

Response to Comments on the Draft 2008 303(d) List
Comment due date: June 17, 2009

1. Center for Biological Diversity
2. City of Calabasas
3. City of Los Angeles
4. City of Oxnard
5. City of Santa Clarita
6. City of Simi Valley
7. City of Ventura
8. County of Los Angeles Public Works (LACDPW)
9. County Sanitation Districts of Los Angeles (LA County Sans)
10. Coalition for Practical Regulation (CPR)
11. Heal the Bay
12. Lake Sherwood Joint Advisory Committee (JAC)
13. Las Virgenes Municipal Water District (MWD)
14. Los Padres Chapter of the Sierra Club
15. Nature Conservancy
16. Newhall Land and Farming Company
17. Ormond Beach Wetlands Environmental Coalition
18. Parties Implementing TMDLs in Calleguas Creek
19. Santa Barbara Channel Keeper
20. Teresa Jordan
21. United States Environmental Protection Agency, Region 9 (USEPA)
22. Ventura Coastkeeper

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1.1	Centers for Biological Diversity	Jun 17	<p>The Center for Biological Diversity requests that Los Angeles region's ocean water segments be added to the Clean Water Act § 303(d) list of impaired water bodies due to impairment resulting from ocean acidification.</p> <p>On February 27, 2007, the Center for Biological Diversity submitted scientific information supporting the inclusion of ocean waters on California's 303(d) List to each of the coastal</p>	<p>Given that the Pacific Ocean overlaps jurisdictional boundaries for multiple Regional Boards, this comment letter, its attachments and all previous data submittals received at the Los Angeles Regional Board from the Center for Biological Diversity requesting staff to list the Pacific Ocean for acidification</p>

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			<p>regional water boards. Since then, it has only become more apparent that ocean acidification poses a serious threat to seawater quality with adverse effects on marine life. On February 4, 2009, the Center for Biological Diversity submitted additional scientific information concerning the latest findings on ocean acidification to the Regional Board and State Water Resources Control Board. Nonetheless, the Los Angeles draft Integrated Report failed to list ocean waters as impaired from ocean acidification or even discuss how this serious water quality problem will be addressed by the Board.</p> <p>Section 303(d) of the Clean Water Act requires states to establish a list of impaired water bodies within their boundaries for which existing pollution controls "are not stringent enough to implement any water quality standard applicable to such waters." 33 U.S.C. § 1313(d). EPA regulations mandate that a state's list shall be approved only if it meets the requirements that existing pollution control requirements are stringent enough to ensure waters meet all water quality standards. 40 C.F.R. § 130.7(b)(1) & (d)(2).</p>	<p>have been forwarded to State Board. Staff at State Board intends to respond to these comments and address the listing on a statewide basis. Regions are not addressing this issue individually.</p>
2.1	City of Calabasas	Jun 16	<p>This letter serves as written notice that the City of Calabasas opposes the inclusion of the New Zealand Mudsnaill, Potamopyrges antipoderem on the proposed 303d) listing for Las Virgenes Creek, as stated in the Decision ID 15821.</p> <p>Since the discovery of the New Zealand Mudsnaill in the Malibu Creek Watershed, the City of Calabasas has engaged in rigorous Best Management Practices to limit the spread of this non-native snail. These "BMPs" included suspending water quality monitoring programs while locating and researching the New Zealand Mudsnaill in each tributary of Malibu Creek.</p> <p>To prevent the unintentional spread of mudsnails during the subsequent water quality monitoring, separate waders were used at each survey location. Additionally, waders were placed in a</p>	<p>The Regional Board appreciates the efforts of the City of Calabasas in preventing the spread of the New Zealand mudsnail, including use of appropriate BMPs for the City's actions and efforts to increase public awareness about the mudsnail and its impacts. In the data assessed from the Santa Monica Bay Restoration Commission, 3 of 5 sites in Las Virgenes Creek showed an increase in density of mudsnails over the three years of sampling and 6 out of 10 sites sampled showed medium or high densities of mudsnails in Las Virgenes Creek. When additional data</p>

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			<p>freezer for a minimum of 48 hours after each use and all equipment was washed and inspected. City of Calabasas participated in the mudsnail "summit" meeting hosted by the Santa Monica Bay Restoration Commission in June of 2006. To promote awareness of this issue the City also posted information signage at various locations along Las Virgenes Creek.</p> <p>In recent survey conducted by Heal the Bay and the Santa Monica Bay Restoration Commission, it was stated that numbers mudsnails found in Las Virgenes Creek stations was substantially lower than those of surrounding areas of Malibu Creek. This study also observed native snails within the watershed; Lymnaeidae, <i>Fossaria</i> sp. that are nearly identical in size and color to the New Zealand snail, the only difference was fewer number of shell whirls. Additionally, the survey describes that the New Zealand Mudsnail has been established in three streams within the Malibu Creek Watershed and shows no evidence of spreading into other streams.</p>	<p>are collected, those data can be considered in the next listing cycle.</p> <p>The quality assurance procedures of the Santa Monica Bay Restoration Commission were adequate and included identification and training for field staff by experts and, in some cases, genetic identification of collected mudsnails.</p>
2.2	City of Calabasas	Jun 16	<p>The New Zealand Mudsnail is a non native species found in many watersheds throughout the United States. Currently there is no form or procedure known for eradication of this species. In its native range populations are controlled by a parasitic trematode. There is not any known biological control. Some have suggested introducing the trematode into infested waters. There is still not enough known about the effects of the trematode on native snail species to be confident enough to introduce it.</p> <p>In addition given the existing science and technology, establishing and complying with a new TMDL for the New Zealand Mudsnail would sidetrack efforts and financing better spent on other obtainable TMDLs.</p>	<p>The Regional Board agrees, the challenge of controlling the mudsnail is significant.</p> <p>The impairment by mudsnails of several creeks in the Malibu Watershed is well documented and therefore it is appropriate to include them on the State's list of impaired waters, the 303(d) list. Any TMDL or other program which might be developed in the future will acknowledge the state of the science and any control or eradication methods that may or may not be available at that time.</p>
3.1	City of Los Angeles	Jun 17	<p>We believe in general that RWQCB staff has improved the transparency of the listing process. Where sufficient information has been provided in fact sheets, this transparency has helped</p>	<p>Comment noted.</p>

