gross Beta.</p>	<p>performance and to maintain treatment efficiency since the Ocean Plan allows for significant dilution.</p> <p>The method for calculating Performance Goals was modified from the 2010 Order to be more consistent with other ocean outfall permits adopted by this Regional Water Board. The modified procedure encourages achievement of lower Method Detection Limits (MDLs) and increased performance by assigning a Performance Goal of either the Maximum Effluent Concentration (MEC) or five times the Minimum Level (ML) in the Ocean Plan (whichever is less), for pollutants that have not been detected in greater than 80% of the available data for a specific pollutant. The 2010 Order uses five times the MDL, which is often lower than the ML in the Ocean Plan. Assigning these non-detected pollutants Performance Goals of five times the ML prevents the Performance Goals from becoming more stringent as the laboratory pursues MDLs lower than the MLs in the 2015 Ocean Plan.</p> <p>Although the modified procedure may decrease the Performance Goals for some pollutants that are consistently detected in the final effluent, the modified procedure increases the Performance Goals and Mass Emission Benchmarks for pollutants that are consistently not detected in the final effluent. For pollutants that are consistently detected in the final effluent and have decreased in concentration during the past</p>	

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			<p>permit cycle, the modified procedure also makes the Performance Goals and Mass Emission Benchmarks more stringent.</p> <p>The Regional Water Board staff checked the Performance Goal calculations and corrected the Performance Goals noted below:</p> <p><u>Lead:</u> Since >20% of the data points for lead were not detected, the Performance Goal should be five times the ML or 2.5 µg/L. Since 2.5 µg/L is less than the MEC of 7.60 µg/L, the Performance Goal for lead was modified to 2.5 µg/L and the corresponding Mass Emission Benchmark was modified to 1.45 MT/yr. Modifications were made to Tables 5, 7, F-2, and F-11.</p> <p><u>Gross beta radioactivity:</u> The MEC for gross beta radioactivity is 14.1 pCi/L, not 11 pCi/L. Modifications were made to Tables 5, F-2, and F-11.</p> <p>Since Performance Goals and Mass Emission Benchmarks are intended to minimize pollutant loading while maintaining the incentive for future voluntary improvement of water quality whenever feasible, it is appropriate to use the 95th percentile as a basis for their calculation. The Regional Water Board and USEPA staff understand that there could be spikes in pollutant concentrations above the 95th percentile that may not indicate a consistent reduction in water quality. In an effort to reduce</p>	

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			unnecessary investigations as a result of a single exceedance of a Performance Goal, section IV.A. of the Tentative Order and section VI of the Fact Sheet have been modified to require an investigation after two consecutive exceedances of the Performance Goals. This modification will ensure that an investigation will only be required if a pollutant consistently exceeds its Performance Goal while encouraging continued performance below the water quality objectives.	
City of Los Angeles	2	<p>Tentative Order, Section IV.A.1, Page 8, Table 5, Footnote 7; Section IV.A.2, Page 13, Table 6, Footnote 15</p> <p>LASAN requests to remove "% Effect" as reportable units since there is no limitation given for "% Effect".</p>	<p>Effluent Limitation Compliance reporting is not expressed in terms of percent effect. However, the percent effect is required to be reported in the monitoring and reporting program because it provides useful information on the magnitude of toxicity in the water being tested. As a result, percent effect is removed from the unit column in the final effluent limitations Tables 5 and 6, but retained in footnotes 7 and 15 of the Tentative Order.</p> <p>In addition, the percent effect is required to assess the most sensitive species during a screening. The organism that exhibits the highest percent effect is the most sensitive.</p> <p>Since the percent effect is an important tool in assessing the magnitude of toxicity and the most sensitive species, the percent effect must be reported.</p>	Revisions were made to the permit.
City of Los Angeles	3	<p>Tentative Order, Page 8, Footnote 6</p> <p>LASAN requests to correct the link.</p>	Staff Agrees.	Revisions were made to the

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		<p>Delete the incorrect link: http://water.epa.gov/polwaste/npdes/basics/upload/wet_final_tst_implementation2010.pdf and replace with the one below: https://www3.epa.gov/npdes/pubs/wet_final_tst_implementation2010.pdf).</p>		permit.
City of Los Angeles	4	<p>Tentative Order, Section IV.A., Page 8, Table 5</p> <p>The tentative permit significantly changed the requirement for ammonia (as nitrogen) for the 5-mile outfall from a performance goal to an enforceable effluent limit. LASAN requests to remove the effluent limit for “Ammonia as Nitrogen” and instead retain the performance goal. Recommended performance goal is 47.5 mg/l.</p> <p>Historically, the Hyperion Treatment Plant (HTP) has had a performance goal for ammonia for its 5-Mile Outfall. Performance goal is not considered enforceable effluent limitations or standards for the plant. It is specified only as an indication of the treatment efficiency of the plant. This tentative permit, however, is requiring an enforceable ammonia effluent limit for the 5-Mile Outfall.</p> <p>Enforcing an ammonia limit in the HTP permit is not warranted. Ammonia has no reasonable potential to cause or contribute to an exceedance of a water quality standard and therefore effluent limit is not required. According to the tentative permit, water quality-based effluent limitation</p>	<p>The final effluent limitations for ammonia at Discharge Point 002 (5-Mile Outfall) were included in the Tentative Order based on acute toxicity monitoring data during the previous permit term. There were seven acute toxicity water quality-based effluent limitation exceedances between 2010 and 2015, and the two TIE/TRE studies conducted concluded that ammonia contributed to the acute toxicity in Hyperion’s final effluent. In addition to comparing pollutant concentrations to the water quality objectives, the 2015 Ocean Plan specifies that all available information may be used to determine if a water quality based effluent limitation is required. Specifically, Step 13 of Appendix VI of the 2015 Ocean Plan states:</p> <p><i>Review all available information to determine if a water quality-based effluent limitation is required, notwithstanding the above analysis in Steps 1 through 12, to protect beneficial uses. Information that may be used includes: the facility type, the discharge type, solids loading analysis, lack of dilution, history of compliance problems, potential toxic impact</i></p>	Revisions were made to the permit

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		<p>(WQBELs) are required in the permit for pollutants which are causing or have the potential to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives or criteria within a standard. Based on the Reasonable Potential Analysis (RPA) procedure contained in Appendix VI of the 2015 California Ocean Plan (COP), ammonia has no reasonable potential to exceed the water quality objective in the 2015 COP. Nevertheless, the Regional Water Board (Regional Board), contrary to the recommendation of 2015 COP, is proposing an effluent limit in this tentative permit.</p> <p>According to the tentative permit, the Regional Board is proposing a new ammonia effluent limit “to further limit toxicity”. The rationale was based upon the results of the Toxicity Reduction Evaluation/Toxicity Identification Evaluation (TRE/TIE) that indicated ammonia may have been one of the pollutant sources that contributed to the acute toxicity exceedances in 2012 and 2014 samples. However, acute toxicity test was removed in the tentative permit and will not be used to measure toxicity in the effluent. Chronic toxicity test, which is a more stringent requirement than acute toxicity, was retained in the tentative permit to measure toxicity in the effluent. According to the tentative permit, chronic toxicity final effluent limitation is protective of both the numeric acute and chronic toxicity 2015 Ocean Plan Water Quality Objectives. Therefore, there is no justification or reason for an ammonia effluent limit for the 5-Mile Outfall based on acute toxicity.</p>	<p><i>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.</i></p> <p>Using the aforementioned step in the RPA procedure in the 2015 Ocean Plan, staff determined that ammonia from Discharge Point 002 has reasonable potential based on:</p> <ol style="list-style-type: none"> 1) Consistent presence of ammonia in increasing concentrations in the final effluent; 2) Ammonia concentrations in the final effluent approaching the water quality objective; 3) TIE/TRE study results that implicate ammonia contributed to the acute toxicity in the HTP effluent. <p>Final effluent limitations for ammonia are therefore appropriate and consistent with the 2015 Ocean Plan.</p> <p>The final effluent limitations for ammonia were calculated based on the water quality objectives in the 2015 Ocean Plan and the updated dilution ratio of 96:1. The dilution ratio was performed using current water quality data and is appropriate for Discharge Point 002 for ammonia based on the updated dilution study performed in 2015. Section II.A.1 of the 2015</p>	

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		<p>Furthermore, the tentative permit is proposing an ammonia effluent limit of 58 mg/l. Hyperion will have difficulty meeting the proposed limit in the future. Sewer flow rates have decreased over the last 10 years, resulting in increased ammonia concentrations in both the influent to and effluent from HTP. This is reflected in the upward trend of the performance goal for ammonia from 36.3 mg/l (2005 permit) to 44.1 mg/l (2010 permit). HTP's effluent now averages 47 mg/l of ammonia in exceedance of the current performance goal. A main reason for the increasing ammonia concentrations is the successful implementation of water conservation efforts throughout the region. Persistent drought conditions are also contributing to higher ammonia levels in the sewer system. In addition, planned diversions of other upstream flows in the Hyperion Service Area of up to 30 mgd – from Donald C. Tillman Water Reclamation Plant, Los Angeles/Glendale Water Reclamation Plant, and the Burbank Water Reclamation Plant – for recycled water production will further increase ammonia concentrations. With these factors in effect, we expect Hyperion will have difficulty meeting the proposed effluent limit of 58 mg/l in the near future.</p>	<p>Ocean Plan states that the water quality objectives in the Ocean Plan ensure the reasonable protection of the beneficial uses of ocean waters and the prevention of nuisance. The Ocean Plan includes a 6-month median, a daily maximum, and an instantaneous maximum water quality objective for ammonia. Since the Ocean Plan does not include an average monthly water quality objective for ammonia, an average monthly final effluent limitation is not required in the permit to ensure that the beneficial uses of the Santa Monica Bay are reasonably protected. Consistent with the 2015 Ocean Plan, 6-Month median, daily maximum, and instantaneous maximum final effluent limitations for ammonia will provide reasonable protection to the beneficial uses of the Santa Monica Bay. As a result, the average monthly final effluent limitation for ammonia in the Tentative Order was changed to a 6-month median final effluent limitation. This modification may also reduce the impact water conservation has on Hyperion's ability to meet the ammonia final effluent limitations because water conservation is most severe during the dry season.</p> <p>Although final effluent limitations for ammonia remain in the Revised Tentative Order, an additional reopener has been included to give the Permittee the option of conducting a study if future conservation efforts and recycling projects continue to increase the ammonia concentrations. The purpose of the study would</p>	

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			<p>be to 1) determine the source of the increase in ammonia concentrations, 2) determine the fate and transport of the ammonia after it is discharged into the Santa Monica Bay, and 3) to determine the impacts to the beneficial uses. The following reopener was included in Section VII. C.1 of the Tentative Order:</p> <p><i>The Regional Water Board and USEPA will reconsider the ammonia limits and may reopen the Order if the Permittee has demonstrated that conservation efforts and recycling projects have caused an increase in the ammonia concentration, the plant is optimized with respect to ammonia control, and the Permittee provides justification that the proposed modification will not impact the beneficial uses of the receiving water.</i></p>	
City of Los Angeles	5	<p>Tentative Order, Section IV.A, Page 10, Table 5</p> <p>LASAN requests that the effluent limit for chlordane be removed.</p> <p>The Regional Water Board rationale in retaining the effluent limit for chlordane is by following the guidance from the 2015 COP, which states that <i>“For constituents that have an insufficient number of monitoring data or a substantial number of non-detected data with a reporting limit higher than the respective water quality objective, the RPA result is likely to be inconclusive”</i>. Following the suggestion of the 2015 COP, existing effluent limitation for chlordane is retained in the tentative permit.</p>	<p>The Regional Water Board and USEPA understand that the lowest detection limits achievable for chlordane analyses are greater than the water quality objectives in the Ocean Plan for chlordane. It is also clear from the City of Los Angeles, Bureau of Sanitation’s (LASAN’s) monitoring data for Hyperion that the laboratory consistently achieves lower analytical detection limits than the corresponding Minimum Level in the Ocean Plan for the most sensitive method in 40 CFR 136 for chlordane. The Regional Water Board and USEPA commend LASAN for achieving these low detection limits and encourage further efforts to lower the detection limits below the water quality objective.</p>	Revisions were made to the permit.

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		<p>However, chlordane has not been detected for more than 20 years (since 1990s). LASAN believes that this is conclusive evidence that chlordane has no reasonable potential to exceed water quality objectives. The existing chlordane limit has been carried-over since the 1994 NPDES permit, which is over 22 years ago, and has no practical use other than being a legacy limit that the Regional Water Board cautiously has not yet removed.</p> <p>Furthermore, LASAN strives for lower analytical detection levels than those specified in Appendix II of the 2015 Ocean Plan. Currently, the City's detection limit for chlordane is at 0.001 to 0.002 ug/l, which is 100 times lower than the minimum level specified in Appendix II of the 2015 COP, which is at 0.1 ug/l. Although the City's MDL/MRL is still higher than the water quality objective for chlordane, which is very low at 0.000023 ug/l, there is no other 40 CFR136 methods that can produce a MDL/ML lower than the City's current EPA Method 608.</p>	<p>A final effluent limitation for chlordane has historically been carried over because the MDL exceeds the water quality objective even though chlordane has not been detected in the final effluent for 20 years. The final effluent limitation has been carried over in the Tentative Order consistent with the RPA procedure in Appendix VI of the 2015 Ocean Plan. Endpoint 3 of Appendix VI of the 2015 Ocean Plan states that an existing effluent limitation for the pollutant shall remain in the permit for an inconclusive RPA such as is the case with chlordane; however, there is additional language that indicates the feasibility of removing limits based on inconclusive results. The excerpt from the 2015 Ocean Plan specifically states:</p> <p><i>Endpoint 3: The RPA is inconclusive. Monitoring for the pollutant or whole effluent toxicity testing, consistent with the monitoring frequency in Appendix II, is required. An existing effluent limitation for the pollutant shall remain in the permit, otherwise the permit shall include a reopener clause to allow for subsequent modification of the permit to include an effluent limitation if the monitoring establishes that the discharge causes, has the reasonable potential to cause, or contributes to an excursion above a Table 1 water quality objective.</i></p> <p>The Tentative Order includes such a reopener</p>	

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			<p>clause in section VII.C.1.a. stating:</p> <p><i>This Order/Permit may be reopened and modified to incorporate new limits based on future reasonable potential analyses to be conducted based on on-going monitoring data collected by the Permittee and evaluated by the Regional Water Board and USEPA.</i></p> <p>Since (1) the permit includes a reopener to incorporate a new limit based on reasonable potential, (2) chlordane has consistently not been detected in the final effluent, and (3) LASAN has made an effort to achieve lower detection limits than are required in the 2015 Ocean Plan, the Regional Water Board and USEPA staff find it appropriate to remove the final effluent limitations for chlordane.</p> <p>To encourage consistent performance in the absence of the final effluent limitations for chlordane, chlordane was assigned a Performance Goal and Mass Emission Benchmark. These values are based on the water quality objective in the 2015 Ocean Plan and are 0.002 micrograms per liter (µg/L) and 0.0011 metric tons per year (MT/yr), respectively.</p> <p>Removing the final effluent limitations for chlordane is consistent with the antidegradation policy because chlordane has not been detected in the final effluent for 20 years and is not likely</p>	

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			to cause or contribute to an exceedance of the applicable water quality objectives. This is also consistent with the anti-backsliding policy because the Tentative Order also includes a Performance Goal and Mass Emission Benchmark for chlordane to encourage consistent performance; therefore the removal of the final effluent limitations for chlordane will not authorize a change in the mass emission rates or a relaxation in the treatment of the discharge and meets the backsliding exception under CWA section 402(o)(1)/303(d)(4)(B).	
City of Los Angeles	6	<p>Tentative Order, Section IV.A, Page 10, Table 5</p> <p>LASAN recommends correcting the effluent limit for DDT. Effluent limit for DDT should be changed from 0.010 ug/l to 0.00238 ug/l.</p>	<p>Since the Santa Monica Bay is impaired for DDT in fish tissue and sediment, the final effluent limitations for DDT are based on the Waste Load Allocations (WLAs) for the Hyperion Treatment Plant in the <i>Santa Monica Bay Total Maximum Daily Load (TMDL) for DDTs and PCBs</i>. The TMDL identifies WLAs for the attainment of water quality and sediment concentrations that would allow for safe human fish consumption. The Tentative Order translates the concentration-based WLA of 0.0101 µg/L to an average monthly concentration-based final effluent limitation and the mass-based WLA of 5,850 g/yr to an annual average mass-based final effluent limitation. Since the final effluent limitations are based on the TMDL WLAs, no revision to the final effluent limitation is necessary.</p> <p>To provide additional clarity on the calculation methodology for annual effluent limitations for DDTs and PCBs consistent with the TMDL,</p>	Revisions were made to the permit.

