DRAFT Comment Summary and Responses
Comment Deadline: October 28, 2022 by 12:00 noon
Amendments to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to Incorporate a Total Maximum Daily Load for Indicator Bacteria in Los Cerritos Channel and Estuary, Alamitos Bay, and Colorado Lagoon, and to Suspend the Recreational Uses in Los Cerritos Channel During Unsafe Wet Weather Condition

List of Commenters:

Comment Reference	Organization	Representative
1	Richard Watson & Associates, Inc. on behalf of the Los Cerritos Channel Watershed Group	Richard Watson
2	City of Agoura Hills on behalf of the Malibu Creek Watershed Management Program Group (Agoura Hills, Calabasas, Hidden Hills, and Westlake Village, the County of Los Angeles, and the Los Angeles County Flood Control District)	Jessica Forte
3	City of Los Angeles, Bureau of Sanitation and Environment (LASAN)	Alfredo Magallanes

Response to Comments:

No.	Author	Comment	Response
1.1	Los Cerritos Watershed Group (Richard Watson & Associates)	The focus of these comments is the freshwater Los Cerritos Channel. This letter reflects comments this group made previously to the Los Angeles Regional Water Board.	The comments in this comment letter were all included in the Los Cerritos Watershed Group's comment letter to the Los Angeles Water Board dated January 18, 2022 and were thoroughly addressed by the Los Angeles Water Board prior to considering and approving the TMDL. During its consideration, the Los Angeles Water Board provided written responses to all comments. The Los Angeles Water Board's Response to Comments can be accessed at the Los Angeles Water Board's website.

			The previously submitted comments and responses are repeated or summarized, here, as a convenience for stakeholders.
1.2	Los Cerritos Watershed Group	The members of the Los Cerritos Channel Watershed Group agree with the goal of the Bacteria TMDL to protect the beneficial uses of the Los Cerritos Channel, which include potential water contact (REC-1) and intermittent non-contact (REC-2) recreational uses, and to restore the overall water quality in Los Cerritos Channel and Estuary, Alamitos Bay, and Colorado Lagoon. The Group also appreciates Regional Water Board's recognition that the freshwater Los Cerritos Channel for its entire length meets the definition of an engineered channel, as well as criteria for the High Flow Suspension, and that the Regional Water Board approved Attachment B to the resolution to suspend the recreational beneficial uses in the Los Cerritos Channel during unsafe wet-weather conditions.	Comment noted.
1.3	Los Cerritos Watershed Group	However, the Watershed Group still has a few concerns with the adopted TMDL. First, we do not understand why Regional Water Board staff abandoned the long-used reference system/anti-degradation approach. The Regional Water Board's Final Staff Report (dated March 10, 2022) states on page 10 that "Due to the difference in the expression of STV Objectives in the Statewide Bacteria Provisions as compared to the single sample maximum objectives in the 2001 and 2010 Bacteria Objectives, the reference system/antidegradation approach is not used." The exclusion of the reference system/	This comment was included, in the main, in the Los Angeles Water Board's Response to Comments; see response to comments 1.2 and 1.3. To summarize: In the Los Angeles Region, the reference system/antidegradation approach is incompatible with the statistical threshold value (STV) objectives contained in the Statewide Bacteria Provisions. The reference system/antidegradation approach doesn't consider the link between the illness rate and the bacteria contamination of the water. The indicator bacteria