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			<p>stakeholders to assess the proposed listing in a more informed manner. In particular, the Bureau commends the effort that RWQCB staff has undertaken to make available more fact sheets for proposed listings, as well as to collect and review readily available data and information in conformance with the State Water Resources Control Board (SWRCB) Water Quality Control Policy for Developing California's Clean Water Act § 303(d) List (Listing Policy). The Bureau generally supports the Region's 2008 CWA§303(d) List.</p>	
3.2	City of Los Angeles	Jun 17	<p>The Bureau requests that the RWQCB re-evaluate the "legacy" listings shown in Table 1 (attached) utilizing the procedures in the 2004 State Listing Policy. This request reiterates Comment No. 5 on the Bureau's October 18, 2006 letter, which was submitted during the comment period for the 2006 303(d) list proposed by the State Water Resources Control Board (SWRCB) and is enclosed for reference. While we are re-submitting that comment, the following additional thoughts are added regarding these listings. The "legacy" listings were placed on the 303(d) List prior to 2002 and appear on the previous 1998 303(d) List available on the RWQCB's website. While we recognize that the SWRCB declined to re-evaluate many of these listings as indicated in its Responses to Comments staff report for the 2006 303(d) listing, we do not agree with the rationale and logic for not re-evaluating the listings utilizing the Listing Policy. We note the objective of the Listing Policy is to "establish a standardized approach for developing California's section 303(d) list" and the "methodology to be used to develop the section 303(d) list [40 CFR 130.7(b)(6)(i)] is established by this Policy."</p> <p>Our principle concern with the RWQCB staff's decision not to retroactively apply the Listing Policy to the legacy listings is the potential substantial resources that the State will incur for developing TMDLs and the resources the Bureau and other stakeholders will expend to comply with a TMDL approved based on each and every one of the listings. The most effective</p>	<p>Staff has evaluated all readily available data as defined in section 6.1 of the Listing Policy. However, staff resources are limited. As such, priorities were established, and fact sheets were developed accordingly, based on those priorities (see section 3.4 of the staff report). All high priority fact sheets were completed. Listing cycles previous to the 2006 list did not use the State Listing Policy but were based on scientific rationale and the lists were approved by the Regional Board and/or State Board and the US EPA.</p> <p>Staff may be able to assist the Bureau in information requests regarding specific waterbody/pollutant combinations.</p> <p>Staff also notes that during the process of developing a TMDL, all available data is examined including the original listing data, as well as newer data. Data gaps are identified and addressed prior to development of the TMDL. If the</p>

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			<p>way to ensure such resources are not wasted due to a flawed listing rationale is to ensure that the same procedures, criteria, and transparency are applied uniformly to all pollutant/waterbodies combinations. This can be achieved by providing the data used to justify these listings and evaluating the data based on the applicable listing factors in the Listing Policy. We note that this concern would be partly addressed if the Bureau could examine the data and information that formed the basis of the original listings for these waterbody/pollutant combinations in the first place. After due diligence, however, we cannot locate this data or any information to substantiate the basis for the listings. We note that the 1996 List available on the RWQCB's website link does not provide any data or data reference for the list as no fact sheets were prepared for the listings to our knowledge (with the exception of two listings), and no information is contained in the "comment" column for the 1998 List.</p>	<p>analysis of the data demonstrates non-impairment and if the data satisfies the data quality (section 6.1.4) and quantity requirements (section 6.1.5) of the Listing Policy, the specific waterbody pollutant combinations attaining standards will be identified in the TMDL and removed from the subsequent 303(d) list.</p> <p>Further reviews of listings made prior to the listing policy will also occur in future listing cycles, especially as new data become available.</p>
3.3	City of Los Angeles	Jun 17	<p>The Bureau requests that fact sheets be prepared for all Impaired Waters on the 303(d) List and included in the staff report. The Bureau appreciates the development of fact sheets for listings that change the 303(d) list and agrees with the purpose of fact sheets in relation to the role they serve in providing tangible evidentiary support for each listing decision. Fact sheets meeting the Listing Policy's implementation requirements for all water bodies, in particular the legacy listings in Table 1, would facilitate review and validation of the listings. If the fact sheets are not present for a listing the State cannot: 1) validate the previous impairment decision, 2) adjust for changes in the development of new water quality criteria, 3) adjust to changes in environmental and receiving water conditions, and 4) adjust to the application of the use attainability analysis or site specific objective. The data presented in fact sheets are typically utilized as part of the TMDL development and implementation process and a component of scientific studies conducted to determine impairment.</p>	<p>See response to comment 3.2. Previous impairment decisions prior to the 2006 list did not use the State Listing Policy but were based on scientific rationale and the lists were approved by the Regional Board and/or State Board and the US EPA.</p> <p>Ultimately, the goal is to have fact sheets for every waterbody/pollutant combination. The staff resources to undertake this task were limited and so priorities for developing fact sheets were used (see staff report).</p> <p>Further reviews will occur in future listing cycles or as TMDLs are developed.</p>