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			footnotes were added to Tables 5 and 6, respectively.	
City of Los Angeles	7	<p>Tentative Order, Page 11, IV.A.1., Table 5</p> <p>LASAN also recommends affixing Footnote 8 on the term “Total PCBs” found in the Effluent Limitations (which references Attachment A – Definitions.)</p>	Staff agrees.	Revisions were made to the permit.
City of Los Angeles	8	<p>Tentative Order, Section IV.A, Page 11, Table 5</p> <p>LASAN requests that the effluent limit for TCDD Equivalents be removed.</p> <p>The Regional Water Board rationale in retaining the effluent limit for TCDD Equivalents is by following the guidance from the 2015 COP, which states that “For constituents that have an insufficient number of monitoring data or a substantial number of non-detected data with a reporting limit higher than the respective water quality objective, the RPA result is likely to be inconclusive”. Following the suggestion of the 2015 COP, existing effluent limitation for TCDD Equivalents is retained in the tentative permit.</p> <p>However, TCDD Equivalents has not been detected for more than 16 years and has been detected only once for more than 20 years. The last detection was January 2000. LASAN believes that this is conclusive evidence that TCDD Equivalents has no reasonable potential to exceed water quality objectives. The existing TCDD Equivalent limit has been carried-over since the 2005 NPDES permit and has no</p>	<p>Refer to response to Comment #5 for the rationale for including the limit for TCDD equivalents in the Tentative Order, for removing the limits in the Revised Tentative Order, and for antidegradation and anti-backsliding. Since there is no minimum level in the Ocean Plan for TCDD equivalents, analytical detection limits achieved by the contract laboratory were compared to the detection limits of the most sensitive method in 40 CFR 136 (Method 1613B). Monitoring data indicates that the contract lab consistently achieves detection limits lower than that required in 40 CFR 136.</p> <p>To encourage consistent performance in the absence of final effluent limitations for TCDD Equivalents, a Performance Goal and Mass Emission Benchmark were assigned to TCDD Equivalents. These values are based on the water quality objectives in the 2015 Ocean Plan and are 0.33 pg/L and 1.9×10^{-7} MT/yr, respectively.</p>	Revisions were made to the permit.

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		<p>practical use other than being a legacy limit that the Regional Water Board cautiously has not yet removed.</p> <p>Furthermore, LASAN requires lower analytical detection levels for TCDD Equivalents from the outside laboratory contractor that performs the TCDD analysis. Currently, the City's detection limit for TCDD is at a range of 0.000005 ug/l - 0.0001 ug/l. Although the City's contract MDL/MRL is still higher than the water quality objective for TCDD, which is very low at 0.0000000039 ug/l, there are no current technology available that can measure concentrations that low.</p>		
City of Los Angeles	9	<p>Tentative Order, Section IV.A.2, Page 13, Table 6</p> <p>LASAN also recommends affixing Footnote 16 on the term "Total PCBs" found in the Effluent Limitations (which references Attachment A – Definitions.)</p>	Staff agrees.	Revisions were made to the permit.
City of Los Angeles	10	<p>Tentative Order, Section VI, Page 17, IV.A.2., Table 6</p> <p>LASAN requests eliminating Station 3505 and add a new Station named 3505B.</p> <p>According to the 2015 Dilution Study Update, the zone of initial dilution (ZID) extends horizontally from each port 31.6 m and vertically 22 m off the bottom. The distance between Station 3505 and</p>	The Regional Water Board and USEPA staff agree that the Zone of Initial Dilution (ZID) should reflect the results of the 5-Mile Outfall Dilution Study update submitted in April 2016. Although the study does not specifically discuss the area the ZID encompasses, the model estimates the ZID at 20 meters from the diffuser. It is appropriate to add monitoring Station 3505B because it is located within a 20-meter radius of the diffuser. Although Station 3505 is not located	Revisions were made to the permit.

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		<p>the closest point of the diffuser is approximately 180 m. LASAN suggests eliminating Station 3505 and adding a new station named 3505B, which would be located approximately 30 m from the diffuser at 33 deg 54.520' N and 118 deg 31.443' W. These coordinates were determined from Google Earth. Field-truthing by boat fathometer for all existing and proposed coordinates is warranted prior to finalization. Visual discrepancies are apparent between the diffuser signature on the seafloor bathymetry in Google Earth, our coordinates, and the coordinates on p. 10 of the 2016 NPDES Tentative Permit, which the latter was only discovered on 9/22/16.</p>	<p>within the ZID, there is a history of data for this site. Although LASAN requests eliminating Station 3505, the Regional Water Board and USEPA staff are concerned that the historical monitoring data for Station 3505 would no longer be applicable. Since Stations 3505 and 3505B are in relatively close proximity and the difference in water quality between the two stations may not be statistically significant, the Tentative Order has been modified to include 3505B in addition to 3505 for 3 years. After 3 years of monitoring both locations, the Permittee may submit a request with justification to remove station 3505 from the permit. Figure E-2 was also modified to include both monitoring locations 3505 and 3505B.</p>	
City of Los Angeles	11	<p>Tentative Order, Section VIII.3.c, Page 27</p> <p>LASAN requests to define properly when PMP is required.</p> <p>The tentative permit requires that <i>“The Permittee shall develop and conduct a PMP as further described below when there is evidence (e.g., sample results reported as DNQ when the effluent limitation is less than the MDL;...”</i></p> <p>LASAN recommends correcting to (insert “and”):</p> <p><i>“The Permittee shall develop and conduct a PMP as further described below when there is evidence (e.g., sample results reported as DNQ and when the effluent limitation is less than reported ML”</i></p>	<p>Staff agrees.</p>	<p>Revisions were made to the permit.</p>

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City of Los Angeles	12	<p>Tentative Order, Section VIII.M, Page 37</p> <p>LASAN requests to correct the definition of “Compliance with Single Constituent Effluent Limitations” and delete the parenthesis (see <i>Section B...</i>)</p> <p>The tentative permit defines “Compliance with Single Constituent Effluent Limitations” as <i>“Permittees may be considered out of compliance with the effluent limitation if the concentration of the pollutant (see section B “Multiple Sample Data Reduction” above) in the monitoring sample is greater than the effluent limitation and greater than or equal to the ML”.</i></p> <p>The above definition is not consistent with the definition in Section VIII.A, Page 34 where it states that, <i>“Permittee shall be deemed out of compliance with effluent limitations if the concentration of the reportable pollutant in the monitoring sample is greater than the corresponding effluent limitation and greater than or equal to the reporting level (RL) or minimum level (ML).”</i></p> <p>Also, (see Section B...) should be deleted specifically because it refers to “Multiple Sample Data Reduction” which is different than Single Constituent.</p> <p>LASAN recommends the following language:</p> <p><i>Permittees may be considered out of compliance</i></p>	<p>Section VIII.M. of the Tentative Order describes how compliance with a single constituent’s final effluent limitations is determined. Reference is made to the concentration of the pollutant in the monitoring sample and there are specific requirements in section VIII.B. that describe how compliance with a measure of central tendency shall be determined. Since compliance with some final effluent limitations is dependent on how a measure of central tendency is calculated, it is appropriate to reference section VIII.B. in section VIII.M.</p> <p>In addition, the Reporting Level and Minimum Level both refer to the same number. The definition for Reported Minimum Level in Attachment A states in part:</p> <p><i>The reported ML (also known as the Reporting Level or RL) is the ML chosen by the Permittee for reporting and compliance determination from the MLs included in this Order/Permit. The MLs included in this Order/Permit correspond to approved analytical methods for reporting a sample result that are selected by the Regional Water Board and USEPA either from Appendix II of the Ocean Plan in accordance with section III.C.5.a. of the Ocean Plan or established in accordance with section III.C.5.b. of the Ocean Plan.</i></p> <p>Since the ML and RL are the same, section VIII.M. was modified to reflect this relationship</p>	Revisions were made to the permit.

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		<p><i>with the effluent limitation if the concentration of the pollutant (see section B “Multiple Sample Data Reduction” above) in the monitoring sample is greater than the effluent limitation and greater than or equal to the reporting level (RL) or minimum Level (ML)”.</i></p>	<p>as follows:</p> <p>Permittees may be considered out of compliance with the effluent limitation if the concentration of the pollutant (see section B “Multiple Sample Data Reduction” above) in the monitoring sample is greater than the effluent limitation and greater than or equal to the ML <u>or RL</u>.</p> <p>Section VIII.A. also describes compliance with monitoring and reporting of priority pollutants and section VIII.M. describes compliance with any constituent with a final effluent limitation. Modifications were made to section VIII.A to make this clarification as follows:</p> <p>Compliance with effluent limitations for reportable <u>priority</u> pollutants shall be determined using sample reporting protocols defined in the MRP and Attachment A of this Order/Permit. For purposes of reporting and administrative enforcement by the Regional and State Water Boards, the Permittee shall be deemed out of compliance with effluent limitations if the concentration of the reportable <u>priority</u> pollutant in the monitoring sample is greater than the corresponding effluent limitation and greater than or equal to the reporting level (RL) or minimum level (ML).</p>	

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City of Los Angeles	13	<p>Tentative Order, Section VIII.Q, Page 37</p> <p>LASAN requests that any reference to MS4 Permit in regards to shoreline monitoring be removed.</p> <p>The tentative permit states, "...MS4 permit for Los Angeles County (Order No. R4-2012-0175, NPDES No. CAS004001) includes shoreline monitoring to ensure that HTP meets the WLA of 0 days of exceedances contained in the Santa Monica Bay Bacteria TMDL."</p> <p>It has been acknowledged that HTP discharge does not come into contact with the shoreline and has never been detected less than 2.5 km from shore (Order No. R4-2005-0020), resulting in the transference of shoreline monitoring from the HTP NPDES Permit to the MS4 Permit. Because Hyperion has a storm water discharge permit (NPDES NO. CAS000001) and MS4 shoreline monitoring sites address urban and storm water flow impacts on the shore and not the HTP discharge, the above sentence in question and any reference to the MS4 Permit in regards to shoreline monitoring should be removed from the HTP Permit.</p>	<p>Although monitoring results may have indicated that the elevated bacterial counts are associated with runoff from storm drains and discharges from piers, the Santa Monica Bay Beaches Bacteria TMDL includes a WLA of zero days of exceedances for the Hyperion Treatment Plant. Since the City of Los Angeles monitors the shoreline stations as part of the Los Angeles County MS4 permit to ensure compliance with the TMDL WLA, reference to the MS4 permit and shoreline monitoring is appropriate to clarify how the City of Los Angeles is complying with the TMDL.</p>	None necessary.
City of Los Angeles	14	<p>Tentative Order, Section VIII.Q, Page 38</p> <p>LASAN recommends that the geometric mean limits be removed or designated as "not applicable".</p> <p>According to the tentative permit, "<i>The geometric</i></p>	<p>Section VI.A of the Tentative Order includes 30-day geometric mean surface water limitations; therefore reference to geometric mean limits is appropriate. Although bacteria monitoring may only be required on a quarterly or annual basis, if any of the single sample limits are exceeded, the Regional Water Board and USEPA may</p>	None necessary.

Commenter	#	Comment	Response	Action Taken
		<p><i>mean values should be calculated based on a statistically sufficient number of samples (generally not less than 5 samples equally spaced over a 30-day period)."</i></p> <p>This surface water limitation pertains to water quality monitoring that is conducted once a quarter and annually, which negates a 30-day Geometric Mean. As Hyperion is not required to monitor at a calculable frequency, we suggest this limitation either be removed from the permit or designated as "Not Applicable".</p>	<p>require repeat sampling on a daily basis until the sample falls below the single sample limit in order to determine the persistence of the exceedance. When repeat sampling is required because of an exceedance of any one single sample limit, values from all samples collected during that 30-day period will be used to calculate the geometric mean. Since daily monitoring may be required if there is a single exceedance of the surface water limitations for bacteria, the geometric mean limits are appropriate.</p>	
City of Los Angeles	15	<p>Tentative Order, Attachment A, Page A-5</p> <p>LASAN requests clarification on the definition of PCBs as Congeners.</p> <p>On Attachment A, Page 5, PCBs as Congeners is defined as the sum of 41 "individually quantified" congeners – which are each listed. The Influent and Effluent monitoring requirements on Pages E-20 and E-24, respectively, require PCBs as Congeners to be "individually quantified" using USEPA proposed Method 1668c.</p> <p>The contract laboratory that performs the analysis using method 1668c provides us results that include many coelutions. Although the 41 specified congeners are all accounted for as either individual congeners or as coelutions, it is not clear whether the coelutions (which include other non-required congeners) meet the requirement for a specified congener that is to be</p>	<p>EPA method 1668c indicates that approximately 139 of the 206 PCB congeners can be determined and adequately resolved using this analytical method. The remaining 70 congeners are to be determined as mixtures of isomers (co-elutions). Since there are 70 congeners that can only be analyzed as a co-elution of the compound and its isomers, these congeners must be reported as a mixture. It is appropriate to report the mixture of isomers in both the individual quantification and the sum of the congeners because the current method does not analyze these 70 congeners individually. The language in footnote 26 in Table E-7 of the Tentative Order MRP was modified as follows:</p> <p><i>PCBs as congeners shall be individually quantified (or quantified as mixtures of isomers of a single congener in co-elutions as appropriate) using USEPA proposed method 1668c. PCBs as congeners shall be</i></p>	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p>individually quantified.</p> <p>Also, since PCBs as congeners is defined as the sum of the 41 individually quantified congeners that are specifically required, LASAN would like to know if it is appropriate to sum all of the coelutions (including the non-required congeners) and report that as the “sum of the 41 individually quantified congeners”</p>	<p><i>analyzed using method EPA 1668c for three years and an alternate method may be used if none of the PCB congeners are detected for three years using method EPA 1668c.</i></p> <p><i>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 aroclor results, that will be used for assessing compliance with WQBELs (if applicable) and (2) USEPA proposed method 1668c for monitoring data, reported as 41 congener results, that will be used for informational purposes.</i></p> <p>The MRP also does not specify that the PCB congeners shall also be reported as a sum. Footnote 27 in Table E-7 of the tentative Order MRP was modified to read as follows:</p> <p><i>To facilitate interpretation of sediment/fish tissue data and TMDL development, PCB congeners whose analytical characteristics resemble those of PCB-18, 28, 37, 44, 49, 52, 66, 70, 74, 77, 81, 87, 99, 101, 105, 110, 114, 118, 119, 123, 126, 128, 138, 149, 151, 153, 156, 157, 158, 167, 168, 169, 170, 177, 180, 183, 187, 189, 194, 201, and 206 shall be reported as a sum and individually quantified (or quantified as mixtures of isomers of a single congener in co-elutions</i></p>	