		antidegradation approach virtually assures continued non-compliance because of the significant contribution of natural sources of fecal indicator bacteria. Exclusion of the reference system approach is inconsistent with the Statewide Bacteria Objectives in Part 3 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries in California. Chapter IV.E.1 of Part 3 is entitled, "Applicability of Bacteria Water Quality Standards." It states, in part, that "the GEOMETRIC MEAN and the STV contained in the applicable BACTERIA WATER QUALITY OBJECTIVES shall be applied in all circumstances, **except in the context of a TMDL or a basin plan amendment. In the context of a TMDL or a basin plan amendment, Regional Water Boards may implement a reference system/antidegradation approach or a natural sources exclusion approach in accordance with Chapter IV.E.2.**" [Emphasis added] Chapter IV.E.2.b says, in part: "In the context of a TMDL or a BASIN PLAN amendment developed to implement the BACTERIA WATER QUALITY OBJECTIVES, a reference system/antidegradation approach may be utilized to ensure: (1) bacteriological water quality is at least as good as that of an applicable REFERENCE SYSTEM, and (2) no degradation of existing water quality is allowed when the existing water quality is better than the REFERENCE SYSTEM. In such circumstances, the TMDL	targets based on the reference system/antidegradation approach are not set according to the illness rate. In 2002, the Los Angeles Water Board, via Resolution No. 2002-002, established implementation provisions for bacteria that set forth a reference system/antidegradation procedure for single sample objectives. *Under the reference system/antidegradation implementation procedure, a certain frequency of exceedance of the single sample objectives above* [above referring to Los Angeles Water Board bacteria objectives adopted in 2002] *shall be permitted on the basis of the observed exceedance frequency in the selected reference system or the targeted water body, whichever is less.* The bacteria objectives included in the Los Angeles Water Board's Basin Plan at that time included a Single Sample Maximum objective. In addition, TMDLs in the Los Angeles Region developed when that objective was in effect included a reference system/antidegradation approach for the Single Sample Maximum objective. In 2012, U.S. EPA established new recreational water quality criteria recommending that states make a risk management decision regarding illness rate to determine the indicator bacteria criteria values. The STV was based on the water quality distribution observed during EPA's epidemiological studies in the Statewide Bacteria Provisions that approximates the 90th percentile of a bacterial population in a waterbody; it is not equivalent to a Single-Sample Maximum. Because the numeric value of the STV can be exceeded up to 10%

		or BASIN PLAN amendment may include a certain frequency of exceedance of the applicable BACTERIA WATER QUALITY OBJECTIVES based on the observed exceedance frequency in the applicable REFERENCE SYSTEM or the targeted water body, whichever is less." The above argument was timely raised before the Los Angeles Water Board, but the Board accepted Staff's interpretation that application of a reference system was inconsistent with the Statewide Bacteria Objectives. This response was incorrect; as noted above, the Statewide Bacteria Objectives explicitly state that a Regional Board may implement a reference system/antidegradation approach in the context of a TMDL or a basin plan amendment. Perhaps, a delay of your scheduled December 6, 2022, hearing on the Basin Plan Amendment would allow your staff to demonstrate to the Los Angeles Regional Board how a reference system in the context of a TMDL is possible and is actually consistent with the Statewide Bacteria Objectives.	of the time in a calendar month, there is a built-in allowance for some exceedances. Applying a reference system/antidegradation approach to the STV objective, which already allows for a 10% exceedance rate, would result in an overall allowable exceedance rate that would not be adequately protective of beneficial uses. The proposed approach could potentially allow a higher illness rate than allowed by the U.S. EPA recommended criteria of 32 illnesses per 1000 recreators, which were incorporated into the Statewide Bacteria Provisions. The Los Angeles Water Board analyzed the reference system data for freshwater and beach sites for existing TMDLs in the region (see the attachment to the Los Angeles Water Board's Response to Comments). While the single sample maximum reference system approach would allow for a daily allowable exceedance, the STV approach would allow for a monthly allowable exceedance. Therefore, the STV reference system approach would allow for multiple excursions above the numeric value of the STV within a month, but only result in one actual exceedance of the STV water quality objective. In addition, a comparison of the reference system approach for the STV vs. the single sample maximum using site-specific data for Los Cerritos Channel and Alamitos Bay showed that the STV allows for a greater number of exceedances overall, and would therefore be less protective than was intended by the Los Angeles Region's reference system approach.

			The State Water Board agrees with the Los Angeles Regional Water Board's responses that the reference system/antidegradation approach is not appropriate for this Bacteria TMDL. In addition, other regions in the State, including the North Coast and San Francisco Bay Regions, have adopted TMDLs that apply the STV directly, without a reference system/ antidegradation approach, as well. These comments were timely raised before the Los Angeles Water Board, but the commenter continues to disagree and does not include additional information or interpretation as to why the response was inadequate or incorrect, except to say that the Statewide Bacteria Objectives allow the implementation of a reference system/ antidegradation approach. As stated in the Los Angeles Water Board's response to comment 1.3, "While the Statewide Bacteria Provisions allow for the use of a reference system, they do not require it." A delay in the consideration of this TMDL is not necessary.
1.4	Los Cerritos Watershed Group	Our second major concern is the 15-year implementation schedule specified in Attachment A to Regional Water Board's Resolution No. R22-002. We do appreciate having some time to come into compliance. The schedule is almost consistent with the target date in our 2015 Watershed Management Program (WMP) for meeting bacteria standards in wet weather – 2040 – which was based on the schedule for the Los Angeles River and the fact that the stormwater community does not know how to comply with FIB standards in wet weather because of the abundance of non-human sources. However, we still	This comment was included, in the main, in the Los Angeles Water Board's Response to Comments; see response to comments 1.5, 1.6, and 1.7. In summary: While the Watershed Management Program (WMP) developed by the Los Cerritos Watershed Group states that the Watershed Group does not currently understand how to meet bacteria standards during wet weather, the 2040 final deadline included in the WMP is based on watershed control measures to address multiple pollutants (page 4-30 of the WMP). It is therefore reasonable to base the Los Cerritos Channel