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3.4	City of Los Angeles	Jun 17	<p>During the 2006 listing cycle, the SWRCB deleted a number of waterbody listings for "conditions" from the 303(d) list. Waters listed for conditions such as algae, odor, debris, enteric virus, scum/foam, or beach closures are inappropriate because these are waterbody conditions and not pollutants as required by 40 CFR §130.7(b)(4) or the 2004 Listing Policy. The Bureau also requests that the RWQCB move away from listings based on a Category of Pollutants. Pollutants should be identified as stated in 40 CFR §130.7(b)(4): "The list required under § 130.7(b)(1) and 130.7(b)(2) of this section...shall identify the pollutants causing or expected to cause violations of the applicable water quality standards..." For the 2008 List, the Bureau requests that listings shown in Table 2 for conditions without water quality criteria be evaluated for removal from the 2008 303(d) list.</p>	<p>Staff disagrees. The Basin Plan contains narrative objectives for nuisance conditions, which can be used as the basis for listings. The Listing Policy specifically allows, as described in Section 3.7, listing for nuisance when associated with numerical water quality data.</p> <p>In some situations, "conditions" may be removed from the list according to Section 4.7 of the listing policy. Further reviews will occur in future listing cycles or as TMDLs are developed.</p> <p>Removing "conditions" from the list without any evaluation, however, may have the unintended consequence of not recognizing a water quality problem which has been demonstrated and which does, in fact, exist.</p>
3.5	City of Los Angeles	Jun 17	<p>Additionally, although the Bureau agrees with the desire of RWQCB staff to identify "a clear approach for determinations of impairment under the biostimulatory substances standard in the Basin Plan" as described in Section 3.3.3 (pp. 10-12) of the Staff Report, the Bureau is concerned with the proposed use of numeric guidelines for listing for biostimulatory substances that are not based on established water quality criteria. Should the RWQCB staff decide to pursue the development of numeric values for biostimulatory substances for listing decisions, the RWQCB should develop numeric criteria through a Water Quality Standards setting process in which all required factors under the State Water Code are considered and the required public process is followed. It is not appropriate to set de facto</p>	<p>The presence of biostimulatory substances in our waterways and the associated adverse impacts on beneficial uses are a significant problem. It is important that these impairments be included on the Region's list of impaired waters.</p> <p>Under the State Listing Policy, waterbodies can be included on the 303(d) list where standards or guidelines are exceeded. In the case of biostimulatory substances, the Los</p>

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			biostimulatory substances objectives that will be used for the development of listing decisions and TMDLs through the 303(d) development process. Objectives for biostimulatory substances are generally site-specific and dependent on local conditions as demonstrated from the range of values presented in the tables (Tables 3.2, 3.3). To effectively determine impairments, site-specific criteria need to be developed through a standard setting process and utilized for listing decisions.	Angeles Region Basin Plan contains a narrative objective for biostimulatory substances, which may be used in assessments by relying upon numerical guidelines.
3.6	City of Los Angeles	Jun 17	It should also be noted that to date, no Region 4 TMDL to address biostimulatory substances has used targets as low as the numbers proposed in Table 3-2 of the Staff Report for listing considerations. As a result, the potential criteria would result in listings for waterbodies that are meeting TMDL targets.	Comment noted. Guidelines used to address biostimulatory substances specifically (vice nitrogen standards in the Basin Plan) could potentially require new TMDLs.
3.7	City of Los Angeles	Jun 17	<p><i>Due to confusing language, the Bureau requests that the current wording in Section 3.3.1 of the Integrated Report regarding the exceedance days for indicator bacteria, be revised as shown below.</i></p> <p>"To calculate the <u>The number of exceedance days, the number of days during a period equals the sum of individual days during which one or more indicator bacteria exceeds the standard is an exceedance day.</u>"</p>	Comment noted. Staff agrees that the revision establishes essentially the same definition.
3.8	City of Los Angeles	Jun 17	<i>The Bureau requests that the listings for dieldrin and DDT for Marina Del Rey Harbor Back Basins be delisted. During development of the Toxic Pollutants TMDL for this water body, the RWQCB reviewed the available data and determined that dieldrin and DDT no longer cause impairment of the marina's back basins. (See Table 7-18.1 to Attachment A to LARWQCB Resolution No. 2005-012 amending Section 7 of the Basin Plan).</i>	During the development of the Marina del Rey Harbor Toxics TMDLs (EPA approval on 3/16/06), Regional Board staff concluded that there was not an impairment due to DDT and dieldrin in these waters. However, there is not sufficient data to de-list under the Listing Policy. A comment will be included in the 303(d) list to document the finding of non-impairment.
3.9	City of Los Angeles	Jun 17	<i>The Bureau requests that the listing for trash for Compton Creek be re-categorized from requiring a TMDL to "being addressed by USEPA approved TMDL (B). "A Trash TMDL for</i>	Though a sub-watershed of the trash-impaired Los Angeles River Watershed, Compton Creek is separately listed as