Commenter	#	Comment	Response	Action Taken
			<p><u>as appropriate).</u></p> <p>The definition of “PCBs as Congeners” in Attachment A was also modified to read as follows:</p> <p>The sum of the following 41 individually quantified PCB congeners <u>or mixtures of isomers of a single congener in a co-elution:</u> PCB-18, 28, 37, 44, 49, 52, 66, 70, 74, 77, 81, 87, 99, 101, 105, 110, 114, 118, 119, 123, 126, 128, 138, 149, 151, 153, 156, 157, 158, 167, 168, 169, 170, 177, 180, 183, 187, 189, 194, 201, and 206.</p>	
City of Los Angeles	16	<p>Tentative Order, Attachment B, Page B-3</p> <p>LASAN recommends correcting the map or caption.</p> <p>Lower portion of yellow shaded polygon is actually the TIWRP service area. Perhaps modify map to only depict HSA service area or modify caption.</p>	Staff agrees.	Revisions were made to the permit.
City of Los Angeles	17	<p>Tentative Order, Attachment E, Section I.A, Page E-2</p> <p>The tentative permit states that “<i>Quarterly influent and effluent analyses shall be performed during January, April, July, and October. Semiannual influent and effluent analyses shall be performed during January and July. Annual analyses shall be performed during the month of July</i>”. LASAN specifically requested 3-month monitoring periods</p>	Staff agrees.	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p>within which to perform quarterly, semiannual and annual monitoring. This request was approved by the Regional Board by Administrative Revision Letter dated February 13, 2012.</p> <p>LASAN requests the following: <i>“Quarterly effluent analyses shall be performed during the first quarter (January, February, and March), the second quarter (April, May, and June), the third quarter (July, August, and September), and the fourth quarter (October, November, and December). Semiannual analyses shall be performed during the first quarter (January, February, and March) and third quarter (July, August, and September). Annual analyses shall be performed during the third quarter (July, August, and September)”</i>.</p>		
City of Los Angeles	18	<p>Tentative Order, Attachment E, Section I.R, Page E-5</p> <p>LASAN request the following correction.</p> <p><i>“Regular regional monitoring for the Southern California Bight has been established, occurring at five-year intervals, and is coordinated through SCCWRP with conducted by discharger agencies and numerous other entities.</i></p>	<p>SCCWRP organizes and participates in regional monitoring for the Southern California Bight. Although each agency and other participating entities conduct regional monitoring in a portion of the Southern California Bight, SCCWRP coordinates and compiles this data to assess the health of the entire Southern California Bight. To acknowledge that the discharger conducts the monitoring while SCCWRP coordinates with the dischargers and agencies in the region to compile data, Section I.R of the MRP was modified as follows:</p> <p><u>Every five years SCCWRP coordinates Regular regional monitoring for within the Southern California Bight has been established and compiles monitoring data collected by the</u></p>	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
			dischargers and other participating entities, occurring at five year intervals, and is coordinated through SCCWRP with discharger agencies and numerous other entities.	
City of Los Angeles	19	<p>Tentative Order, Attachment E, Section I.F, Page E-2, and Section X.A.6, Page E-42</p> <p>LASAN requests clarification on the affirmation of the monitoring reports.</p> <p>Monitoring reports are submitted via CIWQS. With the CIWQS submittal, the affirmation statement already included.</p>	The CIWQS submittal must include the signed affirmation, "all analyses were conducted at a laboratory certified for such analyses under the Environmental Laboratory Accreditation Program (ELAP), or approved by the Executive Officer and in accordance with current USEPA guideline procedures or as specified in this monitoring and reporting program." An additional hard copy is not necessary if the signed document has been uploaded to CIWQS.	None necessary.
City of Los Angeles	20	<p>Tentative Order, Attachment E, Page E-8, Table E-2, Footnote 3</p> <p>LASAN requests to add ammonia nitrogen and acid volatile sulfides to Footnote 3 to reflect changes made to Paragraph 1, Line 4, Page E-34.</p>	Staff agrees.	Revisions were made to the permit.
City of Los Angeles	21	<p>Tentative Order, Attachment E, Page E-9, Table E-5</p> <p>LASAN recommends the following correction:</p> <ol style="list-style-type: none"> 1. Station type is unnecessary; "Bottom Station" provides no relevance, especially if additional proposed fish species, some of which occupy the entire water column (e.g., Pacific Mackerel), are approved for the Local Seafood Safety Survey. 2. Zone 4 monitoring location description of "Marina Del Rey" should be changed to "Marina 	<ol style="list-style-type: none"> 1. The term "Bottom Station" is not necessary because it does not provide any additional information. In addition, the term may be confusing since the fish collected in these surveys include both demersal and pelagic fish. The term "Bottom Station" was removed from the table. 2. Correction noted. Revision was made to the Tentative Order. 3. The Regional Water Board agrees that there are two different methods of interpreting the Local Bioaccumulation 	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p>del Rey.”</p> <p>3. The nearfield should be defined as a 2-km radius from every port on both legs of the diffuser section. Accepting this scenario would impact the Local Bioaccumulation Survey by incorporating at least Station C6 within the nearfield zone. Water Quality Station 3605 would also be incorporated into the nearfield.</p>	<p>Survey nearfield zone. One method assumes a single port at the terminus of the 5-Mile Outfall and the other method assumes each port along the diffuser acts as an individual diffuser. Both methods are acceptable so Table E-5 and Section X.D.5 of the MRP were modified to give the Permittee the option of choosing how to interpret the nearfield zone.</p>	
City of Los Angeles	22	<p>Tentative Order, Attachment E, Page E-20, Table E-6</p> <p>LASAN requests that the annual PCBs congeners monitoring for 5 influent sewers be removed.</p> <p>The quarterly PCBs Aroclors monitoring for one 24-hr composite sample of 5 influent sewer as specified in Attachment E, Page E-20, Table E-6 is sufficient in current situation:</p> <ol style="list-style-type: none"> 1. There has been no historical data of PCB congeners in Hyperion effluent by EPA method 1668c. It is only reasonable that the monitoring of PCB congeners in influent by EPA method 1668c be initiated after PCB congeners have been detected in effluent. 2. The City has been monitoring PCB congeners in Hyperion effluent since the last NPDES became effective ten-plus years ago; all results were “ND” even though the test method was a modified EPA Method 608 instead of EPA Method 1668c. 	<p>Table 7-1 of the <i>Santa Monica Bay TMDL for DDTs and PCBs</i> requires influent and effluent monitoring of PCBs as aroclors but only effluent monitoring for PCBs as congeners. To be consistent with the monitoring requirements described in the TMDL, the influent monitoring requirements for PCBs as congeners have been removed.</p>	<p>Revisions were made to the permit.</p>

Commenter	#	Comment	Response	Action Taken
City of Los Angeles	23	<p>Tentative Order, Attachment E, Page E-21, Table E-7</p> <p>LASAN requests the unit of measure for monitoring Temperature to be in degrees Fahrenheit. The discharge limitation on Page 13 is specified in degrees Fahrenheit.</p>	Staff agrees. The monitoring requirement should contain the same units as the final effluent limitation and historical data.	Revisions were made to the permit.
City of Los Angeles	24	<p>Tentative Order, Attachment E, page E-22, Table E-7</p> <p>LASAN requests that monitoring frequency for copper be quarterly.</p> <p>Copper is only given performance goal and has no reasonable potential.</p>	To be consistent with the methodology for determining the appropriate monitoring frequency in section X.B. of the fact sheet, the monitoring requirement for copper at Discharge Point 002 was revised to quarterly. There was no reasonable potential for copper to exceed the water quality objectives at Discharge Point 002 outside the zone of initial dilution; therefore, monthly monitoring is not required. The monitoring requirement for copper at Discharge Point 001 shall remain as monthly since there is reasonable potential for copper to exceed the water quality objective at Discharge Point 001.	Revisions were made to the permit.
City of Los Angeles	25	<p>Tentative Order, Attachment E, Section IV.A, Page E-22, Table E-7</p> <p>LASAN requests to change Sample Type of Copper to "24-hr composite". The "24-hr composite is a more representative measure of the discharge of pollutant over a given period of time.</p>	The Tentative Order includes monitoring for copper as a 24-hour composite and as a grab sample. The grab sample is required to assess compliance with the daily maximum and instantaneous maximum final effluent limitations. Section III.C.4.h of the 2015 Ocean Plan states that the instantaneous maximum shall apply to grab samples; therefore, it would not be appropriate to assess compliance of an instantaneous final effluent limitation with a 24-hour composite sample. Without collecting a grab sample for copper, compliance with the instantaneous final effluent limitation cannot be determined and this would render the limitation	None necessary.

Commenter	#	Comment	Response	Action Taken
			null. The requirement to collect a grab sample for copper is appropriate because it will ensure compliance with the instantaneous maximum final effluent limitation.	
City of Los Angeles	26	<p>Tentative Order, Attachment E, Section IV.A, Page E-22, Table E-7</p> <p>The City requests to change Sample Type of Ammonia Nitrogen to “24-hr composite”. The “24-hr composite is a more representative measure of the discharge of pollutant over a given period of time.</p>	The Tentative Order includes monitoring for ammonia nitrogen as a 24-hour composite and as a grab sample. The grab sample is required to assess compliance with the daily maximum and instantaneous maximum final effluent limitations. Section III.C.4.h of the 2015 Ocean Plan states that the instantaneous maximum shall apply to grab samples; therefore, it would not be appropriate to assess compliance of an instantaneous final effluent limitation with a 24-hour composite sample. Without collecting a grab sample for ammonia nitrogen, compliance with the instantaneous final effluent limitation cannot be determined and this would render the limitation null. The requirement to collect a grab sample for ammonia is appropriate because it will ensure compliance with the instantaneous maximum final effluent limitation.	None necessary.
City of Los Angeles	27	<p>Tentative Order, Attachment E, Page E-23, Table E-7</p> <p>LASAN recommends correcting the footnote.</p> <p>On Page E-23, DDT incorrectly references Footnote 22: The reference should be to Footnote 24.</p>	Staff agrees.	Revisions were made to the permit.
City of Los Angeles	28	<p>Tentative Order, Attachment E, Page E-23, Table E-7</p> <p>LASAN requests that monitoring frequency for</p>	The <i>Santa Monica Bay TMDL for DDT and PCBs</i> states, “All discharges with WLAs identified in Table 6-2 are to be considered by NPDES permit writers to have reasonable	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		DDT be changed from monthly to semi-annual. DDT has never been detected for more 10 years and do not have reasonable potential to exceed water quality objectives.	potential under 40 CFR 122.44(d) and require WQBELs following the TMDL.” Since Hyperion is listed in Table 6-2 and assigned WLAs for DDT, the Hyperion final effluent is considered to have reasonable potential. To be consistent with the monitoring frequency methodology in section X.B. of the Fact Sheet, the monitoring requirement for DDT would be monthly; however, Table 7-1 of the <i>Santa Monica Bay TMDL for DDTs and PCBs</i> recommends that quarterly monitoring be conducted for DDTs in the final effluent. To be consistent with the TMDL, the monitoring frequency for DDTs in the final effluent has been modified to quarterly.	
City of Los Angeles	29	<p>Tentative Order, Attachment E, Page E-23, Table E-7</p> <p>LASAN requests that monitoring frequency for PCBs as Aroclors be changed from monthly to semi-annual. PCB DDT has never been detected for more 20 years and do not have reasonable potential to exceed water quality objectives.</p>	The Tentative Order does not require PCBs as aroclors to be monitored on a monthly basis, it only requires quarterly monitoring. The <i>Santa Monica Bay TMDL for DDT and PCBs</i> states, “All discharges with WLAs identified in Table 6-2 are to be considered by NPDES permit writers to have reasonable potential under 40 CFR 122.44(d) and require WQBELs following the TMDL.” Since Hyperion is listed in Table 6-2 and assigned WLAs for PCBs, the Hyperion final effluent is considered to have reasonable potential. To be consistent with the monitoring frequency methodology in section X.B. of the Fact Sheet, PCBs would be assigned a monthly monitoring frequency; however, the Tentative Order only requires quarterly monitoring since Table 7-1 of the <i>Santa Monica Bay TMDL for DDTs and PCBs</i> recommends that quarterly monitoring be conducted for PCBs as aroclors	None necessary.

Commenter	#	Comment	Response	Action Taken
			and annual monitoring be conducted for PCBs as congeners. Therefore, quarterly monitoring of PCBs as aroclors is appropriate.	
City of Los Angeles	30	<p>Tentative Order, Attachment E, Section V.A.3.a, Page E-25</p> <p>LASAN requests to change Test Method 1006.01 to 1006.0.</p>	Staff agrees.	Revisions were made to the permit.
City of Los Angeles	31	<p>Tentative Order, Attachment E, Section V.A.3, Page E-25</p> <p>LASAN requests to change the language: <i>"In no case shall these species be substituted with another test species unless written authorization from the Executive Officer is received."</i></p> <p><i>Change to :</i> <i>"Pursuant to the 2015 California Ocean Plan, upon the approval of the Executive Officer of the Regional Water Board, the Discharger may use a second tier organism (e.g., silverside) if first tier organisms (e.g., topsmelt) are not available. However, the Discharger is required to immediately resume the chronic toxicity test using the original testing organism as soon as this organism becomes available."</i></p>	It is inappropriate to use species that are not west coast species in toxicity tests in California. The west coast species occupy the California Ocean water and are therefore more appropriate to use than a species endemic to other water bodies. Species selection is crucial in toxicity tests because some species are more sensitive than others, depending on the pollutant. The Regional Water Board only approves species substitution as described when there is a supply issue with the west coast species being used. If a supply issue arises, LASAN may submit a request for a temporary species substitution for approval by the Regional Water Board and USEPA.	None necessary.
City of Los Angeles	32	<p>Tentative Order, Attachment E, Section V.A.5, Page E-26, Table E-8</p> <p>LASAN recommends adding that the weight requirement for <i>Atherinops affinis</i> is for 9 day old fish, as specified in the USEPA protocol.</p> <p>Chronic toxicity is evaluated using the Test of</p>	<p>If using 9 day old larvae, the mean weight per larva must exceed 0.85 milligrams in the reference and brine controls. However, the method allows for use of up to 15 day old larvae. The second TAC in Table E-8 has been revised to:</p> <p><i>If the test starts with 9 day old larvae, the mean</i></p>	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		Significant Toxicity which does not result in a calculated MSD. LASAN would like clarification if this TAC will still be applicable.	<p><i>weight per larva must exceed 0.85 mg in the reference and brine controls; the mean weight of preserved larvae must exceed 0.72 milligrams.</i></p> <p>In the methods manual, TAC 11.12.1(4) is used to evaluate the reference toxicant test and is applicable when chronic toxicity is evaluated using the TST statistical approach.</p>	
City of Los Angeles	33	<p>Tentative Order, Attachment E, Section V.A.5.c, Page E-27</p> <p>The tentative permit states that “<i>Dilution water and control water, including brine controls, shall be laboratory water prepared and used as specified in the test methods manual.</i>”</p> <p>LASAN requests the use of Santa Monica Bay receiving water (collected in Redondo Beach) as dilution water and control water, including using it to make hypersaline brine, as laboratory dilution water. Using commercial sea salts has shown not to be suitable to meet the test acceptability criteria in some chronic growth and development tests (kelp, red abalone, and sea urchin).</p>	<p>Staff agrees. Section 4.4.1 of the <i>Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms</i> states:</p> <p><i>The dilution water used in the toxicity tests may be natural seawater, hypersaline brine (100‰) prepared from natural seawater, or artificial seawater prepared from commercial sea salts, such as FORTY FATHOMS® or HW MARINEMIX®, if recommended in the method.</i></p> <p>The language in section V.A.5.c of the Tentative Order was modified to reflect the requirement in the test method.</p>	Revisions were made to the permit.
City of Los Angeles	34	<p>Tentative Order, Attachment E, Section V.A.5.d, Page E-27</p> <p>LASAN recommends the following addition:</p> <p><i>“Monthly reference toxicant testing is sufficient. All reference toxicant test results should be reviewed and reported using the EC25. <u>However, if a failed reference toxicant was performed concurrently</u></i></p>	<p>Section 4.7.1 of <i>Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms</i> requires that a minimum of one valid reference toxicant test be conducted per month. Section 4.7.4 indicates that if a failed reference toxicant was being performed concurrently with an effluent or receiving water toxicity test, both tests must be repeated;</p>	None necessary.