		don't know how to comply in wet weather and based on what we are learning through ongoing construction of stormwater capture projects and ongoing monitoring, it appears to be nearly impossible to comply with all TMDL requirements in 15 years. A provision in the TMDL that will make it extremely difficult to meet the 15-year implementation schedule is the statement in the Waste Load Allocation section of Basin Plan Amendment Attachment A that: "A high flow suspension, as described in Chapter 2, applies to Los Cerritos Channel above Atherton Street, but not to the waterbodies below. The WLAs for discharges to Los Cerritos Channel (above Atherton Street) may be suspended during days with rainfall greater than or equal to 0.5 inch and the following 24 hours, if it can be demonstrated that, for the same time period, discharges to Los Cerritos Channel below Atherton Street from Los Cerritos Channel above Atherton Street attain the LAs for Los Cerritos Channel below Atherton Street." The method to implement this requirement is explained on page 58 of the Final Staff Report for the TMDL, which states that: "In order to attain numeric targets in Alamitos Bay, bacteria loading from Los Cerritos Channel must be reduced by 85% of the baseline in the 2010 modeled year. In order to address uncertainty in the model	and Estuary, Alamitos Bay, and Colorado Lagoon Bacteria TMDL implementation schedule on the implementation schedule already included in the WMP. The analysis conducted by the Los Angeles Water Board does demonstrate that an 85% reduction of the 2010 baseline bacteria load will be required for those water bodies below Los Cerritos Channel above Atherton Street to meet the objectives in those waterbodies. Although water capture projects will be an important part of implementation, the required reduction is for bacteria load and not water volume and therefore other types of projects may also be of value. Any additional water capture projects necessary to address the discharge from the freshwater channel above Atherton Street to the saline water below Atherton Street can build on existing and planned projects and be completed in the 15-year implementation schedule. The 15-year implementation schedule is aligned with the schedule included in the approved 2015 WMP (revised and approved in 2017). Bacteria is included in the WMP as a Category 2 pollutant. The Watershed Group's proposal of 20 years in not based on any additional quantitative analysis to justify a lengthier schedule. If additional information is obtained through implementation of the TMDL, that information can be used to request a specific amount of time through a Time Schedule Order for the Los Angeles Regional Municipal Stormwater permit.

		assumptions, this TMDL will achieve this reduction by requiring the water discharged from Los Cerritos Channel above Atherton Street to achieve the numeric targets for the downstream Los Cerritos Channel Estuary and Alamitos Bay." The Watershed's experience to date indicates that the best way to meet such a requirement is to construct and operate water capture projects that would capture sufficient water to capture 85% of the Enterococcus load that could discharge from the freshwater channel to the saline water downstream of the discharge point (approximately 100 feet downstream from Atherton Street). The LCC Watershed Group was fortunate to be able to fund and construct four (4) major water capture projects without funding from the Safe, Clean Water Program (SCWP), the funding mechanism approved in Los Angeles County as Measure W in 2018 and has two (2) additional projects funded for final design and construction through the SCWP. In addition, it has proposed two (2) additional projects for design, or design and construction that are currently under consideration for funding through SCWP. However, even this capture volume is probably insufficient to capture 85% of the potential Enterococcus load. These projects are very expensive and the competition for SCWP funds is great. Although Measure W will provide a great deal of money in the Los Angeles Region over 30 years, it has been	Attainment of the TMDL within the 15-year schedule will benefit from the water capture projects and other control measures already built and planned in the watershed. The schedule is consistent with the schedule in the WMP and is consistent with implementation schedules for other bacteria TMDLs in the region. The State Water Board agrees with the Los Angeles Regional Water Board's response. This comment was timely raised before the Los Angeles Water Board, but the commenter continues to disagree and does not include additional information or interpretation as to why the response was inadequate or incorrect, except to say, without support, that there was a general consensus at the 2022 Bacteria Summit that compliance with fecal indicator bacteria standards is extremely difficult and costly. A change in the TMDL schedule is not necessary.