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			<i>the Los Angeles River and its tributaries has been incorporated in the Los Angeles Region Basin Plan by LARWQCB Resolution No. 2007-012. Compton Creek is identified as a tributary of the Los Angeles River in the TMDL Staff Report. Thus, the trash impairment in Compton Creek is already being addressed by a TMDL.</i>	impaired for trash. However, the trash TMDL for the Los Angeles River watershed assigns waste load allocations for trash discharges to all cities within the watershed, which includes all cities within the Compton Creek sub-watershed. Therefore, while Compton Creek will remain listed as impaired for trash, it will be placed on the list of impaired water bodies being addressed by a TMDL.
3.10	City of Los Angeles	Jun 17	<i>The Bureau requests that the decision to "Do Not Delist" sediment toxicity for the San Pedro Bay be placed on hold until the data used to justify the listing is made readily available in a more transparent fashion for review by stakeholders. The language used in the reference section of the fact sheet for this listing provides insufficient information to locate the data used to justify that listing. Specifically, "Eleven of 33 samples were toxic (BPTCP). Two of 14 samples were toxic (Bight, 1998). None of three samples were toxic (W-EMAP) (LARWQCB & CCC, 2004),." These references do not provide a data year for the BPTCP data and nor describe which specific stations were monitored by each study. The weblinks provided by RWQCB staff (Jeffrey Shu) were not useful in discovering the specific data described in the fact sheet. This may have occurred because the location description was vague ("Los Angeles and Long Beach harbors," never specifying San Pedro Bay) or because the data retrieved by the web link did not contain sediment toxicity data.</i>	Staff disagrees. The line of evidence in question was developed for the 2006 303(d) list. The 2006 303(d) list was adopted by the State Board and subsequently approved by USEPA. Staff concurs with their original decision supporting the listing. Staff recognizes that the development of the 303(d) list is a dynamic process. Further review of the listing will occur in future listing cycles or as a TMDL is developed.
3.11	City of Los Angeles	Jun 17	<i>The Bureau requests listings based on sediment toxicity including those for specific pollutants in sediment should be evaluated in accordance with the SWRCB's Water Quality Control Plan for Enclosed Bays and Estuaries Plan (Part 1: Sediment Quality), which the SWRCB approved in 2008 (SWRCB</i>	The SWRCB's Water Quality Control Plan for Enclosed Bays and Estuaries has been adopted by the SWRCB but has yet to be approved by USEPA. Staff will consider application of the

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			<i>Resolution 2008-0070). We note that this plan "supersedes all applicable narrative water quality objectives and related implementation provisions in water quality control plans (basin plans) to the extent that the objectives and provisions are applied to protect bay or estuarine benthic communities from toxic pollutants in sediments" (SWRCB Resolution 2008-0070). The SWRCB recognizes the need to ensure that the listing policy and the SQO Plan are consistent. Therefore, SWRCB staff has been directed to revise the Listing Policy to achieve consistency with the sediment quality objectives in said plan. The Bureau has listed in Table 3 those waterbodies that should be evaluated based on the SQOs.</i>	plan upon USEPA approval, or when revision to the Listing Policy has been made, which may not occur until the next listing cycle.
3.12	City of Los Angeles	Jun 17	<i>The Bureau requests that the PAH listing for Ballona Creek Estuary, be removed based on the Fact Sheets Decision ID 7584 which state "Based on the readily available data and information, the weight of evidence indicates that there is sufficient justification against placing this water segment/pollutant combination on the section 303(d) list in the Water Quality Limited Segments category."</i>	Staff disagrees. Decision 7584 concludes that benzo(a)pyrene, chrysene, phenanthrene, and pyrene, along with other pollutants, should not be listed on the 303(d) list. These four pollutants are components of total PAHs and insufficient data is available to determine the delisting potential of total PAH based on just the data described in Decision 7584.
3.13	City of Los Angeles	Jun 17	<i>The Bureau requests that RWQCB staff should ensure the available data and fact sheets are consistent. Although the data available for review for the proposed new listings generally support the listings, the fact sheets are not always consistent with the data available for review.</i>	Comment noted.
3.14	City of Los Angeles	Jun 17	<i>A primary line of evidence used in conjunction with a TMDL will satisfy Section 2.2 or Section 3.11 of the Listing Policy. Referencing a TMDL does not provide information to evaluate the original listing or subsequent listing decision. Without including the supporting data in the Staff Report, stakeholders can not verify if the conditions for placement in the water quality limited segments category have been met or if water quality</i>	Creation of fact sheets to summarize analyses developed in TMDLs was not identified as a priority, given limited staff resources. See response to comment 3.2 in regards to prioritizing fact sheets. Data and analyses are available in the

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			<i>standards have been attained. This includes listings placed in the 'Being Addressed' category.</i>			supporting documentation for TMDLs.
3.15	City of Los Angeles City of Los Angeles City of Los Angeles	Jun 17	Table 3. Detailed Comments on Specific Listings			See response to comment 3.8.
			Water Body	Pollutant/Stressor	2008 Revised Comments	
			Marina del Rey Harbor – Back Basins	DDT (tissue)	This listing should be removed as identified in the Marina Del Rey Toxics TMDL, which states that DDT is no longer a cause of impairment.	
3.16	City of Los Angeles	Jun 17	Marina del Rey Harbor – Back Basins	Dieldrin (tissue)	This listing should be removed as identified in the Marina Del Rey Toxics TMDL, which states that Dieldrin is no longer a cause of impairment.	See response to comment 3.8.
3.17	City of Los Angeles	Jun 17	Compton Creek	Trash	This listing should be categorized as "being addressed by USEPA approved TMDL (B)." Compton Creek was identified as a tributary in the Los Angeles River Trash TMDL.	See response to comment 3.9.
3.18	City of Los Angeles	Jun 17	Cabrillo Beach (Outer)	DDT	The RWQCB should provide in the record the supporting data and required information to list or not list using the listing criteria. This listing is based on Section 3.4 of the Listing Policy, which allows for a listing where a health advisory has been posted, a beneficial use for consumption identified, and the supporting data is available indicating the evaluation guideline for tissue has been exceeded. The original fish consumption advisory, which was based on fish tissue and formed the basis for the listing, appears to have been conducted in the mid-1990's. There	A review indicates that the OEHHA fish consumption advisories in Los Angeles County are still in effect and have yet to be rescinded. The 2006 303(d) list was adopted by the State Board and subsequently approved by USEPA. Staff concurs with their original decision supporting the listing. Staff will continue to evaluate data as it becomes available and delist waterbody/pollutant combinations if the data suggest that standards are being attained. Also see response to comment 3.2 regarding legacy listings.