Commenter	#	Comment	Response	Action Taken
		<p><u>with an effluent or receiving water toxicity test, both tests must be repeated (For exception, refer to Section 4 of the USEPA test method manual).</u></p>	<p>however, there are exceptions to this requirement. Section 4.16.5 includes the exceptions to this requirement and are as follows:</p> <p><i>Performance should improve with experience, and the control limits for endpoints that are point estimates should gradually narrow. However, control limits of $\pm 2S$ will be exceeded 5% of the time by chance alone, regardless of how well a laboratory performs. Highly proficient laboratories which develop very narrow control limits may be unfairly penalized if a test result which falls just outside the control limits is rejected de facto. For this reason, the width of the control limits should be considered by the permitting authority in determining whether the outliers should be rejected.</i></p> <p>Similarly, section 4.9.2 acceptability of chronic toxicity tests states:</p> <p><i>An individual test may be conditionally acceptable if temperature, DO, and other specified conditions fall outside specifications, depending on the degree of the departure and the objectives of the tests. The acceptability of the test will depend on the experience and professional judgment of the laboratory investigator and the reviewing staff of the regulatory authority. Any deviation from test specifications must be noted when reporting</i></p>	

Commenter	#	Comment	Response	Action Taken
			<p><i>data from a test.</i></p> <p>The Permittee needs to consult with the Regional Water Board prior to invalidating any effluent test based on a reference toxicant test result.</p>	
City of Los Angeles	35	<p>Tentative Order, Attachment E, Section V.8, Page E-28</p> <p>LASAN requests that TRE testing shall be used only to identify and report the toxic compound in the effluent and not for compliance purposes.</p> <p>The purpose of TRE is to find the causes of toxicity and not for enforcement or compliance monitoring. Previous permits did not require additional monthly effluent monitoring for compliance (i.e., <i>During the TRE Process, monthly effluent monitoring shall resume and TST results ("Pass" or "Fail") for chronic toxicity tests shall be reported as effluent compliance monitoring results for the chronic toxicity MDEL</i>). TRE testing was conducted in place of routine monthly testing. The Permittee should not be penalized while trying to determine the toxic component present in the effluent. The exceedance should be used to initiate the identification of toxic compounds, not an opportunity to issue fines.</p>	<p>The intent of the TIE/TRE is to identify the source/cause of toxicity and to reduce it, not to suspend compliance requirements. Similarly, the intent of the accelerated monitoring is to establish if the toxicity is persistent in the final effluent. These tests are not suspended while accelerated monitoring and TIE/TREs are underway because the public has a right to know if the effluent being discharged is toxic and what is being done about it, especially since a dilution ratio has been applied to the discharge. It is also inappropriate to suspend final effluent limitations without a compliance schedule or time schedule order, as water quality standards must be maintained throughout the permit term.</p>	None necessary.
City of Los Angeles	36	<p>Tentative Order, Attachment E, Section V.9, Page E-29</p> <p>LASAN request clarification on Toxicity reporting.</p>	<p>The State Water Board is currently in the process of developing a new SMR form for toxicity reporting; however, it is not yet available. Until the SMR form is made available, the</p>	None necessary.

Commenter	#	Comment	Response	Action Taken
		Toxicity reports are currently being submitted as PDF attachments in CIWQS. LASAN would like a confirmation that there will be a new SMR form specifically for Toxicity.	Regional Water Board requires toxicity reports to continue to be submitted as PDF attachments in CIWQS.	
City of Los Angeles	37	<p>Tentative Order, Attachment E, Page E-31, Table E-10</p> <p>LASAN recommends changing salinity units from ppt to psu.</p> <p>Receiving water salinity is measured in practical salinity units (psu), which is the oceanographic standard, rather than parts per thousand (ppt)</p>	<p>The 2015 Ocean Plan defines salinity as:</p> <p><i>a measure of the dissolved salts in a volume of water. For the purposes of this Plan, salinity shall be measured using a standard method approved by the regional water board (e.g. Standard Method 2520 B, EPA Method 120.1, EPA Method 160.1) and reported in parts per thousand (ppt). For historical salinity data not recorded in parts per thousand, the regional water boards may accept converted data at their discretion.</i></p> <p>Since the receiving water data has been historically recorded in parts per thousand and this is consistent with the Ocean Plan, the required units for salinity shall remain in parts per thousand.</p>	None necessary.
City of Los Angeles	38	<p>Tentative Order, Attachment E, Page E-31, Table E-10</p> <p>LASAN recommends that “or Beam C” should be in the Transmissivity Units cell, along with “% transmissivity.”</p>	“Beam C” is not necessary since the Permittee analyzes transmissivity in percent transmittance. Reference to “Beam C” has been deleted to be consistent with the transmissometer currently utilized by the Permittee.	Revision was made to the permit.
City of Los Angeles	39	<p>Tentative Order, Attachment E, Section VIII.B, Page E-32, Footnote 35</p> <p>The tentative permit Footnote 35 states, “...Recreational use at time of sampling, at each</p>	Staff agrees. The visual observation of recreational use at each site shall be confined to a 100-meter radius.	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p>sample location, shall also be recorded and submitted with results. Recreational uses include, but are not limited to, swimming, wading, water-skiing, diving, surfing, and fishing.”</p> <p>LASAN requests clarification on the distance range at which visual observation of recreational use shall be taken at each site. Some inshore stations are only a mile or two apart. Recreational activities can be observed several miles, depending on conditions. LASAN recommends an approximate 100-m radius would be appropriate.</p>		
City of Los Angeles	40	<p>Tentative Order, Attachment E, Page E-32, Table 11, Footnote 34</p> <p>LASAN requests to correct footnote 34.</p> <p>Discharge Point 001 has a maximum depth of only 18 m, depending on tide; therefore, samples cannot be collected from 45.0 m, 30.0 m, and often on low tide, not at 15.0 m. Suggest rewording to 1 m and 2 m above the seabed or consider collecting samples within 1 m of the surface and at mid-depth, which would be more representative of the rising effluent plume. The pipe has a diameter of 12 ft, but it is on a pylon, which elevates the bottom of the pipe. EMD can provide more detail if necessary.</p>	<p>The Regional Water Board and USEPA understand that Discharge Point 001 may not be deeper than 45 feet, depending on tide. Footnote 34 on page E-32 of the Tentative Order reads as follows:</p> <p><i>Discrete sampling for ammonia nitrogen, fecal coliform, total coliform, and Enterococcus shall be performed below the surface within 1 meter (3.1 feet) and at 15 meters (49.2 feet), 30 meters (98.4 feet), and 45 meters (147.6 feet), or as deep as practicable for those stations located in depths less than less than 45 meters.</i></p> <p>Since the footnote already includes language on the appropriate sampling depths when the maximum depth is less than 45 meters, no change to the Tentative Order is necessary.</p>	None necessary.
City of Los Angeles	41	<p>Tentative Order, Attachment E, Section VIII.C.1.a, Page E-33, Paragraph 3</p>	Staff agrees.	Revisions were made to the

Commenter	#	Comment	Response	Action Taken
		<p>The tentative permit states that “<i>Identification of all organisms to lowest possible taxon</i>”.</p> <p>LASAN recommends adding “<i>based on morphological taxonomy</i>” and shall be: “<i>Identification of all organisms to lowest possible taxon based on morphological taxonomy</i>”.</p>		permit.
City of Los Angeles	42	<p>Tentative Order, Attachment E, Section VIII.C, Page E-33, Footnote 40</p> <p>Footnote 40 states that “<i>Community analysis of benthic infauna shall include number of species, number of individuals per species, total numerical abundance per station, Benthic Response Index (BRI) or other appropriate indices, plus utilize appropriate regression analyses, parametric and nonparametric statistics, and multivariate techniques or other appropriate analytical techniques.</i>”</p> <p>LASAN proposes that the BRI usage should be optional, rather than required.</p> <p>The Benthic Response Index (BRI) is specifically listed in the analysis requirements; however, key components of this index (i.e., species nomenclature and pollution tolerance codes) have not been maintained in a standardized manner, resulting in inconsistent application of the index among most users yielding inconsistent results. When the BRI was originally developed it was maintained for a short period of time. The</p>	<p>The 2013/2014 Santa Monica Bay Biennial Assessment Report submitted by LASAN indicates that representatives of POTW monitoring groups and contractors created the Benthic Assessment Taxonomy Management (BATMAN) group to develop a standard approach to calculate the different (Benthic Response Index (BRI) components. This group was organized to create consistent BRI data collected within the Southern California Bight and the group has internally reviewed and approved the different BRI components. The report also states, “Even though the benthic response index (BRI) calculation tool is still in the final development phase, there appears to be enough agreement between the aforementioned monitoring groups to present BRI values within this report.” Although there has been some deviation from the standard approach, there appears to be enough agreement between agencies to collect meaningful data therefore the Regional Water Board and USEPA find that it is appropriate to continue to require community analysis of benthic infauna using the BRI or other</p>	None necessary.

Commenter	#	Comment	Response	Action Taken
		<p>distribution of the BRI protocol (procedures, species names, tolerance codes) was facilitated through SCCWRP and refined and endorsed by POTW monitoring groups, among others. Subsequently, stakeholder effort to update the BRI protocol components has been minimal for approximately six years, although some POTWs are attempting to maintain it individually, but are aware that divergence from a standard protocol is occurring. Regional efforts to update the index components are ongoing, but until a system is in place to ensure the index components are maintained, the BRI should not be specifically required. "Biological indices" are already listed in the requirements, and BRI results will be calculated when appropriate along with the other biological indices we use. LASAN proposes that the BRI usage should be optional, rather than required because of this situation, and that the following language taken from the Terminal Island Water Reclamation Plant NPDES Permit to be included explicitly in the HTP NPDES Permit.</p>	<p>appropriate indices.</p>	
<p>City of Los Angeles</p>	<p>43</p>	<p>Tentative Order, Attachment E, Section VIII.C, Page E-34, Table E-12</p> <p>LASAN requests clarification. Nine benthic monitoring stations (RW- Z2, C1, C3, C6, C7, C8, C9B, D1, and E6) shall be sampled annually for selected priority pollutants, acute toxicity, and compounds on the local 303(d) list; see Table E-12.</p> <p>Sediment toxicity testing is not in Table E-12.</p>	<p>Staff agrees. Sediment toxicity was added to the table.</p>	<p>Revisions were made to the permit.</p>

Commenter	#	Comment	Response	Action Taken
City of Los Angeles	44	<p>Tentative Order, Attachment E, Section VIII.C.1.a – C.2, Page E-34 to E-35</p> <p>LASAN requests the following:</p> <ol style="list-style-type: none"> 1. Remove the Sediment Quality Objectives (SQO) <p>On page E-4 of the tentative permit it is noted that the Santa Monica Bay Restoration Commission recommends a reduction in POTW receiving water monitoring in Santa Monica Bay where discharge effects are well understood. This seems to contradict the increase of 100 sediment toxicity samples over a 5-year period, which is included in this tentative permit. Many studies have shown that the best indications of benthic conditions are benthic infauna community analysis. This is already done at all 64 stations, so the addition of sediment toxicity seems to be for the purpose of a multiple lines of evidence site evaluation for sediment quality objectives (SQO). The “Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality” states on page 2, II. Use and Applicability of SQOS, C. Applicable Waters, “Part 1 applies to enclosed bays and estuaries only. Part 1 does not apply to ocean waters including Monterey Bay and Santa Monica Bay, or inland surface waters.” As a result, any compliance limits based on meeting SQO limits should not be included in this permit. In addition, previous Regional Monitoring Studies have identified 5% or less of the shelf sediments as being toxic. A reasonable approach to</p>	<ol style="list-style-type: none"> 1. The sediment toxicity monitoring requirements were not included in the Tentative Order to comply with the Sediment Quality Objectives in the <i>Water Quality Control Plan for Enclosed Bays and Estuaries</i> since the Santa Monica Bay is an ocean water. The sediment toxicity monitoring requirements are based on the requirements in the 2015 Ocean Plan. Section 7.1 of Appendix III of the 2015 Ocean Plan requires dischargers greater than 10 MGD in low energy coastal environments with the likelihood of sediment deposition to conduct core monitoring for acute sediment toxicity. The Regional Water Board and USEPA staff consider the 5-Mile Outfall to be located within a low-energy coastal environment and that sediment deposition is likely in sample locations close to the outfall. The Regional Water Board and USEPA staff also find that previous monitoring results are variable and do not necessarily indicate the absence of toxicity in the Santa Monica Bay sediments. Since the discharge occurs in a low energy coastal environment, the discharge is likely to contribute to pollutant deposition in the sediment around the outfall and because the prevalence of toxicity in the Santa Monica Bay sediments is unclear, the Regional Water Board and USEPA staff find that it is appropriate to monitor acute toxicity in the sediments surrounding the outfall. <p>It should also be noted that the Tentative Order does not include limits based on</p>	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p>monitoring sediment toxicity is not to include it in the Hyperion permit, but to rather include it as part of the Bight Regional Monitoring Program and evaluate the results over a 5 year period.</p> <p>2. Modify the sediment toxicity monitoring requirement if the SQO is not removed.</p> <p>The tentative permit states that “All 64 benthic monitoring stations (24 fixed stations plus both sets of 20 random stations) shall be sampled in year five of the Order/Permit for selected priority pollutants, acute toxicity, and compounds on the local 303(d) list; see Table E-12.”</p> <p>Sampling all 64 benthic stations in the 3rd quarter of the 5th year of the Permit creates an unreasonable increase in workload for field, toxicity, and chemistry staff. The logistics involved with sample preparation (sediment sieving) and the physical space required for conducting 10-day amphipod tests on all 64 stations within the 3rd quarter of the 5th year of the Permit is not feasible. For sample collection alone, we estimate that it would require 10 or more additional field days into a schedule that is essentially at capacity when considering all other surveys and related work.</p> <p>Allowing sampling for the full suite of analyses to be staggered over the 5 years of the Permit, with a subset of stations each year, would evenly distribute the strain on limited resources and staff time, while still accomplishing the goal of testing</p>	<p>Sediment Quality Objectives. The acute sediment toxicity requirement is a monitoring requirement.</p> <p>2. The Regional Water Board and USEPA staff agree that conducting sediment toxicity monitoring at 64 stations in year five is not necessary to assess the prevalence of sediment toxicity in the Santa Monica Bay around Hyperion’s outfalls. The Regional Water Board and USEPA thus agree that it is appropriate to reduce the number of required sediment toxicity monitoring locations in year five to the 24 fixed benthic locations. These 24 locations encompass the area of the Santa Monica Bay that is the most likely to be impacted by Hyperion’s outfalls. Section VIII.C.1.a of the MRP in the Tentative Order was modified to reflect this reduction in sediment toxicity monitoring locations in year five.</p> <p>3. The Regional Water Board and USEPA staff determined that percent survival is the most appropriate endpoint to determine the presence of toxicity. Section VIII.C.2 of the Tentative Order was modified to include the requirement to report acute sediment toxicity in percent survival and to assess the presence of persistent toxicity.</p> <p>If persistent toxicity is observed at a single sample location, a Phase I Toxicity Identification Evaluation (TIE) should be</p>	

Commenter	#	Comment	Response	Action Taken
		<p>all stations for the full suite of analyses at least once per Permit period.</p> <p>Specifically, the 9 priority pollutant stations would be sampled each year along with 11 of the remaining 55 stations, for a total of 20 stations per year, with the result being all 64 stations tested for toxicity during the 5-year Permit period. This scenario is reasonable and achievable.</p> <p>3. Provide an operational definition of toxicity as it applies to the acute sediment tests.</p> <p>The tentative permit did not give limits for the determination of sediment toxicity compliance. The Toxicity Testing Unit requests an operational definition of toxicity as it applies to the acute sediment tests. As it is currently written, the permit outlines the steps following the detection of toxicity (i.e., implement a TRE) but does not define the criteria for determining “toxic sediment”. Also, compliance while conducting a TRE cannot be determined if a toxicity limit is not defined. The Toxicity Testing Unit believes that acute limits based on the sediment quality objectives criteria of “Nontoxic”, “Low Toxicity”, “Moderate Toxicity”, and “High Toxicity” used in past Southern California Bight Regional Studies for sediment toxicity are appropriate.</p> <p>LASAN proposes that a single phase 1 toxicity identification evaluation (TIE), rather than a full toxicity reduction evaluation (TRE), be conducted for each site that is identified as having</p>	<p>conducted to identify the class of pollutants causing toxicity. The Tentative Order was modified to require the Permittee to conduct a Phase I TIE in lieu of a full TRE, as suggested during the comment period. The Tentative Order was also revised to require the Permittee to submit a Sediment Toxicity TIE Work Plan within 90 days of the effective date of the Order to define persistent toxicity and to outline the procedures that will take place if persistent toxicity is observed.</p> <p>4. The Order does not include numeric sediment quality objectives. Refer to Response to Comment #35 for compliance during a TIE/TRE for effluent monitoring.</p>	