		estimated to be only about one-third (1/3) of the amount needed. During the September 2022 Bacteria Summit convened by State Water Board staff and the California Stormwater Quality Association (CASQA), there was general consensus that compliance with fecal indicator bacteria (FIB) standards is extremely difficult and costly. Even the LCC Watershed Group, which has been working diligently on building water capture projects, has little chance of building its way into compliance with FIB standards in wet weather in 15 years. The Group thinks it should be able to meet its 2025 target for dry-weather compliance unless it encounters further delays in implementation of a key dry-weather water capture project. We believe that the Regional Board's acceptance of Staff's proposal for a 15-year schedule instead of the 20-year schedule that we requested is inadequate in light of the evidence we presented to them in a timely manner. The Group will continue to come into compliance as soon as possible, but 15 years is not enough time to accommodate potential funding and construction delays. The Group has a better chance to comply with wet-weather standards within 20 years.	
1.5	Los Cerritos Watershed Group	A third concern that the Los Cerritos Channel Permittees have with the adopted bacteria TMDL is the lack of a risk threshold in the numeric targets. Health risks and increased risks of various expressions of illness are mentioned in the problem identification (page 24 of the Final Staff Report) and the general	This comment was included in the Los Angeles Water Board's Response to Comments; see response to comment 1.9. In summary: This TMDL directly incorporates the Statewide Bacteria Provisions risk protection level in its numeric targets.

		discussion of water quality objectives (WQOs, page 27) acknowledges that the Statewide Bacteria Provisions, and the WQOs for the protection of REC-1 beneficial use for fresh, estuarine, and ocean waters are all based on a risk protection level of 32 illnesses per 1,000 recreators. Then, in the discussion of allocations (page 59) the Final Staff Report notes that FIB TMDLs are expressed in terms of the number of organisms in a given volume of water that is associated with public health risk. Later in the Staff Report (pages 89-90), there is a more detailed discussion of health and recreation focused on avoided costs. This discussion includes information from a study in San Diego County of recreational exposures in marine waters that estimated gastrointestinal illness risks at between 1.2 and 1.5 illnesses per 1,000 recreators depending on the assessment method. Another study cited was from Orange County. This study focused on an illness rate of about 0.8% among bathers at the beaches studied. This percentage equates to an illness rate of 8 per 1,000 recreators. These studies both showed illness rates much lower than the rate of 32 per 1,000 recreators adopted in the Statewide Bacteria Provisions yet the TMDL adopted by the Regional Water Board does not even incorporate the State's conservative risk protection level in its numeric targets. A delay in the approval of the Regional Board's Basin Plan Amendment to incorporate a TMDL for Indicator Bacteria for the Los Cerritos Channel and the other watersheds in the adopted TMDL would give permittees a chance to work further	Since the numeric targets are the same as the REC-1 water quality objectives in the Statewide Bacteria Provisions, the same risk protection level of 32 illness per 1,000 recreators is incorporated. None of the sections of the Staff Report referenced in this comment contradict the incorporation of the risk protection level from the Statewide Bacteria Provisions in the TMDL. The TMDL staff report contains a discussion of the benefits of the TMDL and provides some examples of illness events and the health-related costs due to illnesses caused by impaired marine waters. These studies do not necessarily reflect 32 illnesses per thousand, but are included to show the costs inherent in swimming in polluted waters. These health risks are separate from the health risks associated with the REC-1 water quality objectives in the Statewide Bacteria Provisions, and in the targets in the TMDL The State Water Board agrees with the Los Angeles Regional Water Board's response. This comment was timely raised before the Los Angeles Water Board, but the commenter continues to disagree and does not include additional information or interpretation as to why the response was inadequate or incorrect, except to say that the Los Angeles Water Board's decision was incorrect in light of the evidence provided and the real need to give greater emphasis to risk management. The commenter doesn't explain what evidence contradicts the Board's decision, or how it does so. A delay in the consideration of this TMDL is not necessary.