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					are no Fact Sheets available indicating the reason the listing appears as based on water column instead of fish tissue pollutant levels. The basis for the, advisory should be investigated and upheld prior to maintaining the pollutant-waterbody on the list.	
3.19	City of Los Angeles	Jun 17	Cabrillo Beach (Outer)	PCBs	The RWQCB should provide in the record the supporting data and required information to list or not list using the listing criteria. This listing is based on Section 3.4 of the Listing Policy, which allows for a listing where a health advisory has been posted, a beneficial use for consumption identified, and the supporting data is available indicating the evaluation guideline for tissue has been exceeded. The original fish consumption advisory, which was based on fish tissue and formed the basis for the listing, appears to have been conducted in the mid-1990's. There are no Fact Sheets available indicating the reason the listing appears as based on water column instead of fish tissue pollutant levels. The basis for the advisory should be investigated and upheld prior to maintaining the pollutant-waterbody on the list.	See response to comment 3.18.
3.20	City of Los Angeles	Jun 17	Los Angeles River Reach 6 (Above)	Dichloro ethylene / 1,1-DCE	There is no line of evidence to support the original listing. Using the 2004 State Listing Policy listing criteria, the existing data provided by the State do not support a listing for this	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.

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			Sepulveda Flood Control Basin)			
3.21	City of Los Angeles	Jun 17	Los Angeles Harbor - Cabrillo Marina	DDT (tissue)	The OEHHA fish consumption advisory should be re-evaluated as most of the original advisories were conducted in the mid-1990's. In addition, the RWQCB should provide in the record the supporting data and required information to list or not list using the listing criteria. According to Section 3.4 of the Listing Policy a OEHHA health advisory must be posted, a beneficial use for consumption identified, and the supporting data must be available indicating the evaluation guideline for tissue has been exceeded.	See response to comment 3.18.
3.22	City of Los	Jun 17	Los	DDT	This pollutant-water body listing for	See response to comment 3.18

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	Angeles		Angeles Harbor Consolidated Slip	(tissue & sediment	sediment should be evaluated in accordance with the SWRCB's Water Quality Control Plan for Enclosed Bays and Estuaries Plan (Part 1: Sediment Quality), which the SWRCB approved in 2008 (SWRCB Resolution 2008-0070). We note that this plan "supersedes all applicable narrative water quality objectives and related implementation provisions in water quality control plans (basin plans) to the extent that the objectives and provisions are applied to protect bay or estuarine benthic communities from toxic pollutants in sediments." (SWRCB Resolution 2008-0070). The SWRCB recognizes the need to ensure that the listing policy and the SQO Plan are consistent. Therefore, SWRCB staff has been directed to revise the Listing Policy to achieve consistency with the sediment quality objectives in said plan. (Ibid.). For the tissue based listing, there is no fact sheet available or tissue data available for review. Therefore the listing could not be validated using the Listing Policy.	regarding the tissue listing. See response to comment 3.11 regarding SWRCB's Water Quality Control Plan for Enclosed Bays and Estuaries.
3.23	City of Los Angeles	Jun 17	Los Angeles Fish Harbor	DDT	This listing is based on Section 3.4 of the Listing Policy, which allows for a listing where a health advisory has been posted, a beneficial use for consumption identified, and the supporting data is available indicating the evaluation guideline for tissue has	See response to comment 3.18.

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					<p>been exceeded. There are no 2006 and 2008 Fact Sheets available indicating the basis for this listing has changed. The original fish consumption advisory that formed the basis for the listing appears to have conducted in the mid-1990's. The basis for the advisory should be investigated and upheld prior to re-listing the pollutant-waterbody.</p>		
3.24	City of Los Angeles	Jun 17	Los Angeles River Reach 2 (Carson to Figueroa Street)	Oil	<p>This Listing does not meet the requirements of Section 2 or 3.7 of the Listing Policy. There are no data in the record to evaluate as no fact sheets were found substantiating the listing decision. The Basin Plan describes the objective as "Waters shall not contain oils...in concentrations that result in a visible film or coating on the surface of the water or on objects in the water that cause nuisance or that otherwise adversely affect beneficial uses. No observational data is available that substantiates any of the conditions necessary to violate this standard.</p>	<p>Staff will continue to evaluate data as it becomes readily available and delist waterbody/pollutant combinations if the data indicate that standards are being attained. Also see response to comment 3.2.</p>	
3.25	City of Los Angeles	Jun 17	Point Fermin Park Beach	PCBs	<p>The current listing is based on water column exceedances. This original listing appeared to have been based on Section 3.4 of the Listing Policy, which allows for a listing where a OEHHA health advisory has been posted, a beneficial use for consumption identified, and the supporting data is available indicating</p>	<p>See response to comment 3.18.</p>	