Commenter	#	Comment	Response	Action Taken
		<p>“moderate” to “high toxicity”. Once the toxicity has been identified, the results will be submitted to the Board for further direction. LASAN feels the identification of the toxicant is essential to determine if the toxicity is due to a treatment plant process prior to the implementation of a TRE since the HTP is not the only source of contaminants into Santa Monica Bay and the presence of legacy contaminants may be associated with sediment toxicity.</p> <p>Most of the sediment toxicity stations are located distant from the 5-Mile Outfall and are subject to potential contaminant input from multiple legacy and current sources (e.g., stormwater runoff, aerial deposition, and historical sludge discharge). If toxicity is detected in a sediment sample that isn’t directly impacted by HTP effluent, identifying and reducing the toxicant in the effluent will not result in sediment quality improvement. Retesting 6 times within a 12-week period would be a significant strain on resources with no achievable purpose.</p> <p>This is particularly true at Station E6, the historical 7-Mile Outfall station where sludge was discharged until 1987, which continues to show elevated contaminant levels. Annual toxicity testing can be conducted, but rapid retesting isn’t likely to show any improvement in sediment quality or a target toxicant that can be reduced. On the contrary, if an improved result occurred during retesting, it would likely be an indication of the randomness of sampling and testing rather</p>		

Commenter	#	Comment	Response	Action Taken
		<p>than a real change in the sediment quality.</p> <p>4. Requests that TIE testing shall be used only to identify and report the toxic compound in the effluent and not for compliance purposes.</p> <p>The purpose of a TIE/TRE is to find the causes of toxicity and not for enforcement or compliance monitoring. Previous permits did not require additional monthly effluent monitoring for compliance (i.e. During the TRE Process, monthly effluent monitoring shall resume and TST results (“Pass” or “Fail”) for chronic toxicity tests shall be reported as effluent compliance monitoring results for the chronic toxicity MDEL). TRE testing was conducted in place of routine monthly testing. The Permittee should not be penalized for testing conducted while trying to determine the toxic component present in the effluent. The exceedance should be used to initiate the identification of toxic compounds, not an opportunity to issue fines.</p>		
City of Los Angeles	45	<p>Tentative Order, Attachment E, page E-35, Table E-12</p> <p>LASAN requests that “Pesticides” be removed.</p> <p>Pesticides means the sum of six OP (organophosphorus) Pesticides, in note 43, as demeton, guthion, malathion, methoxychlor, mirex, and parathion.</p> <p>Historically, Hyperion permit has never required the monitoring of OP-Pesticides in influent,</p>	<p>Sediment monitoring of OP pesticides is required in the 2015 Ocean Plan. Section 6.1 of Appendix III of the 2015 Ocean Plan states:</p> <p><i>For discharges greater than 10 MGD, acid volatile sulfides, OP Pesticides, Table 1 metals, ammonia N, PAHs,* and chlorinated hydrocarbons will be measured in sediments annually in a core monitoring program approved by the Regional Water Board. Sediment sample locations will be determined by the Regional Water Board. If sufficient data exists from</i></p>	Revisions were made to the permit..

Commenter	#	Comment	Response	Action Taken
		<p>effluent, receiving water, or sediment; and these 6 insecticides have never been detected in any published reports related to Hyperion's discharge. It is only reasonable that the monitoring of the OP-Pesticides in sediment be initiated after it has been detected in Hyperion effluent.</p>	<p><i>previous water column monitoring for these parameters, the Regional Water Board at its discretion may reduce the frequency of monitoring, or may allow this requirement to be satisfied through participation in a regional monitoring program.</i></p> <p>The pesticides required in the Tentative Order are not all OP pesticides; therefore, it is appropriate to modify the list of required pesticides to be consistent with the Ocean Plan. The two pesticides that are not OP pesticides (mirex and methoxychlor) have been removed from the Tentative Order and they have been replaced with chlorpyrifos and diazinon.</p> <p>Since the Hyperion permit has never required monitoring of OP pesticides (chlorpyrifos, demeton, guthion, malathion, parathion, and diazinon), there is no water column data available to assess whether or not there is justification to reduce the sediment monitoring frequency. The Regional Water Board will consider reducing the sediment monitoring frequency for OP pesticides if LASAN submits water column data and justification for its removal to the Regional Water Board and USEPA.</p>	
City of Los Angeles	46	<p>Tentative Order, Attachment E, Page E-35, Table E-12</p> <p>LASAN requests that "Chlorinated Hydrocarbons" be removed.</p>	<p>Sediment monitoring of chlorinated hydrocarbons is required in the 2015 Ocean Plan. See comment #45. The chlorinated hydrocarbons required to be monitored include the following: aldrin, dieldrin, endrin, chlordane,</p>	<p>Revisions were made to the permit.</p>

Commenter	#	Comment	Response	Action Taken
		<p>“Chlorinated Hydrocarbons” for sediment monitoring is redundant, because Chlorinated Hydrocarbons already include DDT and PCBs, which are required for sediment as in Table E-12.</p> <p>There are other priority pollutants, i.e. organochlorine pesticides (OC-Pesticides which are constituents analyzed by EPA method 608 of 40CFR136) and Volatile organic compounds (VOC which are constituents analyzed by EPA method 624 of 40CFR136) belong to “Chlorinated Hydrocarbons”; however, there is no data to justify the need to monitor the sediment for these constituents and the previous NPDES permits have never required it.</p>	heptachlor, heptachlor epoxide, endosulfan I, endosulfan II, and endosulfan sulfate. A footnote was added to Table E-12 in the MRP of the Tentative Order to clarify the required chlorinated hydrocarbons.	
City of Los Angeles	47	<p>Tentative Order, Attachment E, Section VIII.D.1, Page E-36</p> <p>LASAN request to correct the footnote.</p> <p>Trawl community analysis footnote should be 46, not 40</p>	Staff agrees.	Changes were made to the permit.
City of Los Angeles	48	<p>Tentative Order, Attachment E, Section VIII.D.3.a, Page E-37</p> <p>Other species should be allowed as alternate or substitute species. One possible solution is to allow for a substitute species for LBTS in the likely event that Hornyhead Turbot quotas are not met during the routine monitoring trawls. The English Sole, Parophrys vetulus, would be a suitable and practical candidate species to substitute for the Hornyhead Turbot as the target species. In terms</p>	The Regional Water Board and USEPA understand that collecting the appropriate number and size of hornyhead turbot has become increasingly difficult over the years and agree that an alternative species should be considered as a substitute. A substitute species should occupy the same ecological niche and have similar feeding habits to the hornyhead turbot; therefore, english sole appears to be an appropriate substitute. pacific sanddab, longfin sanddab, and bigmouth sole, do not appear to	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken																												
		<p>of availability, English Sole are far more abundant in routine monitoring trawls in recent years than Hornyhead Turbot, particularly individuals of larger size classes. EMD have collected more than twice as many English Sole in SMB since 2013 during trawls. Among those English Sole collected, 79% were size class 15 cm and above, compared to only 35% of Hornyhead Turbot. Likewise, 26% of English Sole collected were in the 18 cm size class or larger compared to only 11% of Hornyhead Turbot. Larger fish have more liver tissue which increases the availability of liver tissue for chemical analyses.</p> <p>In addition to being larger and more abundant, both species have been shown to yield somewhat similar concentrations of bioaccumulated contaminants when collected from the same regions (Table 1). Orange County Sanitation District has been analyzing muscle and liver tissue of both Hornyhead Turbot and English Sole for the past two decades to fulfill their NPDES permit requirements.</p> <p>Table 1. Comparison of the average contaminant levels found in Hornyhead Turbot and English Sole by OCSD from 2013-2015. n=60.</p> <table border="1" data-bbox="443 1179 1087 1404"> <thead> <tr> <th>Species</th> <th>Tissue</th> <th>% lipid</th> <th>Hg (mg/kg)</th> <th>Total DDT (ug/kg)</th> <th>Total PCB (ug/kg)</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Hornyhead Turbot</td> <td>Muscle</td> <td>0.19</td> <td>0.08</td> <td>11.9</td> <td>3.67</td> </tr> <tr> <td>Liver</td> <td>7.01</td> <td>0.22</td> <td>372.6</td> <td>31.8</td> </tr> <tr> <td rowspan="2">English Sole</td> <td>Muscle</td> <td>0.76</td> <td>0.06</td> <td>136.3</td> <td>26.51</td> </tr> <tr> <td>Liver</td> <td>10.24</td> <td>0.06</td> <td>557.6</td> <td>76.50</td> </tr> </tbody> </table>	Species	Tissue	% lipid	Hg (mg/kg)	Total DDT (ug/kg)	Total PCB (ug/kg)	Hornyhead Turbot	Muscle	0.19	0.08	11.9	3.67	Liver	7.01	0.22	372.6	31.8	English Sole	Muscle	0.76	0.06	136.3	26.51	Liver	10.24	0.06	557.6	76.50	<p>be appropriate substitutes since they either occupy different ecological niches or have different feeding habits than hornyhead turbot. Fish tissue analyses are also most useful when compared to previous years to determine how the prevalence of pollutants in fish tissue changes over time. Since hornyhead turbot have been required for fish tissue analyses over the years, there is a wealth of information available on the accumulation of pollutants in hornyhead turbot fish tissue. For these reasons, the Regional Water Board and USEPA find that is appropriate to keep the hornyhead turbot as the primary species for the local bioaccumulation trends survey; however, if the required sizes and numbers of hornyhead turbot are not available, english sole may be used as a substitute. Section VIII.D.3 of the Tentative Order was modified to allow this substitution if necessary.</p>	
Species	Tissue	% lipid	Hg (mg/kg)	Total DDT (ug/kg)	Total PCB (ug/kg)																											
Hornyhead Turbot	Muscle	0.19	0.08	11.9	3.67																											
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Commenter	#	Comment	Response	Action Taken
		<p>Another species that occurs in large numbers in all zones of Santa Monica Bay is the Pacific Sanddab, <i>Citharichthys sordidus</i>, which should also be considered a viable alternative. The City of San Diego SBWRP's NPDES permit NO. CA0109045 allows them to choose a species for bioaccumulation analysis depending on what is available in each trawl survey. Along with Hornyhead Turbot, Longfin Sanddab, and Bigmouth Sole, Pacific Sanddab is one of the suitable species in the San Diego permit.</p> <p>LASAN proposes to change attachment E, Section D.3.a, to allow the City to use any of the these three species, Hornyhead Turbot, English Sole, or Pacific Sanddab, based on availability of specimens collected in trawls.</p> <p>SOURCES: California Regional Water Quality Control Board, San Diego Region, Order Number R9-2013-0006, NPDES NO. CA0109045. OCSD. 2012-2013. Annual Report, July 2012– June 2013. Marine Monitoring. Fountain Valley, CA. p. 6.27. OCSD. 2013-2014. Annual Report, July 2012– June 2013. Marine Monitoring. Fountain Valley, CA. p. 2.25. OCSD. 2014-2015. Annual Report, July 2012– June 2013. Marine Monitoring. Fountain Valley, CA. p. 2.26.</p>		

Commenter	#	Comment	Response	Action Taken
City of Los Angeles	49	<p>Tentative Order, Attachment E, Section D.3.b, Page E-39,</p> <p>LASAN requests that Croakers may be replaced with alternate species.</p> <p>As written, the tentative permit stipulates the following: <i>“One species from each of five groups of fish (rockfish, kelp bass, sand bass, surfperches and croakers) shall be sampled from each of the two zones in years one, three and five.”</i></p> <p>LASAN proposes to prioritize the species list with a “Group 1”, including “croakers” (White Croaker, Black Croaker, and White Seabass) and if an insufficient number of individuals are collected, then substitute a “Group 2” species of sport fish including Ocean Whitefish, Opaleye, Blacksmith, and Pacific Mackerel. Throughout the entire period of the previous NPDES permit, even with significant effort, EMD has never been able to collect 10 croakers of either species during LSSS. In addition to being uncommon in SMB, croakers are not good representatives of typical sport fish collected by anglers in the region. In the unlikely event that croakers did suddenly become readily available by rig fishing methods, EMD could use them as the “wildcard” species for that year. Only Croakers have been specified (white croaker preferred followed by black croaker, and white seabass) Group 2 species have not been added.</p>	<p>The Regional Water Board and USEPA staff agree that if an insufficient number of croakers are collected, an alternate species should be permitted in order to ensure the preferred amount of data is collected for the sportfish category. Croakers are the preferred species but if an insufficient number of croakers are collected, one of the following species may be collected as a substitute: ocean whitefish, opaleye, blacksmith, or pacific mackerel. Section VIII.D.3.b of the MRP in the Tentative Order was modified to permit these substitutions.</p>	<p>Revisions were made to the permit.</p>
City of Los Angeles	50	<p>Tentative Order, Attachment E, Page E-39, Table E-14</p>	<p>Staff agrees.</p>	<p>Revisions were made</p>