		with Regional Board staff on the incorporation of a risk threshold into the TMDL. We commented extensively on this to the Regional Board in a timely manner. Their acceptance of Regional Water Board staff's recommendation was incorrect in light of the evidence provided and the real need to give greater emphasis to risk management.	
1.6	Los Cerritos Watershed Group	A fourth problem with the adopted TMDL is the absence of a dry-weather seasonal suspension of the Water Contact Recreation (REC-1) Beneficial Uses. Such a suspension is clearly allowed by the Implementation Chapter of the Statewide Bacteria Provisions, which specifies that: "**A WATER BOARD may adopt a seasonal suspension of the water contact recreation (REC-1) beneficial use to reflect water conditions considered inapplicable or unsafe for the REC-1 beneficial use due to low water flows**, low water temperatures, or conditions that freeze water. A flow measure, water temperature measure, or other condition(s) shall be established by the WATER BOARD to describe specific conditions during which the seasonal suspension would apply. To adopt a seasonal suspension of the REC-1 beneficial use, the WATER BOARD must conduct a USE ATTAINABILITY ANALYSIS. A WATER BOARD's adoption of a seasonal suspension of the REC-1 beneficial use is subject to review and approval by the State Water Board (if the adopting WATER	This comment was included, in the main, in the Los Angeles Water Board's Response to Comments; see response to comments 1.10. In summary: The Los Angeles Water Board disagrees with the suspension of the REC-1 beneficial use during dry weather. During dry-weather periods in the Los Cerritos Channel, people may use water for recreational activities involving body contact with water, where ingestion of water is reasonably possible. The TMDL should not be delayed because it will provide for restoration of waterbodies that have not met bacteria standards since at least 1998. In addition, while the Water Boards and many stakeholders in attendance at the recent Bacteria Summit in Sacramento discussed various potential alternatives and new approaches to bacteria objectives and implementation, the Water Boards have not determined or proposed any new direction for implementation of bacteria objectives at this time.

		BOARD is a Regional Water Board) and USEPA." [Emphasis added] Comments made at the recent Bacteria Summit in Sacramento indicated that the Water Boards seem willing to look at "full body" recreation (REC-1) in terms of ability to recreate in a given water body. A dry- weather seasonal suspension is certainly appropriate for the freshwater Los Cerritos Channel because average dry-weather flows have been reduced to an average of less than 0.2 cfs at the mouth of the watershed. We communicated this to the Regional Board in a timely manner, as well as communicating that this flow was expected to be further reduced by operation of current and future water capture projects before the TMDL was adopted. The extremely low flows in the Channel, and the availability of 20 years of monitoring data, should make completion of a necessary Use Attainability Analysis (UAA) relatively simple for the Regional Water Board staff to conduct. Even though we demonstrated in timely raised comments that there was not enough water in the freshwater Los Cerritos Channel during dry weather to accommodate anything close to full body recreation, the Regional Board agreed with staff that ¼" to ½" of water was enough to support REC-1. This response was inadequate in that it does not address the reality that such extremely low flows could not reasonably be found to support full body recreation. The State Board should return the Basin Plan Amendment to the	The State Water Board agrees with the Los Angeles Regional Water Board's response. This comment was timely raised before the Los Angeles Water Board, but the commenter continues to disagree and proposes the Los Angeles Water Board's response was inadequate because disagreeing with the proposition that low flows do not support REC-1, as the Los Angeles Water Board did, is "not reasonable." A Use Attainability Analysis for low flows was not conducted as part of this TMDL and a delay in the consideration of this TMDL is not necessary.

		Regional Water Board with clear direction on how much water is necessary for REC-1 in dry weather.	
1.7	Los Cerritos Watershed Group	Lastly, we were surprised and disappointed that neither the Final Staff Report nor the Final Substitute Environmental Document (SED) cited either the updated Los Cerritos Channel Watershed Management Program (WMP) or the updated Reasonable Assurance Analysis for the Los Cerritos Channel, both of which were submitted to the Regional Board on June 29, 2021. The updated WMP and RAA contain detailed information about Best Management Practices (BMPs) that have been implemented since the original WMP and Reasonable Assurance Analysis (RAA) were approved in 2015, as well as updated information on reasonably foreseeable methods of compliance that could be cited and qualified as subject to Regional Water Board approval. We request that, prior to TMDL adoption, the State Board provide direction to and time for the Regional Water Board to revise the TMDL to include both updated information on BMPs that have been implemented and a more accurate discussion of reasonably foreseeable methods of compliance. This issue was brought before the Regional Board in a timely manner and we believe this omission represents an inadequate response to comments.	This comment was included, in part, in the Los Angeles Water Board's Response to Comments; see response to comments 1.11. In summary: The 2021 WMP and Reasonable Assurance Analysis (RAA) had not yet been approved by the Los Angeles Water Board and were thus not final documents that could have been cited in the TMDL or SED. Even if the updated information on reasonably foreseeable methods of compliance was cited, it would not change the environmental impact analysis in the Staff Report or SED because the reasonably foreseeable methods of compliance are evaluated at a program level. Consistent with Public Resources Code section 21159 the Los Angeles Water Board is not required to conduct a project-level analysis. The responsibility of conducting project-level analysis is on the agencies that will implement the water board's TMDL. The TMDL is not based on old data. The TMDL makes use of monitoring data from 2000 through 2020 and implementation information from the latest approved WMP, dated September 21, 2017. The State Water Board agrees with the Los Angeles Regional Water Board's response. This comment was timely raised before the Los Angeles Water Board, but the commenter continues to disagree and does not include additional information or explanation as to why the updated information on BMPs would lead to new or