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					<p>the evaluation guideline for tissue has been exceeded. OEHHA's fish advisories are based on fish tissue concentrations. Thus, listing should reflect this. This and similarly-based listings were conducted in the mid-1990's and were apparently founded on fish tissue pollutant concentrations. Therefore, (1) the RWQCB has not substantiated the water based pollutant listing and (2) the basis for the current fish advisory should be investigated and upheld prior to re-listing the pollutant-waterbody.</p>		
3.26	City of Los Angeles	Jun 17	Point Fermin Park Beach	DDT	<p>This waterbody/pollutant combination should be listed according to Section 3.4 of the Listing Policy which states that a health advisory must be posted, a beneficial use for consumption identified, and the supporting data must be available indicating the evaluation guideline for tissue has been exceeded. A fact sheet is not available for this listing; therefore, it is assumed that this listing was based on OEHHA's fish consumption advisory. The fish consumption advisory should be reevaluated as most of the original advisories were conducted in the mid-1990's.</p>		See response to comment 3.18.
3.27	City of Los Angeles	Jun 17	Royal Palms Beach	DDT	<p>This listing is based on Section 3.4 of the Listing Policy, which allows for a listing where a health advisory has been posted, a beneficial use for consumption identified, and the</p>		See response to comment 3.18.

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					<p>supporting data is available indicating the evaluation guideline for tissue has been exceeded. There are no 2006 and 2008 Fact Sheets available indicating the basis for this listing has changed. The original fish consumption advisory that formed the basis for the listing appears to have been conducted in the mid-1990's. Therefore, the basis for the advisory should be investigated and upheld prior to re-listing the pollutant waterbody.</p>	
3.28	City of Los Angeles	Jun 17	Royal Palms Beach	PCBs	<p>This listing is based on Section 3.4 of the Listing Policy, which allows for a listing where a health advisory has been posted, a beneficial use for consumption identified, and the supporting data is available indicating the evaluation guideline for tissue has been exceeded. There are no Fact Sheets available indicating the basis for this listing has changed. The original fish consumption advisory, which should be based on fish tissue and form the basis for the listing, appears to have been conducted in the mid-1990's. The basis for the advisory should be investigated and upheld prior to re-listing the pollutant-waterbody.</p>	See response to comment 3.18.
3.29	City of Los Angeles	Jun 17	Santa Monica Bay Offshore/ Nearshore	Fish Consumption Advisory	<p>Please correct the "pollutant" basis for the listing. The existence of a fish consumption advisory is a listing factor, but is neither a "pollutant" nor a water quality objective delineated in</p>	<p>See response to comment 3.18. Currently there are OEHHA fish advisories for PCBs and DDT, so the listing documents an actual impairment.</p>

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3.30	City of Los Angeles	Jun 17	Santa Monica Bay Offshore/ Nearshore	Sediment Toxicity	any applicable plan or regulation. The fact that supporting data based on organism tissue must be available to support the listing under Section 3.4 of the Listing Policy which indicates specific pollutant concentrations in the organisms must be the reason OEHHA has issued the advisory. Currently there are OEHHA fish advisories for PCBs and DDT.
3.31	City of Los	Jun 17	Los	DDT	During the SWRCB's 2006 listing process, the State provided no toxicity data in their line of evidence to support the listing decision. The RWQCB has provided no fact sheet for this listing. Therefore, stakeholders cannot validate the listing. Nonetheless, this pollutant-water body listing should be evaluated in accordance with the SWRCB 's Water Quality Control Plan for Enclosed Bays and Estuaries Plan (Part 1: Sediment Quality), which the SWRCB approved in 2008 (SWRCB Resolution 2008-0070). We note that Part 1 " supersedes all applicable narrative water quality objectives and related implementation provisions in water quality control plans (basin plans) to the extent that the objectives and provisions are applied to protect bay or estuarine benthic communities from toxic pollutants in sediments." (SWRCB Resolution 2008-0070): See response to comment 3.11.
					See response to comment 3.2 regarding

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	Angeles		Angeles / Long Beach Inner Harbor		<p>DDT (sediment & tissues) to DDT, i.e., a water column listing on the 2006 303(d) list. However, a fact sheet is not available for this pollutant/waterbody combination. A fact sheet would allow the Bureau to review the data and appropriately comment on this pollutant/waterbody listing. The only information available for this listing is the SWRCB's 2006 comments stating that this listing was based on OEHHA fish advisory. The fish consumption advisory should be reevaluated as most of the original advisories were conducted in the mid-1990's.</p> <p>the fact sheet. Also see response to comment 3.18 regarding the OEHHA fish advisories.</p> <p>This waterbody pollutant was listed prior to 2006. The listing was updated in 2006 but no fact sheet was prepared at that time.</p>
3.32	City of Los Angeles	Jun 17	Los Angeles / Long Beach Inner Harbor	PCBs	<p>This listing has been updated from PCB (sediment & tissue) to PCB, i.e., a water column listing in the 2006 303 (d) list. However, a fact sheet is not available for this pollutant/waterbody combination. A fact sheet would allow the Bureau to review the data and appropriately comment on this pollutant/waterbody listing. The only information available for this listing is the State Board's 2006 comments stating that this listing was based on OEHHA fish advisory. The fish consumption advisory should be reevaluated as most of the original advisories were conducted in the mid-1990's.</p> <p>See response to comment 3.31.</p>
4.1	City of Oxnard	Jun 15	We have received the Notice of Availability of the referenced documents and the solicitation of public comments. We have		Comment noted.