Commenter	#	Comment	Response	Action Taken
		LASAN requests to correct footnotes. Correct footnote 44 and replace with 46.		to the permit.
City of Los Angeles	51	Tentative Order, Attachment E, Section IX.C.9 LASAN requests removing Tidal stage and height. Tidal stage and height is an unnecessary parameter to include in survey records/reports for most sampling performed. LASAN suggests removing unless monitoring intertidally.	Tidal stage and height are useful parameters to record to better understand and to help make conclusions from near shore and microbiology analyses. These parameters are therefore appropriate and are retained in the Revised Tentative Order.	None necessary.
City of Los Angeles	52	Tentative Order, Attachment E, Section IX.B, Page E-41 LASAN requests to change monitoring to reporting and suggest the following: <i>B. Stormwater Overflow Monitoring Reporting</i> <i>The Permittee shall monitor report the frequency of all stormwater overflows from the North, Central, and South Storm drains that result in discharges to the 1-Mile Outfall.</i>	Staff agrees.	Revisions were made to the permit.
City of Los Angeles	53	Tentative Order, Attachment E, Page E-44, Table E-15 The tentative permit requires the Quarterly and Semiannual to be the 15th of the second month after sampling. LASAN requests changing the Quarterly and Semiannual to be on the 15th of the third month after sampling, which would be June 15, September 15, December 15, and March 15 for Quarterly; and September 15 and March 15 for Semiannual. These reporting frequencies will	Staff agrees.	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		match and will be consistent with TIWRP, LAGWRP, and DCTWRP.		
City of Los Angeles	54	<p>Tentative Order, Attachment E, Section X.D.4, Page E-46</p> <p>The receiving water bacterial monitoring data is already completed every year and is submitted by August 1st (Page E-47, 5 – Receiving Water Monitoring Report).</p> <p>LASAN requests removing the receiving water data from Page E-46 Annual Summary Report to avoid duplication since they are already reported.</p>	<p>This receiving water reporting requirement is based on section X.D.7. of the MRP as stated below:</p> <p><i>The City of Los Angeles monitors bacteria at the Santa Monica Bay shoreline stations described in the Santa Monica Bay Bacteria TMDLs, as required under the Los Angeles County MS4 permit (Order No. R4-2012-0175, NPDES No. CAS004001). This monitoring requirement is necessary to meet the requirements outlined in the Santa Monica Bay Bacteria TMDLs. Although duplicative sampling is not required, the Permittee shall upload monthly and annual Portable Document Format (PDF) reports to the California Integrated Water Quality System (CIWQS) summarizing the Santa Monica Bay Bacteria TMDL-based monitoring results and confirming that the final effluent has not contributed to any shoreline exceedances. The PDF reports shall be submitted concurrently with the NPDES monthly annual reports.</i></p> <p>The language in section X.D.4. was clarified to indicate that this reporting requirement applies to the Santa Monica Bay shoreline bacterial monitoring data.</p> <p>This requirement is also consistent with the Los Angeles Harbor Bacteria TMDL reporting requirements in the Terminal Island NPDES</p>	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
			Order No. R4-2015-0119, as amended by R4-2015-0119-A01.	
City of Los Angeles	55	<p>Tentative Order, Attachment E, Section X.D.5, Page E-47</p> <p>LASAN request clarification on the interaction between CIWQS and CEDEN.</p> <p>The receiving water data is currently a PDF upload to CIWQS. LASAN would like to know if there will be an SMR form which needs to be in CEDEN format.</p>	<p>Although an interface between CIWQS and CEDEN is currently being developed, there is currently no requirement for dischargers to submit any additional fields in CIWQS. The additional fields that will be required to allow data to flow from CEDEN to CIWQS will either be through a PET Tool file or a CDF file, both of which will be made available in the near future. For additional information regarding the interface between CIWQS and CEDEN, please contact the CEDEN Administrator at ceden@waterboards.ca.gov.</p>	None Necessary.
City of Los Angeles	56	<p>Tentative Order, Attachment F, Section V.C.6 (paragraph 6), Page F-33</p> <p>LASAN requests to correct Section VIII.K to Section VIII.J.</p> <p>"Compliance with the chronic toxicity requirement contained in the 2016 Order/Permit shall be determined in accordance to sections VIII.K-<u>VIII.J.</u>"</p>	Staff agrees.	Revisions were made to the permit.
City of Los Angeles	57	<p>Tentative Order, Attachment F, Page F-47, IX.B.5.a</p> <p>The tentative permit states that <i>"The Permittee is also responsible for compliance with WDRs and NPDES permits for the generation, transport and application of biosolids issued by the State Water Board, other Regional Water Boards, Arizona Department of Environmental Quality or USEPA,</i></p>	Biosolids requirements are described in Attachment H so this sentence was deleted from the Fact Sheet.	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p><i>to whose jurisdiction the Facility's biosolids will be transported and applied"</i></p> <p>LASAN considers the above requirement as an overreach.</p> <p>The City utilizes independent contractors to haul biosolids, and requires biosolids haulers to adhere to biosolids spill response procedures established as part of the City's biosolids EMS system. The City is responsible for spills of biosolids that occur in the plant as well as spills outside the plant that are within the City's jurisdiction. The City's jurisdiction outside the plant starts when a truck leaves the plant to just before entering the 105 Freeway. The City's biosolids spill clean-up jurisdiction is determined via contract with independent contractors, and spills outside the City's established jurisdiction are the responsibility of the independent contractor. Consequently, the permit should acknowledge this arrangement and make it clear that the permittee is liable only for spills within its jurisdiction.</p>		
City of Los Angeles	58	<p>Tentative Order, Attachment H, Section VI, Page H-3</p> <p>The City requests clarification and consistency regarding the monitoring frequency of Biosolids placed in municipal landfills. Table 1 of 40 CFR § 503.16 is applicable to land application, not landfill disposal. The monitoring frequency should explicitly be stated as either semi-annually or should refer to the Table 1 of 40</p>	<p>For biosolids disposed of in a municipal solid waste landfill (with other material), the Permittee must comply with 40 CFR 258. EPA also added a monitoring requirement to Attachment H, Section VIII: Reporting, that the annual biosolids report shall be submitted to EPA using EPA's NPDES Electronic Reporting Tool (NeT). NeT is accessed from the internet at http://www.epa.gov/compliance/national-pollutant-discharge-elimination-system-npdes-</p>	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		CFR § 503.16, not both. Depending on the amount of biosolids placed in landfills, Table 1 may require the City to monitor more than semi-annually.	electronic-reporting-tool-net-fact. Regional Water Board and USEPA staff are removing the requirement for the Paint Filter Test for biosolids going to a municipal landfill. Hyperion's biosolids are currently dewatered to about 27%, which would pass a paint filter test. If percent solids decrease and wetter solids were sent to the municipal landfill, the landfill itself would require a paint filter test.	
City of Los Angeles	59	Tentative Order, Attachment H, Section VII.C, Page H-4 LASAN requests all requirements related to the responsibilities of the land applier of biosolids be removed from this Order. The City contracts with land appliers. The land applier is permitted and regulated under their own corresponding permit (General Order, Waste Discharge Requirements, etc.), and is in compliance with all requirements under 40 CFR § 503. This section infers that the land applier and permittee (City) are co-permittees. The land applier is not a co-permittee of this Order. The nitrogen loadings, biosolids rates and application information is a requirement of permits for land appliers or facility owners. The City should not be responsible for requirements found in the land appliers permits.	40 CFR 503.7 states that "any person who prepares sewage sludge shall ensure that the applicable requirements in this part [503] are met when the sewage sludge is applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator." The Permittee is responsible for assuring that all biosolids produced at its facility are used or disposed of in accordance with these rules, whether the Permittee uses or disposes of the biosolids, itself, or transfers the biosolids to another party for further treatment, use, or disposal. The Permittee is responsible for informing subsequent preparers, appliers, and disposers of the requirements that they must meet under these rules.	None necessary.
City of Los Angeles	60	Tentative Order, Attachment H, Section VIII.D, Page H-5 LASAN requests all requirements related to the	See response to comment #59.	None necessary.

Commenter	#	Comment	Response	Action Taken
		responsibilities of the land applier of biosolids be removed from this Order. The City contracts with land appliers. Groundwater monitoring or certification requirements are the responsibility of the land applier or facility operator or owner under their own permits. The City is not a co-permittee of the land appliers permits.		
City of Los Angeles	61	Tentative Order, Attachment I, Section III.B, Page I-3 LASAN would like to know the maximum file.	The maximum file size is 20 megabytes and Attachment I was modified to make this clarification.	Revisions were made to the permit.
Comments received from the City of Los Angeles, Bureau of Sanitation on October 13, 2016				
City of Los Angeles, Bureau of Sanitation	1	On behalf of the City of Los Angeles' Hyperion Treatment Plant, the Environmental Monitoring Division is formally requesting a reporting unit change for PCB congeners from µg/L to pg/L tested using method EPA 1668c. Per Permit No. CA0109991, MRP, E-20 and E-24, Footnote 13 and 26, PCBs as congeners shall be analyzed using method EPA 1668c for three years and an alternate method may be used if none of the PCB congeners are detected for three years using method 1668c. Method EPA 1668c determines chlorinated biphenyl congeners in environmental samples using high resolution gas chromatography/high resolution mass spectrometry. The detection limits in this Method are dependent on the level of interferences and laboratory background levels rather than instrument limitations. In water, detection limits can be measured to parts per quadrillion (pg/L).	Staff agrees.	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p>We have found that the estimated detection limit (EDL) from the contract laboratory, Test America, has been reported as low as 0.48 pg/L. Converting these low results to µg/L and with the eSMR in CIWQS rounding to 6 decimal places we are losing significant figures and could potentially cause inaccuracies in reporting. Therefore, we request to report all results for PCB congeners using method EPA 1668c in pg/L.</p>		
Comments received from the LA Waterkeeper on September 28, 2016				
LA Waterkeeper	1	<p>LAW has reviewed the draft Permit for Hyperion Treatment Plant (HTP). The continued discharge of wastewater from HTP into Santa Monica Bay constitutes a waste and unreasonable use of water and violates Article X, Section 2 of the California Constitution. Article X, Section 2 provides, in pertinent part:</p> <p><i>It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented.</i></p> <p><i>Article X, Section 2 further states that "[t]his section shall be self-executing, and the Legislature may . . . enact laws in the furtherance of the policy in this section contained." Courts have construed this to provide "broad legislative authority for the conservation and regulation of scarce water resources," which includes the</i></p>	<p>The Regional Water Board agrees that the California Constitution sections cited set forth the intent that the State prevent the waste and unreasonable use of water and that the State Water Resources Control Board (State Water Board) has broad authority to control and condition water use. The Regional Water Board also agrees that increasing the use of recycled water is important. The State and Regional Water Boards share independent yet overlapping duties in the regulation of recycled water. The Regional Water Board is authorized to issue NPDES permits and waste discharge requirements and prescribe water reclamation requirements for individual water recycling projects and to issue master water recycling permits. See, e.g., California Water Code §§ 13263, 13377, 13523, and 13523.1. The State Water Board is directly responsible for carrying out the constitutional and statutory mandates to prevent the unreasonable use and waste of all water in California, and for administering public trust resources on behalf of the people of the</p>	<p>Revisions were made to the permit.</p>

Commenter	#	Comment	Response	Action Taken
		<p><i>power “to enact statutes which determine the reasonable uses of water.” Under this authority, the Legislature “has established a thorough statutory system insuring reasonable water allocation” that vests the State Water Resources Control Board (State Board) with “broad authority to control and condition water use.”</i></p> <p>The State Board has provided a list of factors to consider in analyzing alleged waste and unreasonable use: (1) other potential beneficial uses for conserved water; (2) whether the excess water now serves a reasonable and beneficial purpose; (3) the probable benefits of water savings; (4) the amount of water reasonably required for current use; (5) amount and reasonableness of the cost of saving water; (6) whether the required methods of saving water are conventional and reasonable rather than extraordinary; and (7) the availability of a physical plan or solution.</p> <p>Furthermore, the Legislature has declared that under certain circumstances, a failure to use recycled water is a waste and unreasonable use: [T]he use of potable domestic water for nonpotable uses, including but not limited to, cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses, is a waste or unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water is available.</p>	<p>State. See, e.g., California Water Code §§ 275, 1831– 1836.</p> <p>The commenter asserts that the permit triggers a duty to conduct a waste and unreasonable use analysis pursuant to the California Constitution and Water Code. The commenter is incorrect. It is unclear from the comment if the duty it asserts is triggered is a duty of the State Water Board or the Regional Water Board, but either way it is not correct. As further discussed below, the State Water Board has authority to enforce the laws to prevent waste and unreasonable use of water. The Regional Water Board has no mandatory legal duty or obligation to make waste and unreasonable use findings as a condition of issuing NPDES permits. The State Board is not required to take action but may take action. Further, the California Water Code does not require the Regional Water Board to ensure reasonable water allocation as a condition of an NPDES permit, waste discharge requirements, or water reclamation requirements.</p> <p>The California Constitution and California Water Code enunciate the State’s core water policy that water users may not unreasonably use or waste water. (See, e.g., Cal. Const., art. X, § 2; Wat. Code, § 100.) The Legislature through Water Code section 275 authorized the State Water Board to take actions to enforce those core principles. Water Code section 275 provides, in full:</p>	

Commenter	#	Comment	Response	Action Taken
		<p>The Legislature also prohibits the use of potable water for nonpotable uses where recycled water is available:</p> <p><i>A person or public agency, including a state agency, city, county, city and county, district or any other political subdivision of the state, shall not use water from any source of quality suitable for potable domestic use for nonpotables uses, including cemeteries, golf courses, parks, highway landscaped areas, and industrial irrigation uses if suitable recycled water is available as provided in Section 13550.</i></p> <p>The draft Permit allows “business as usual” (i.e. the discharge of treated, but nonetheless still polluted wastewater into the ocean where such discharges cause degradation of water quality without any requirement to recycle a greater amount of HTP’s wastewater), and violates the Constitution and the Water Code.</p> <p>An analysis of the State Board’s factors demonstrates that current practices at HTP constitute a waste and unreasonable use of water: (1) virtually any potential beneficial use for conserved water would be superior to discharging secondary treated wastewater into the ocean; (2) the excess water is not currently being put to a reasonable or beneficial use, in fact, it instead contributes to pollution of our coastal waters; (3) there are numerous probable benefits of water savings, including reduced reliance on imported water and reduced energy consumption; (4) no</p>	<p>“The department [of water resources] and the board [State Water Board] shall take all appropriate proceedings or actions before executive, legislative, or judicial agencies to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this state.”</p> <p>The State Water Board may take, and has taken, “appropriate actions,” including:</p> <ul style="list-style-type: none"> • Initiating enforcement action against water right holders who the State Board has determined are unreasonably using water. (Imperial Irrigation District v. State Water Resources Control Bd. (1986) 186 Cal.App.3d 1160.) • Adopting regulations to prohibit categories of unreasonable uses of water. (Light v. State Water Resources Control Bd. (2014) 226 Cal.App.4th 1463, 1482-1483.) • Denying applications to divert surface waters. (Central Delta Water Agency v. State Water Resources Control Bd. (2004) 124 Cal.App.4th 245.) <p>In addition, Water Code section 275 does not create a mandatory duty of a regional board to prevent the waste or unreasonable use of water.</p> <p>In 2009, the State Water Board adopted</p>	

Commenter	#	Comment	Response	Action Taken
		<p>amount of treated wastewater is required to be discharged into the ocean; (5) the cost of saving water would need to be compared to the costs of other water supply sources such as desalination and importing water from sources such as the Colorado River, the Bay Delta, and the Owens Valley; (6) the technology to put the water HTP currently discharges into the ocean to other beneficial uses currently exists, which suggests there is nothing extraordinary about such methods of saving water. In fact, HTP currently sends some of its wastewater to the West Basin Municipal Water District (West Basin) for further treatment; and lastly, (7) a physical plan or solution is available as demonstrated by the fact that HTP already provides some wastewater to West Basin. West Basin is currently exploring new sources of water and is not the only Water District doing so. HTP can recycle well above the 37 MGD it is currently recycling, and the Legislature has defined this failure to recycle as a waste and unreasonable use of water. As a result, at a minimum, this Permit triggers the duty to conduct a waste and unreasonable use analysis required by the California Constitution and Water Code.</p> <p>Further, the City of Los Angeles is now taking important steps to plan for a sustainable water supply and address the drought conditions we are facing. Mayor Eric Garcetti's Sustainable City plan sets the goal of reducing purchased imported potable water use by 50 percent by 2025 and increasing local water sources to 50 percent by 2035. Los Angeles Department of Water and</p>	<p>Resolution 2009-0011, <i>Adoption of a Policy for Water Quality Control for Recycled Water</i> (Recycled Water Policy) (Revised January 22, 2013, effective April 25, 2013.) (Recycled Water Policy or Policy). The Recycled Water Policy sets forth the duties with respect to recycled water of the State Water Board, the Regional Water Boards, the California Department of Public Health (now, the Division of Drinking Water (DDW) within the State Water Board for those duties related to drinking water), the California Department of Water Resources, and the California Public Utilities Commission. As summarized in the Policy, the State Water Board's duties for recycled water projects include general oversight, review of regional water board permitting practices, and leading efforts to meet the recycled water use goals set forth in the Policy. The Regional Water Boards' duties for recycled water include protection of surface and groundwater resources and the issuance of permits that implement DDW recommendations, the Recycled Water Policy, and other Basin Plan requirements. The Policy also directs the Regional Water Boards to use their authority to encourage the use of recycled water.</p> <p>The Recycled Water Policy also declares that pursuant to Water Code section 13550 et seq., "it is a waste and unreasonable use of water for water agencies not to use recycled water when recycled water of adequate quality is available and is not being put to beneficial use, subject to</p>	