			different reasonably foreseeable methods of compliance. A delay in the consideration of this TMDL is not necessary.
2.1	Malibu Creek Watershed Management Program Group (The City of Agoura Hills, Jessica Forte)	The Malibu Creek Watershed Management Program Group (Group) is currently implementing best management practices (BMPs) to meet the requirements of the Total Maximum Daily Load for Bacteria in the Malibu Creek Watershed (MCW Bacteria TMDL) 1 through our Watershed Management Program (WMP). The capacity and selection of these BMPs is heavily influenced by the MCW Bacteria TMDL's inclusion of allowable exceedance days through the Reference System/ Anti-degradation Approach (RSAA). This approach allows the Malibu Creek WMP Group to avoid treating natural flows and natural sources of bacteria consistent with the statement in the Water Quality Control Plan for the Los Angeles Region (LA Basin Plan) "*that it is not the intent of the Regional Board to require treatment or diversion of natural water bodies or to require treatment of natural sources of bacteria from undeveloped areas.*" Because the MCW Bacteria TMDL incorporates the RSAA, the Group does not have to include BMPs to address flows from undeveloped areas, lowering the overall BMP capacity required and associated costs. Unlike the MCW Bacteria TMDL and all of the other bacteria TMDLs in the LA Region, the LCC/AB/CL Bacteria TMDL did not include the RSAA and allowable exceedance days.	At this time, the Los Angeles Water Board has not scheduled development of a revision to the MCW Bacteria TMDL based on the Statewide Bacteria Provisions. The City and other responsible agencies can continue to implement the BMPs in their WMP to comply with the requirements of the MCW Bacteria TMDL.
2.2	Malibu Creek Watershed	During the Los Angeles Regional Water Quality Control Board (Regional Board) adoption hearing for	While the Malibu Creek Watershed Management Program Group did not submit a written comment letter to the Los

	Management Program Group	the LCC/AB/CL Bacteria TMDL, the Group provided oral testimony expressing our concerns regarding the conclusion that the Reference System/ Anti-degradation Approach (RSAA) is not compatible with the bacteria objectives in the LA Basin Plan. The Group's primary concern was that this conclusion contradicts both the LA Basin Plan and the Statewide Bacteria Provisions, which state that the RSAA can be used to implement the bacteria objectives within the context of a TMDL or Basin Plan amendment. The Regional Board did not and, to this day, has not provided an adequate explanation as to how an implementation provision included in the LA Basin Plan can be fundamentally incompatible with the objectives it is intended to implement. If the LCC/AB/CL Bacteria TMDL is approved without addressing this inconsistency, a precedent will be set for all bacteria TMDLs in the Region, including in the Malibu Creek watershed which is predominately open space. As demonstrated in the analysis provided by the Regional Board in their response to comments, applying the new precedent established by the LCC/AB/CL Bacteria TMDL to a reference watershed would result in exceedances of the bacteria objectives and removing the RSAA approach will require that Permittees control natural sources and flows to address exceedances caused natural sources. The inconsistency between the LCC/AB/CL Bacteria TMDL and the LA Basin Plan must therefore be addressed before the TMDL is approved by the State Water Resources Control Board (State Water Board).	Angeles Water Board on the proposed TMDL, the Group did provide testimony during the Los Angeles Water Board hearing to adopt the TMDL. In that way, this comment was timely raised before the Los Angeles Water Board. The same comment from another stakeholder was responded to in writing. See Los Angeles Water Board's response to comments 1.2 and 1.3 (as summarized in response to comment 1.3 of this response to comments). The State Water Board agrees with the Los Angeles Regional Water Board's response. While the commenter continues to disagree, the commenter did not provide additional information or analysis as to why the Los Angeles Water Board's explanation of the differences between the STV and the Single Sample Maximum was incorrect, or why the conclusion that the STV is incompatible with a reference approach was incorrect. We note that the language in the Los Angeles Water Board's Basin Plan and Statewide Bacteria Provisions do not require the use of a reference system/antidegradation approach. If there are scientifically defensible studies to support the development of site-specific objectives based on environmental conditions, illness rates, and epidemiological studies, the Los Angeles Water Board could reconsider the elements of the TMDL and use a different approach at that time. In addition, the Los Angeles Water Board's Resolution R22-002, adopting the TMDL, directed the Executive Officer to hold a public workshop to solicit additional input on the approach for implementing the statewide Bacteria