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			<p>reviewed the documents, and concur with Regional Board staff's recommendation to de-list Channel Islands Harbor, listed for lead and zinc in sediment from non-point sources. We understand that this listing was based on a single Bay Protection and Toxic Cleanup Program (BPTCP) sample 13 years ago. At that time, the BPTCP document said that since Channel Islands Harbor "had relatively undegraded benthos and few chemicals at elevated concentration it might also serve as a potential reference site". We'd go even further than that, and state that Channel Islands Harbor is probably one of the cleanest harbors in the nation.</p>	
5.1	City of Santa Clarita	Jun 17	<p>Newly proposed listings for the Santa Clara River are erroneously based on application of the conditional Municipal and Domestic Supply (MUN) Beneficial Use. A Federal Court, the State Water Resources Control Board (State Board), and the Federal Environmental Protection Agency (EPA) have all determined that the P*MUN use is not a properly designated use available for any regulatory purpose, such as the proposed 2008 Section 303(d) List. The application of the conditional P*MUN Beneficial Use resulted in the incorrect application of maximum contaminant levels (MCL) and California Toxics Rule (CTR) human health criteria using "water plus organisms" standards.</p> <p>In 1994, the California Regional Water Quality Control Board, Los Angeles (Regional Board) sought to designate a Municipal and Domestic Supply (P*MUN) Beneficial Use to all water bodies identified in the Basin Plan. This was a response to the State Board's issuance of Resolution No. 88-63 (the "Sources of Drinking Water Policy") and the Regional Boards companion resolution, Resolution No. 89-03. However, the Regional Board only conditionally designated the Beneficial Use by forming the P*MUN and cannot establish effluent limitations based on conditional designations.</p> <p>In addition, during the previous Section 303(d) List update in</p>	<p>Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.</p>

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			<p>2006, the Regional Board included water body segments based on the P*MUN Beneficial Use. After receiving comments objecting to this action, the State Board removed all of the proposed 303(d) listings based on this beneficial use. The State Board indicated the P*MUN Beneficial Use should not be used for listing purposes, and is not a designated beneficial use for the identified water bodies. No change to the status of the P*MUN Beneficial Use has occurred since. Therefore, the City of Santa Clarita requests that the Regional Board act in accordance with the State Board's previous determination on this issue and asks for the following waterbody/pollutant listings to be removed from the Regional Board's proposed 2008 Section 303(d) List:</p> <ul style="list-style-type: none"> • Santa Clara River, Reach 5 - Iron, Specific Conductivity (based on secondary MCLs); Chlorodibromomethane, and Dichlorobromomethane (based on application of CTR human health criteria using water plus organisms) • Santa Clara River, Reach 6 - Iron, Specific Conductivity (based on secondary MCLs); Chlorodibromomethane, Dichlorobromomethane, Bis (2-ethylhexyl) phthalate (based on application of CTR human health criteria using water plus organisms) 	
5.2	City of Santa Clarita	Jun 17	<p>The Regional Board included Diazinon for Reach 6 of the Santa Clara River during the 2008 listing cycle. This was based on the evaluation of available data indicating that the California Department of Fish and Game (CDFG) four-day Criterion Continuous Concentration (CCC) threshold of 0.10 µg/L Diazinon was exceeded in samples collected from Bouquet Canyon Creek. All of the utilized monitoring data was collected as part of the Surface Water Ambient Monitoring Program (SWAMP).</p> <p>On December 31, 2004, the EPA banned sales of all nonagricultural products containing Diazinon. The EPA's action</p>	<p>Staff disagrees with the recommendation to restrict the data evaluated. Furthermore, when evaluating data collected through the end of the solicitation period, exceedances of the diazinon threshold were still observed after EPA's ban. In addition, it would be premature to state that the impairment is being addressed by other actions, especially given that there are enough exceedances to warrant not</p>

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			<p>should be considered implementation of a significant management practice in Reach 6 of the Santa Clara River. Therefore, the City believes only data collected since January 1, 2005, should be used for listing reevaluation.</p>	<p>delisting (as per the Listing Policy). The 2004 USEPA diazinon ban restricted the sale of products containing diazinon, <i>not the use of such products already in circulation</i>. The continued use of products purchased prior to the ban may occur for some time and the ban did not include specific dates for water quality attainment.</p>
5.3	City of Santa Clarita	Jun 17	<p>As stated in previous comments submitted by the City regarding this listing, upon receipt of notification of a 13267 letter from the Regional Water Quality Control Board in September 2002, the City and County of Los Angeles embarked on a very aggressive Public Outreach and Abatement program. Inspections, enforcement, and cooperation from local retailers and the public led to a drastic reduction of Diazinon levels recorded in the original samples. Though this information was provided to the Regional Board, no response to the final report has been given to date.</p> <p>It is the City's understanding that data taken by the Los Angeles County Sanitation Districts shows no exceedances were found in nine samples collected between April 2007 and July 2008. This listing should be moved to the "Water Quality Limited Segments Being Addressed by Actions Other Than a TMDL" category since the EPA Residential Use phaseout of Diazinon is a regulatory action other than a TMDL. Therefore, Diazinon in Reach 6 of the Santa Clara River should be removed from the 303(d) list.</p>	<p>Staff disagrees with the recommendation to move the listing to "Being Addressed by Other Actions." Looking at data collected through the end of the solicitation period, exceedances were still observed post-ban. In addition, it would be premature to state that the impairment is being addressed by other actions, especially given that there are enough exceedances to warrant not delisting (as per the Listing Policy). The 2004 USEPA diazinon and chlorpyrifos phase-out restricted the sale of products containing diazinon and chlorpyrifos, <i>not the use of such products currently in circulation</i>. The continued use of products purchased prior to the ban may occur for some time and the ban did not include specific dates of water quality attainment.</p> <p>Data collected after the solicitation period will be evaluated during the next listing cycle.</p>