Commenter	#	Comment	Response	Action Taken
		<p>Power's (LADWP) Urban Water Management Plan (UWMP) lays out a commitment to the "significant expansion of recycled water in the City's water supply portfolio." As described in the UWMP, LADWP's water recycling program is dependent on the City's wastewater treatment infrastructure and facilities, including HTP. HTP can and should be a means of meeting these water supply goals, but is instead discharging recyclable water into the ocean. Such an approach turns a huge potential asset into a large liability and is unreasonable in light of the severe drought California is experiencing and the projected further and more extreme disruptions in water supplies due to climate change.</p> <p>Simply put, California's 'pump and dump' approach to water, where water is moved throughout the state at great environmental and economic cost only to be used inefficiently and then immediately discharged to pollute our rivers, creeks and coastal waters, has lurches the state from water crisis to water crisis and left us in the dire situation in which we now find ourselves. HTP has the capacity to handle a flow of approximately 850 million gallons per day (MGD). While approximately 37 million gallons of wastewater from HTP is reclaimed for beneficial uses every day, on average more than 230 MGD of wastewater from HTP is still discharged into Santa Monica Bay. By comparison, it would only take 100 MGD to fill the Rose Bowl. HTP is discharging more than two Rose Bowls full of water into the ocean every day. Thus, instead of the waste and</p>	<p>the established conditions established in section 13550 et seq." Further, the Policy states that the State Water Board shall exercise its authority pursuant to Water Code section 275 to the fullest extent policy to enforce the use of recycled water. Section 13550 authorizes the State Water Board to determine whether the use of potable water for nonpotable use is a waste and unreasonable use based on specific criteria.</p> <p>Contrary to the comment, the Legislature has not defined Hyperion's discharge as a waste and unreasonable use of water. The State Water Board, not the Regional Water Board, would need to make such a determination after consideration of the criteria in section 13550. Section 13550 sets forth the authority of the State Water Board, not the Regional Water Boards, and sets forth requirements that apply to water agencies.</p> <p>The proposed Order is consistent with the applicable law and the Recycled Water Policy. The proposed Order addresses the proper treatment of wastewater, and although it is not a water reclamation permit, it is consistent with the Recycled Water Policy because it sets forth requirements, including effluent limitations and prohibitions to protect surface and groundwater resources, and encourages the use of recycled water that in turn results in a reduction in wasted water. While the Regional Water Board may encourage recycling, it may not order the discharger to recycle a certain quantity of water</p>	

Commenter	#	Comment	Response	Action Taken
		<p>unreasonable allowed under the draft Permit, that wastewater should be further treated and reclaimed for the countless beneficial uses for which drought-stricken southern California desperately needs water.</p>	<p>in an NPDES permit.</p> <p>Contrary to the comment, the wastewater being discharged is not causing pollution as defined in section 13050 of the Water Code. Section 13050 defines the term “pollution to mean, in relevant part, “an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects the waters for beneficial uses.” The effluent limitations, prohibitions, and other conditions of the permit implement the applicable provisions of both the federal Clean Water Act and the California Water Code, including the anti-degradation policies, to protect the beneficial uses and prevent pollution or nuisance.</p> <p>Unlike many of the upstream wastewater treatment plants that produce tertiary-treated wastewater, the Hyperion Treatment Plant produces secondary-treated wastewater. The potential uses of secondary-treated wastewater are more limited than those of tertiary-treated wastewater and it will be necessary to make significant investments in Hyperion’s infrastructure in order to reuse the final effluent to its fullest potential. The Permittee has been taking steps to get the most out of the wastewater it produces through agreements with other agencies or through infrastructure investments. Through an agreement with the West Basin Municipal Water District, about 37 mgd of Hyperion’s final effluent is recycled at the Edward C. Little Water Recycling Plant, and</p>	

Committer	#	Comment	Response	Action Taken
			<p>there are plans under consideration for doubling the capacity in the future. The Permittee also reuses 11 mgd of the secondary treated wastewater on-site rather than using potable water. In addition to the current operations, the Permittee has plans to invest in a 1.5 mgd advanced water purification facility that may be expanded to 5 mgd. The recycled water produced from this facility will be used internally at the Hyperion Treatment Plant, at the Scattergood Generating Station as boiler makeup water, and at the Los Angeles International Airport for cooling towers, toilet flushing, and a carwash. The Regional Water Board is in the process of discussing the possibility of permitting this project under the State Water Resources Control Board's General Waste Discharge Requirements for Recycled Water Use (Order WQ 2014-0090-DWQ) or through separate Waste Discharge Requirements and Water Recycling Requirements. Once a mechanism is in place to permit the use of recycled water from the Hyperion Treatment Plant, the Permittee will be able to more easily expand its recycled water operations.</p> <p>To encourage water recycling and to communicate progress on the Permittee's recycling program, a requirement to submit a recycled water progress report with each NPDES Annual Report was added to section X.D.4 of the MRP of the Revised Tentative Order.</p>	

Commenter	#	Comment	Response	Action Taken
Comments received from the Heal the Bay on September 29, 2016				
Heal the Bay	1	<p><u>MOSO Event Management</u></p> <p>It was a little more than a year ago when Hyperion Treatment Plant unintentionally discharged hundreds of pounds of materials of sewage origin (MOSO), which consisted of used syringes and tampon applicators, and forced Los Angeles County to close sections of Dockweiler Beach and shores close to its plant. While the situation was unfortunate for everyone involved, Heal the Bay is pleased to see that the updated tentative Hyperion WDR has made some allowances that should hopefully prevent an event like this from happening in the future.</p> <p>We noticed language was added to Hyperion’s Monitoring and Reporting Program that should hopefully address the problem. The 2016 Tentative WDR states that, “the 1-Mile Outfall diversion structure including the surge chamber shall be internally inspected a minimum of once per year [Attachment E, p. E-41, Section IX. A.]” While this seems reasonable, and we realize the material that were previously in the surge chamber are gone, we still recommend a few additions to the Hyperion WDR. Because the 2015 MOSO event was a direct result of heavy rains and the resulting high influent flows flushing out material deposited during a sewage spill, we recommend that the annual inspection take place in anticipation of heavy rains, perhaps prior to our winter rainy season.</p>	<p>The 2016 Order includes an annual requirement for LASAN to visually inspect the 1-Mile Outfall surge chamber and diversion structure to ensure floating material does not accumulate. To ensure the Permittee implements appropriate procedures for inspecting the diversion structure and surge chamber, section IX.A of the MRP was modified to require the Standard Operating Procedure (SOP) within 90 days of the effective date of the Order.</p> <p>The 1-Mile Outfall is utilized the most during the rainy season since excess stormwater is also conveyed through the outfall, making the beginning of the rainy season a crucial time to inspect the surge chamber and diversion structure. Section IX.A of the Tentative Order was revised to require the annual inspection of the surge chamber and diversion structure at least once per year prior to the beginning of the rainy season.</p> <p>In addition, since the final effluent is infrequently discharged from the 1-Mile Outfall, the Regional Water Board staff finds it appropriate to conduct the internal inspection of the surge chamber and diversion structure prior to any planned discharge of final effluent. There may not be sufficient time to inspect the surge chamber and diversion structure prior to discharge in unplanned emergency situations therefore it is inappropriate to require inspections prior to</p>	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p>Also we think it would be a good precautionary idea that the 1-Mile Outfall diversion structure and surge chamber be inspected following any discharge from the structure, planned or unplanned. An external inspection following any use of the 1-Mile Outfall will alert the City of Los Angeles, Bureau of Sanitation (LA SAN) of any failings or faults in structural integrity. An internal inspection would also alert authorities of any residual material that could be retrieved instead of being washed out at a later date.</p> <p>Finally, another issue that arose during the MOSO event was the lack of baseline data on typical levels of MOSO, in particular syringes, that may be found on the beach. This led to difficulty in determining both the extent and the duration of the impact from the discharge from Hyperion. We recommend that if Hyperion has not already conducted such a study, that such an investigation be included as a special study pursuant to Attachment E, p. E-5, Section I. Q. 3. Establishing this baseline, and also investigating the sources of such materials if unrelated to discharges to Hyperion would be helpful to protecting public health of beachgoers.</p>	<p>unplanned emergency discharge events. Consistent with this rationale, section III.A of the Tentative Order requires that an internal inspection of the surge chamber and diversion structure occur within one month of the planned discharge.</p> <p>The external inspections of the 1-Mile Outfall have been included in the Tentative Order and in previous orders to ensure the outfall is properly maintained. Although Material of Sewage Origin (MOSO) was discovered at the terminus of the 1-Mile Outfall after the spill event in September 2015, it is likely that the material would not have been present if the surge chamber and diversion structure were cleaned prior to the initiation of work associated with the Effluent Pumping Plant diversion. The Regional Water Board staff finds that conducting an external inspection of the 1-Mile Outfall more than once per year will not significantly improve LASAN's ability to prevent floatable material from exiting the outfall. Internal inspections of the surge chamber and diversion structure are likely to be more effective in preventing the discharge of floatable material because floatable material accumulated in the surge chamber in the past.</p> <p>The Beach clean-up data collected by LASAN after the MOSO event indicated that there is a possibility of another source of MOSO, and syringes in particular. The Regional Water Board staff agrees that it will be necessary to</p>	

Commenter	#	Comment	Response	Action Taken
			<p>conduct a study to determine the origin of this material that regularly ends up on the beach. The Tentative Order includes a requirement for LASAN to consult with the Regional Water Board at the end of each year to discuss possible special studies for the upcoming year.</p>	
Heal the Bay	2	<p><u>Consideration of Harmful Algal Blooms</u></p> <p>One of the consequences of Hyperion’s use of the 1-mile Outfall last September and October is a reminder that Harmful Algal Blooms (HABs) are always something to pay close attention to and plan for. Due to the nutrient loading occurring a mile off the coast, non-harmful algal blooms occurred sporadically in the surf from Venice to Redondo Beaches.</p> <p>Last winter’s El Nino, which brought warmer water and southern fish species never before seen in our waters is a separate reminder of the rising water temperatures that are likely in our future due to climate change. With this warming trend, Hyperion must be aware of the increased possibility of HAB occurrences.</p>	<p>During the 2015 Effluent Pumping Plant (EPP) Replacement Project, LASAN was aware of the possibility of significant stimulation of phytoplankton growth and the development of harmful or toxic phytoplankton blooms in the Santa Monica Bay due to the elevated nutrient concentrations created by the final effluent. As a result, LASAN took several precautionary measures to prevent the occurrence of a severe harmful algal bloom.</p> <p>Prior to the 2015 diversion in 2012 and 2013, LASAN conducted three studies in collaboration with the University of Southern California involving the incubation and experimental manipulation of natural seawater samples to examine the quantitative and qualitative effects of the HTP effluent on natural assemblages of phytoplankton collected from surface waters of the 1-Mile Outfall. LASAN used the data collected from these studies to select the optimal time of the year to conduct the diversion.</p> <p>During the 2015 Diversion event, LASAN monitored the local waters prior to, during, and following the diversion in order to document any adverse conditions that might develop regarding phytoplankton abundances, species</p>	None necessary.

Commenter	#	Comment	Response	Action Taken
			<p>composition, or possible toxin production.</p> <p>LASAN is required to submit a written request to the Regional Water Board to discharge final effluent from the 1-Mile Outfall. Since LASAN has proposed monitoring for harmful algal blooms during discharges from the 1-Mile Outfall in the past, the Regional Water Board expects LASAN will continue to take an active role in monitoring for potential harmful algal blooms that result from the waste discharged from Hyperion's 1-Mile Outfall. The Regional Water Board may also require monitoring for harmful algal blooms as a condition of approving a proposed discharge from the 1-Mile Outfall if LASAN does not propose monitoring.</p>	
Heal the Bay	3	<p><u>Acute Toxicity Limits Should be Reinstated</u></p> <p>The Hyperion WDR documents that there were a total of seven acute toxicity violations for ammonia, four in 2012 and three in 2014 [p. F-15 & F-16]. Heal the Bay wants to be certain that Hyperion has taken the necessary actions and performed necessary studies to prevent similar incidences to the extent possible, and that these plans take into account the realities of the future influent water quality the plant is likely to be dealing with going forward. Spikes in ammonia concentrations are likely to continue to occur as the people of Los Angeles continue to conserve water during the current drought. We understand that additional treatment for ammonia is likely a necessary component to expand recycling of</p>	<p>The concentration of ammonia in the final effluent is relatively consistent in the short term, but in the long term the ammonia concentration in the final effluent has been trending upward as a result of conservation efforts in response to the ongoing drought. Also, TIE studies conducted by the Permittee indicate that ammonia has contributed to topsmelt mortality in acute toxicity tests. Due to the detection of acute toxicity in the final effluent during the previous permit term and the results of the TIE studies, the permit includes specific numeric water quality-based effluent limitations to regulate ammonia (i.e. instantaneous, daily maximum, and 6-month median effluent limits). See comment response #4 for further information related to ammonia effluent</p>	None Necessary.

Commenter	#	Comment	Response	Action Taken
		<p>effluent from Hyperion, and we urge Hyperion to incorporate plans for this additional treatment as part of their Toxicity Reduction Requirements.</p> <p>We want to remind the board that all the cases of toxic levels of ammonia found in 2012 and 2014 were discovered due to tests in acute toxicity, not chronic toxicity. Yet in the tentative WDR [p. F-32, paragraph 3] the Board states, "Since chronic toxicity is a more stringent requirement than acute toxicity, removal of the numeric acute toxicity effluent limitation does not constitute backsliding." Since these ammonia exceedances wouldn't have been found solely with chronic toxicity testing, and without acute toxicity testing, we think removing acute toxicity would in fact be considered backsliding and acute toxicity effluent limits should not be removed from the permit.</p>	<p>limitations.</p> <p>Therefore, the permit is protective against the ammonia-related toxicity identified in the topsmelt acute toxicity tests because 1) such toxicity already is regulated through the Ocean Plan's numeric ammonia objectives, which are derived from toxicity studies identifying safe levels of exposure for marine organisms, and 2) the Ocean Plan provides flexibility for Regional Water Board regulation of acute toxicity, including toxicity due to ammonia, within the chronic mixing zone when dilution is less than 1,000:1.</p> <p>The 2001 Ocean Plan amendment established an acute toxicity water quality objective to be met at the edge of the acute toxicity mixing zone. The acute zone would be located inside the zone of initial dilution, where the acute water quality objective must be met, and is intended to prevent lethality to passing organisms. The amendment also required acute, chronic, or both toxicity testing based on a specific dilution factor. Specifically, at dilutions less than 100:1, the regulation of acute toxicity is only required where the Regional Water Board determines that such regulation is necessary for protection of beneficial uses. This provision is based on recommendations made in <i>EPA's Technical Support Document</i> (1991), section 3.3.3 Effluent Characterization for Whole Effluent Toxicity, which allows the permitting authority to decide whether to require an acute toxicity test, a</p>	

Commenter	#	Comment	Response	Action Taken
			<p>chronic toxicity test, or both tests based on a given dilution factor.</p> <p>Therefore, the Regional Water Board staff and USEPA determined regulation of acute toxicity within the zone of initial dilution is unnecessary for the protection of beneficial uses because:</p> <ol style="list-style-type: none"> 1) Initial dilution is rapid and occurs in less than 3 minutes under critical conditions, minimizing exposure to drifting and swimming organisms; 2) Ammonia effluent limits, based on water quality objectives derived from toxicity studies, are established to protect aquatic life and prevent lethality; 3) Effluent and receiving water quality data show ammonia as nitrogen (NH₃-N) objectives are met in the receiving waters after completion of initial dilution (The maximum concentration of ammonia ever recorded at the closest station to the ZID (station 3505) is 0.46 mg/L, which is below the most stringent water quality objective in the Ocean Plan for ammonia of 0.6 mg/L.); 4) Species sensitivity rescreening is required every 24 months for discharges from the 5-mile outfall, which will address effluent variability; 5) Permit contains a provision, consistent with the Ocean Plan, requiring the 	

Commenter	#	Comment	Response	Action Taken
			<p>Permittee to take all reasonable steps to reduce toxicity once the source of toxicity is identified; and</p> <p>6) Chronic toxicity effluent limitations are retained to protect beneficial uses for pollutants where pollutant specific numeric objectives are not incorporated into the ocean plan.</p> <p>As the Permittee increases production of recycled water at Hyperion and its upstream treatment plants, acute toxicity and Constituents of Emerging Concern (CECs) in the final effluent may become an increasing concern due to the resulting increased pollutant concentrations. Because of the potential impact this may have on the beneficial uses of the Santa Monica Bay, an additional requirement was included in section VII.C.2.a of the Order for the Permittee to conduct a special study that evaluates the projected effects of water conservation and planned recycling on the effluent acute toxicity and ammonia concentrations. To assess how increased recycled water production may impact the concentration of CECs in the final effluent, a CEC monitoring special study assessing the propensity of flame-retardants and hormones in the final effluent was included in Section IX.C of the MRP.</p>	
Heal the Bay	4	<u>Dilution Credits Should be Consistent for all Constituents</u>	The Regional Water Board does not include dilution ratios in most discharges in the region since most water bodies are effluent dominated.	None necessary.