		For this reason, the Group requests that the State Water Board remand the LCC/AB/CL Bacteria TMDL to the Regional Board to address the inconsistency between the TMDL and the LA Basin Plan and further consider how the RSAA could be applied to the new bacteria objectives through an inclusive stakeholder process. Additionally, the MCW EWMP Group would like to suggest that State Water Board staff work with Regional Board staff to identify any concepts from the September 2022 Bacteria Summit that could be incorporated into the LCC/AB/CL Bacteria TMDL and would facilitate efforts to target high risk sources of bacteria with the greatest potential to impact human health. To achieve the shared goal of waters that are safe to swim, the LA Region and the State need to find opportunities to focus efforts on reducing risks rather than treating lower-risk bacteria from natural sources. The LCC/AB/CL Bacteria TMDL provides one such opportunity.	Provisions through TMDLs in the region. The Los Angeles Water Board staff held that public workshop on September 21, 2022. Building on the State Water Board Bacteria Summit in September 2022 and the Los Angeles Water Board's public workshop on September 21, 2022, the State Water Board and the regional boards, including the Los Angeles Water Board, will continue to engage with tribes and stakeholders to evaluate the indicator bacteria water quality objectives and alternative approaches for indicator bacteria objective implementation.
3.1	City of Los Angeles, Bureau of Sanitation and Environment (LASAN)	Implementation provisions for the RSAA were created by the LA Water Board in coordination with stakeholders during development of the [Santa Monica Bay Bacteria] SMBBB TMDL and were adopted into the LA Basin Plan in 2002. This innovative approach addressed the challenge presented by natural sources of bacteria and was subsequently included in every bacteria TMDL adopted in the LA Region. Inclusion of the RSAA has allowed the City and other agencies to avoid treating exceedances of bacteria objectives caused by natural sources and instead focus resources at beaches where bacteria objectives are exceeded more frequently than at the	The City of Los Angeles, Bureau of Sanitation and Environment did not submit a written comment letter to the Los Angeles Water Board on the proposed TMDL, nor did the City provide testimony during the Los Angeles Water Board hearing to adopt the TMDL. Therefore, this comment, in particular the portion of this comment that addresses efficiency and effectiveness, was not timely raised before the Los Angeles Water Board. However, these comments do overlap with comments from other stakeholders that were responded to in writing. See Los Angeles Water Board's response to comments 1.2

		reference beach. By targeting these beaches, which are more likely to be impacted by anthropogenic sources of bacteria, agencies like the City can more effectively pursue the end goal of protecting human health. While great improvements have been made during dry weather, the City continues to address the challenge posed by wet weather bacteria concentrations at sites exceeding the natural reference frequency. Without the RSAA option, however, the City would not be able to prioritize these sites and resources would instead have to be spread amongst a larger number of sites to address bacteria everywhere during wet weather. Such an outcome would be less efficient and, ultimately, less effective at protecting public health.	and 1.3 (as summarized in response to comment 1.3 of this response to comment). In addition, at this time, the Los Angeles Water Board does not intend to revise the Santa Monica Bay Bacteria TMDL based on the Statewide Bacteria Provisions. The City and other responsible agencies can continue to address the challenge and prioritize the resources to comply with the requirements of the Santa Monica Bay Bacteria TMDL.
3.2	City of Los Angeles, Bureau of Sanitation and Environment (LASAN)	The LCC/AB TMDL is the first bacteria TMDL in the Region to utilize the new bacteria objectives that were established through the Statewide Bacteria Provisions and subsequently incorporated into the LA Basin Plan. Understandably, new objectives present new challenges and require adaptation of previous approaches built for the old objectives. Application of the RSAA to the new bacteria objectives is one such challenge. Given how important the RSAA and natural sources of bacteria are for TMDL implementation, stakeholders like the City should have been engaged to consider how the RSAA could be applied the new objectives. Unfortunately, this engagement did not happen, and the LA Water Board concluded that the RSAA and the new objectives were incompatible with minimal input from stakeholders outside of the LCC/AB watershed.	The City of Los Angeles, Bureau of Sanitation and Environment did not submit a written comment letter to the Los Angeles Water Board on the proposed TMDL, nor did the City provide testimony during the Board hearing when the Los Angeles Water Board considered adoption of the TMDL. Therefore, the comments in this comment letter were not timely raised before the Los Angeles Water Board. However, these comments do overlap with comments from other stakeholders that were responded to in writing. See Los Angeles Water Board's response to comments 1.2 and 1.3 (as summarized in response to comment 1.3 of this response to comment). In regards to the engagement of the City during development of the TMDL, on December 17, 2019, the Los