Commenter	#	Comment	Response	Action Taken
		<p>Heal the Bay doesn't agree with the application of a 96 to 1 dilution credit for ammonia or chronic toxicity. While we disagree with the existing 84 to 1 ratio in the previous and current tentative permits, specifically making exceptions for two constituents in order to comply with backsliding and anti-degradation concerns may be legal, but is disingenuous to protecting our marine habitat.</p>	<p>Since the Ocean is not effluent dominated and consists of significantly more volume than Hyperion's average or even design daily discharge volume, a dilution ratio was granted. The previous dilution study was conducted over 30 years ago and needed to be updated to account for current and future conditions. The updated dilution study conducted in 2015 includes updated water quality data in addition to projections of water quality with increased water recycling. The results of the dilution study indicated that 96:1 was the most appropriate dilution ratio for the design flow.</p> <p>Chronic toxicity and ammonia were the only parameters that received the updated dilution ratio due to antibacksliding and antidegradation concerns. There was no final effluent limitation for ammonia for Discharge Point 002 in the 2010 NPDES permit; therefore, there was no relaxation of a permit limit for ammonia. In fact, the 2010 permit only included an unenforceable Performance Goal for ammonia at Discharge Point 002. The Tentative Order includes a more stringent requirement for ammonia because it is an enforceable final effluent limitation rather than an unenforceable goal.</p> <p>The increase in the dilution ratio for chronic toxicity increased the In-stream Waste Concentration slightly but this is not expected to cause a significant change in the detection of chronic toxicity.</p>	

Commenter	#	Comment	Response	Action Taken
			Rather than applying the updated dilution ratio to all pollutants in the permit, the Regional Water Board staff only applied the updated dilution ratio to ammonia and toxicity because antibacksliding was not a concern for these pollutants and any increase in degradation is expected to be minimal.	
Heal the Bay	5	<p><u>Limits, Loads, and Credits Should be Based on Actual Flows</u></p> <p>Effluent limits, performance goals, mass emission benchmarks, and dilution ratios should all be based on actual plant treatment flows. For example, the current values of the aforementioned categories are all based on Hyperion's actual treatment flows and not their design capacity. Yet, the current permit states that "The mass-based final effluent limitations and mass emission benchmarks continue to be based on the 1994 design flow rate of 420 MGD, even though the design flow rate of the treatment plant has increased to 450 MGD after full secondary treatment was implemented." The permit also states that "Since the mass-based final effluent limitations continue to be based on a lower flow rate than is discharged, the quantity of pollutants discharged and the quality of the discharge are expected to remain relatively constant or improve during the permit term." If this is truly the case, then why doesn't the Regional Board base the current values for the aforementioned categories on the actual 269 MGD dry weather flows.</p> <p>In addition, it is highly probable that the average</p>	<p>Pursuant to 40 CFR § 122.45(b), mass-based effluent limitations for POTWs are calculated based on design flow. This practice was extended to the Performance Goals and Mass Emission Benchmarks in the Tentative Order for consistency. It is more appropriate to use the design flow rate than the current average flow rate because the NPDES permit must account for the total flow that may be treated. Using the average flow rate in the calculation of a mass-based limitation is not appropriate because the flow rate will fluctuate throughout the year and the mass-based limitation could be lower than necessary to be protective of the beneficial uses of the receiving water, possibly derating the plant to a lower flow than it was designed to treat.</p> <p>Although it is standard for the Regional Water Board to use the current design flow rate to calculate the mass-based effluent limitations, the flow rate in the Tentative Order continues to be based on the 1994 design flow rate of 420 MGD. The treatment plant capacity was increased to 450 MGD after upgrading the facility to full secondary treatment. However, since the increased capacity was accompanied</p>	Revisions were made to the permit.

Commenter	#	Comment	Response	Action Taken
		<p>daily dry-weather flow will continue to decline over the next five-years due to drought conditions, water conservation measures, and increased water resource planning higher in the watershed. An argument can be made that two sets of numeric effluent and receiving water limits should be developed and implemented based on two separate weather conditions, dry and wet. In doing so, the public will have a better sense of where capital (structural and non-structural), technological, and educational resources should be allocated to better address effluent limits, performance goals, mass emission benchmarks, and water resources.</p>	<p>by a significant improvement in the final effluent quality, Hyperion was able to continue meeting the mass-based final effluent limitations. The cited language in section V.D.2. of the Fact Sheet was modified to read as follows:</p> <p><i>The mass-based final effluent limitations continue to be based on a lower flow rate than is <u>permitted to be discharged</u>, therefore the quantity of pollutants discharged and the quality of the discharge are expected to remain relatively constant or improve during the permit term.</i></p> <p>Although the Regional Water Board and USEPA agree that the flow rates during dry weather are less than those during wet weather, the final effluent limitations in the permit will continue to be based on the design flow since this accounts for both wet and dry weather conditions without derating the plant capacity.</p>	
	6	<p><u>Notifying the Public of Sewage Spills and Overflows</u></p> <p>In Heal the Bay's past comments concerning 2010's Hyperion Tentative WDR, we requested that the public be notified in a more direct way of any sewage spill as soon as possible, but not longer than two hours. The current WDR states that Hyperion is required to notify the local health officer or the director of environmental health as well as the California Office of Emergency Services [Main Document, p. 30, Section VII. C. 7. a. i & ii.] in that exact timeframe. In the age of</p>	<p>The Regional Water Board and USEPA staff agree that LASAN should be transparent and direct with reporting sewage spills. Section VII.C.7. of the Tentative Order was modified to include Heal the Bay in the list of notifications after a sewage spill.</p>	<p>Revisions were made to the permit.</p>

Commenter	#	Comment	Response	Action Taken
Heal the Bay		<p>instant notifications, communicative phone applications, social media, and text alerts, we again appeal to Hyperion to explore ways to contact the public directly for any sewage spill over 1,000 gallons. Spills which could be particularly massive are not aware of time and could occur inconveniently not during business hours. If instead they occur during the weekend or holidays, when beaches around Hyperion are used by more people, a large amount of time could be spent going through agencies and channels in place. This could place people's health unnecessarily at risk. Getting the word out fast and directly is easier than ever and we feel it is better to err on the side of precaution. Considering both Heal the Bay's and other environmental NGOs' protective role in past Hyperion sewage spills and our large beach contact network, we also would appreciate a similar notification.</p>		
	7	<p><u>Performance Goals and Mass Emissions Should Be Enforceable Limitations</u></p> <p>Performance goals and mass emission benchmarks are extremely poor regulatory mechanisms, and thus, should be replaced with enforceable effluent limitations. Adding credence to this argument, which has been made by Heal the Bay for the past 10-years, is an example made by the Regional Board itself on including effluent limits for ammonia at the 002 site, stating "...new final effluent limitations for ammonia are more protective than the performance goals in the previous Order/Permit because they are</p>	<p>Performance Goals and Mass Emission Benchmarks are included to encourage consistent treatment performance and maintain efficiency.</p> <p>The Performance Goals and Mass Emission Benchmarks are also based on performance and are calculated using the 95th percentile of the final effluent monitoring data from 2010 through 2015. In addition, since Performance Goals and Mass Emission Benchmarks are only assigned to a pollutant if the pollutant did not have <u>reasonable potential</u> to exceed the water quality objectives during the preceding permit</p>	None necessary.

Commenter	#	Comment	Response	Action Taken
Heal the Bay		<p>enforceable,”</p> <p>The current Permit continues to argue that “This approach is consistent with the anti-degradation policy in that it requires the Discharger to maintain its treatment level and effluent quality, recognizing normal variations in treatment efficiency and sampling and analytical techniques.” However, the Permit does not explain <i>how</i> these goals and benchmarks will help to ensure that effluent water quality will not backslide or cause degradation of receiving water quality. In fact, it appears that the performance goals provide an open invitation for the discharger to violate Ocean Plan water quality objectives:</p> <p><i>If the exceedance [of performance goals] persists in three successive monitoring periods, the Discharger shall submit a written report to the Regional Water Board and USEPA on the nature of the exceedance, the results of the investigation as to the cause of the exceedance, and the corrective actions taken or proposed corrective measures with timetable for implementation, if necessary.</i></p> <p>What happens in the event that the Permittee exceeds a performance goal every other monitoring period? Under the Tentative Permit, the discharger may be exceeding Ocean Plan water quality objectives without being held accountable. How many performance goals were exceeded in the last permit cycle? What actions, if any, were taken by the Regional Board and the</p>	<p>term, the calculated goals and benchmarks are always less than the water quality objectives. As a result, an exceedance of a Performance Goal or Mass Emission Benchmark does not automatically indicate that there was an exceedance of the water quality objectives and this approach is consistent with the antidegradation policy. If the discharger does exceed the water quality objectives for any pollutant, the Regional Water Board and USEPA may reopen the permit at any time to include a final effluent limitation for that pollutant.</p> <p>If the Permittee exceeds the Performance Goal in two consecutive monitoring periods, an investigation is required. The Tentative Order does not permit the Permittee to exceed the water quality objectives outside the zone of initial dilution. As discussed above, the Performance Goals are lower than the water quality objectives and they are only applied to pollutants that do not have reasonable potential to exceed the water quality objectives,</p> <p>During the previous permit term, the Permittee exceeded Performance Goals for nickel, zinc, antimony, selenium, ammonia, and alpha radioactivity. The Permittee submitted the results of the ammonia and selenium investigations since the final effluent exceeded the performance goals for three successive monitoring periods as required in the NPDES Order. The Permittee concluded that the ammonia Performance Goal exceedances were</p>	

Commenter	#	Comment	Response	Action Taken
		<p>Permittee? Plainly, performance goals are extremely ineffective and should be replaced with effluent limitations that prevent backsliding and will ensure the Permittee takes appropriate actions to meet water quality objectives.</p> <p>If the Regional Board fails to eliminate these ineffective performance goals, it should, at a minimum, modify the performance goal provisions in the Tentative Permit that allow effluent quality to <i>decrease or be eliminated</i> (see <i>Heal the Bay's Acute Toxicity paragraph</i>).</p> <p>In addition, does this mean that when a performance goal is exceeded the only result is an increase in the performance goal itself? The Permittee should not be allowed this mechanism to decrease their effluent quality, especially when the Tentative Permit correctly touts that the enhanced secondary treatment has <i>improved</i> effluent quality. Secondly, the approach used to develop performance goals should be modified as it also may lead to a decrease in water quality. Also, why are there no performance goals established for daily maximums or instantaneous maximums as well as monthly average? A logical approach would be to include performance goals for these categories as well if the Board chooses to continue having them in the Tentative Permit at all.</p>	<p>likely the result of decreased flow since the mass loading did not increase while the ammonia concentration did increase. The Permittee also concluded that the selenium Performance Goal exceedances were not likely the result of an industrial user and that there was no clear indication that seawater intrusion was the cause. No report was submitted for nickel, zinc, antimony, or alpha radioactivity because the final effluent either did not consistently exceed the Performance Goal or the Performance Goal was no longer appropriate for the method being utilized. As discussed above, the Permittee took the appropriate actions when the final effluent consistently exceeded the Performance Goals; therefore, the Performance Goals were effective when decreased performance was observed.</p>	
	8	<p><u>Infrastructure Maintenance</u></p> <p>Maintenance and upkeep on plant equipment needs to be necessary precaution in which</p>	<p>A valve on one of the pumps malfunctioned during the unplanned 2015 diversion, resulting in subsequent flooding of the effluent pumping plant basement. In order to prevent further</p>	None necessary.

Commenter	#	Comment	Response	Action Taken
		<p>Hyperion needs to monitor and invest resources. We are aware that the unplanned partial diversion of effluent from the 1-Mile Outfall on September 15, 2015 was due to two pumps that were out of service. Were the pumps due for maintenance or were they defunct for other reasons? In the interest of transparency and accountability Hyperion should be required to report a schedule for future upkeep and maintenance plans in addition to plant upgrades in their annual summary report, which is currently mandated in their Monitoring and Reporting Program [section X. D. 4., p. E-46].</p>	<p>flooding of the facilities, the effluent flow was diverted to the 1-Mile Outfall. This event highlighted the necessity of carrying out the Effluent Pumping Plant Replacement Project to prevent future failures as a result of aging infrastructure.</p> <p>The Regional Water Board inquires and reviews any planned maintenance and infrastructure projects a Permittee has scheduled during the permit renewal process. In addition, section X.D.4 of the MRP requires the Annual Summary Report to contain, “an overview of any plans for upgrades to the treatment plant’s collection system, the treatment processes, the outfall system, or any changes that may affect the final effluent.” This requirement includes any planned maintenance or plant upgrades; therefore it is unnecessary to make any further revisions to the permit.</p>	
Heal the Bay	9	<p><u>Incorporation of Holistic Watershed Management Plans</u></p> <p>Considering the future of water in California, Heal the Bay thinks it is critical to look at wastewater as a resource. At present, the idea of sending highly and expensively treated wastewater into the Pacific Ocean seems to appear more and more like a waste of resources. Our organization would simply like to remind LA SAN that any efforts to expand recycling of Hyperion’s effluent will be seen as beneficial, commendable, and responsible.</p>	<p>The Regional Water Board agrees that increased use of recycled water will contribute to sustainable water use. Although Hyperion’s final effluent is only secondary treated, there is a precedent for more advanced treatment which provides opportunities for increased recycled water production and use.</p> <p>Refer to the Regional Water Board’s and USEPA’s response to LA Waterkeeper’s Comment #1 regarding regulation of recycled water.</p>	None necessary.

Commenter	#	Comment	Response	Action Taken
		<p>We realize that Hyperion currently sends 37 MGD of their secondary treated effluent to West Basin's Edward C. Little Water Recycling Plant for advanced treatment and reuse. The reuse of this water for irrigation, industrial cooling, and injection into seawater intrusion barriers reduces demand for precious potable water supplies. We are interested to see what plans Hyperion and LA SAN have for the future in this regard. Discussion of these plans in Section I. R. [p. E-5] of the Monitoring and Reporting Program, which discusses Hyperion's requirements to participate in regular regional monitoring of the Southern California Bight, seems like a logical possible placement.</p> <p>Heal the Bay is excited about the Regional Water Board actively promoting a Watershed Management Approach to water quality issues, as detailed in their Watershed management initiative discussed on pages F-24 and F-25, and we look forward to working to support those efforts, as they are necessary to creating a sustainable water system for Los Angeles. Further, increased water recycling is necessary to a true watershed approach, especially insofar as it is key to maintaining the health of our groundwater basins, one of the LA region's greatest water supply assets. Better use of our current resources may also prevent a turn to less sustainable and more environmentally damaging sources of water such as ocean desalination, which we feel are at odds with the Watershed Management Approach described by the Regional Board.</p>		

Commenter	#	Comment	Response	Action Taken
<u>Comments received from the Natural Resources Defense Council (NRDC) on October 13, 2016</u>				
NRDC	1	<p>I'm here today on behalf of NRDC, Steve Fleischli, 1314 Second Street, Santa Monica. I did take the oath. I'm here today on behalf of NRDC to support the comments of L.A. Waterkeeper and Heal the Bay, and in particular, to support the comments with regard to waste and unreasonable use.</p> <p>The water boards have the primary authority under California law for ensuring compliance with Article 10 of the California Constitution, and that's the waste and unreasonable use provision. And we think that this permit creates a perfect opportunity for you to exercise your responsibility in that context.</p> <p>I noted with interest the City's presentation and their statements that they intend to comply or -- excuse me, intend to recycle 70 million gallons of water by the year 2026. And I do appreciate the efforts that the City of Los Angeles has made at the Tillman facility as well as the longstanding efforts with West Basin, but I wanted to put that number into perspective for you.</p> <p>You all might recall the Orange County Water District in 2008 was recycling 70 million gallons a day of water. They now recycle 100 million gallons a day of water and they have plans to expand that to 130 million gallons a day. I think we can do better here in Los Angeles. I don't think that Orange County needs to be that</p>	Refer to response to LA Waterkeeper's Comment #1.	

Commenter	#	Comment	Response	Action Taken
		far ahead of us in our efforts and I hope that you'll take the opportunity to look at this permit seriously and consider opportunities to ensure that hundreds of millions of gallons of water are not wasted and discharged into the Pacific Ocean.		