		Furthermore, the City did not become aware of this conclusion until after the deadline had passed for comments on the Regional Board adoption of the LCC/AB Bacteria TMDL. The City was therefore unable to raise its concerns about the conclusion that the RSAA and the new bacteria objectives are incompatible.	Angeles Water Board staff held a stakeholder and CEQA scoping meeting, attended by municipalities, consultants, and environmental organizations, to receive input on the development of the TMDL and potential environmental impacts of likely methods of implementation. The email subscription lists used to provide notice of the meeting included over 20 @lacity.org addresses. The draft TMDL and supporting documents were publicly noticed on December 3, 2021 for a 45-day comment period. The email subscription lists used to provide notice of the draft TMDL and supporting documents included over 20 @lacity.org addresses. In addition, the State Water Board conducted outreach with ample stakeholder participation when they adopted the new bacteria objectives, which is when the single sample maximum objective was removed, and additional outreach was conducted when the Los Angeles Water Board revised the Los Angeles Water Board's Basin Plan to include the new bacteria objectives.
3.3	City of Los Angeles, Bureau of Sanitation and Environment (LASAN)	In light of this inconsistency, LASAN requests that the State Water Board remand the LCC/AB TMDL to the LA Water Board. This will provide an opportunity to conduct the broad stakeholder engagement that this issue warrants and evaluate how the RSAA could be adapted to the new bacteria objectives. Two approaches have already been presented by the LA Water Board in its Response to Comments and by LA County in comments provided on the LA Water	In addition to the stakeholder meeting of December 17, 2019 (see response to comments 3.2) and the Board hearing to consider adoption of the TMDL held on March 10, 2022, the Los Angeles Water Board held a public workshop on September 21, 2022 to address the Statewide Bacteria Provisions and discuss with interested stakeholders why the reference system approach was not used in this Bacteria TMDL. Over 60 stakeholders attended the workshop via virtual Zoom meeting. Eight (8)

		Board's adoption of the LCC/AB TMDL. These approaches and others should be discussed as part of a broader process that builds on the workshop hosted by the LA Water Board on this topic in September 2022. Finally, LASAN would like to emphasize that working through this challenge will not delay efforts by the City and other agencies to address bacteria and protect public health. Because the LA Region has a forward-looking MS4 Permit, bacteria issues are already being addressed by the LCC Watershed Management Program (WMP), the AB/LCC WMP, and other WMPs in the LA Region where a bacteria TMDL has not yet been adopted (e.g., the Dominguez Channel WMP). Implementation of these WMPs, along with those in watersheds where TMDLs have been adopted, will ensure that LASAN and other agencies continue to make progress in addressing bacteria and protecting human health.	stakeholders, including two representatives of the City of Los Angeles, Bureau of Sanitation and Environment, a representative of City of Santa Clarita, a representative of the Ventura County Watershed Protection District, a consultant, a representative of Los Cerritos Channel Watershed Group, a representative of Heal the Bay, and a representative of Santa Monica Bay, asked questions and gave comments. The approach of the Los Angeles Water Board and alternative approaches, including the approach suggested by Los Angeles County in its comment letter to the Los Angeles Water Board, were discussed. After the workshop, presentation slides and recorded videos were posted under "Notice of Public Workshop for the Los Cerritos Channel Bacteria TMDL" at the Los Angeles Water Board's website. The Los Angeles Water Board has provided the opportunity for interested stakeholders to comment. Building on the State Water Board Bacteria Summit in September 2022 and the Los Angeles Water Board's public workshop on September 21, 2022, the State Water Board and the regional boards, including the Los Angeles Water Board, will continue to engage with tribes and stakeholders to evaluate the indicator bacteria water quality objectives and alternative approaches for indicator bacteria objective implementation.