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5.4	City of Santa Clarita	Jun 17	<p>The Regional Board included Chlorpyrifos for Reach 6 of the Santa Clara River during the 2008 Section 303(d) listing cycle. Similar to Diazinon, the EPA has been phasing out all nonagricultural uses of Chlorpyrifos with the cessation of sales of all residential use products by December 31, 2004.</p> <p>It is the City’s opinion that data collected from January 1, 2005, forward should only be considered for the 2008 Section 303(d) listing. The City understands that monitoring by the Los Angeles County Sanitation Districts resulted in 18 four-day average Chlorpyrifos monitoring results with no exceedences of the 0.05 µg/L threshold. Therefore, this listing should be moved to the “Water Quality Limited Segments Being Addressed by Actions Other Than a TMDL” category since the Residential Use phaseout of Chlorpyrifos is a regulatory action other than a TMDL and appears to be resulting in attainment of standards.</p>	See response to comment 5.3.
6.1	City of Simi Valley	Jun 17	<p>The City of Simi Valley appreciates the opportunity to comment on the Draft 2008 303(d) List and respectfully opposes the listing of trash in the Arroyo Simi (Reach 7) on the Draft List. The City understands the fiscal challenges facing the State agencies, as the City is facing very similar fiscal challenges. The response for us must be to collectively and jointly find cost-effective, efficient solutions to issues we encounter.</p> <p>First, on a technical level, there may be inadequate data to support the listing. Members of the Parties Implementing TMDLs on the Calleguas Creek Watershed identified a discrepancy in the data available on the fact sheet (Decision ID 10423). The Ventura Coastkeepers staff revised the data sheet to correct the inaccuracy. The State's Listing Policy indicates the need to use both numeric and non-numeric data for determining a trash listing. The City requests that the 303 (d) listing follow the policy for submittal of non-numeric data. Such data could be photographic evidence allowing locations to be determined and/or detailed data on trash, including location, to facilitate an</p>	<p>Staff disagrees. The Listing Policy suggests the use of both qualitative assessments and numeric data to list for trash impairment in a waterbody. Such qualitative assessment should not be limited to photographic format only. Data submitted by the Ventura Coastkeeper also included qualitative assessments.</p> <p>The data satisfies the data quality and quantity requirements of section 6.1.4 and 6.1.5 of the Listing Policy. Based on data received by Staff, monitoring was conducted on a monthly basis for approximately 11 months. The data sufficiently documented the number of pieces of trash that were observed. Thus, the waterbody was correctly</p>

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			effective TMDL development. Data used to justify listings for impairments like trash require supporting documentation to ensure that the observations are verifiable.	assessed as impaired for trash.
6.2	City of Simi Valley	Jun 17	<p>A 303(d) listing of trash in the Arroyo Simi is not a cost effective means to address this issue. Importantly, the Waste Discharge Requirements for Ventura County Municipal Separate Storm Sewer System includes significant new requirements to reduce trash in the storm sewer system, and should provide more tangible progress towards reducing such pollution. This is a more effective means to remove the impact than subjecting the issue to further study under a TMDL. Actions planned already by the City include:</p> <ul style="list-style-type: none"> • Prioritizing, inspecting, and cleaning catch basins based trash at the location; • Managing trash at public events; • Installing and maintaining trash cans in high trash generation areas; and • Installing excluders on catch basins or conducting alternative BMPs to reduce trash discharges to receiving waters in the next two years. 	Staff disagrees. If a waterbody is impaired, it needs to be included on the 303(d) list. Staff acknowledges that the MS4 permit contains provisions for the management of trash, however, the MS4 permit currently does not include numeric targets and allocations to meet the narrative objectives in the Basin Plan, nor does it establish specific dates for water quality attainment.
6.3	City of Simi Valley	Jun 17	Should your agency decide that a 303 (d) listing meets the Listing Policy requirements, the City requests a Category C, “addressed by action(s) other than a TMDL,” listing. This would follow the City’s understanding of the State’s Listing Policy to allow existing programs to address water-related trash. A significant effort by your agency and all of the Ventura County Cities and the County of Ventura recently resulted in the adopted Waste Discharge Requirements for Ventura County Municipal Separate Storm Sewer System. The State’s Listing Policy specifically acknowledges that storm water permits and associated Storm Water Management Plans (SWMP) are existing programs that justify Category C categorization. The Waste Discharge Requirements for Ventura County Municipal Separate Storm Sewer System is an adopted regulatory program that is enforceable by the RWQCB, contains a monitoring program and	<p>See response to comment 6.2.</p> <p>The State Listing Policy specifically requires that a waterbody be included with the “water quality segments being addressed” if “...an existing regulatory program is reasonably expected to result in attainment... within a reasonable, specified time frame.” The recently-adopted Waste Discharge Requirements for Ventura County MS4 does not include specified dates for water quality attainment.</p>

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			reporting programs that demonstrate progress, and provisions to address discharges of trash to the. Arroyo Simi within a reasonable amount of time. This meets all the State's Listing Policy for the Category C categorization.	
7.1	City of Ventura	Jun 17	For the Promenade Park Beach bacterial indicators listing, the fact sheet shows comparison of exceedances at individual stations to the Listing Policy. Therefore, individual stations, rather than the whole beach, should be listed on the 2008 303(d) list. Only one (1) of the four (4) stations monitored at Promenade Park Beach has bacterial exceedances that meet the Listing Policy criteria for addition to the 2008 303(d) list. There may be specific activities occurring in this part of the beach or attributes of these sampling locations that are resulting in the bacterial exceedances. The City requests that only the station where the exceedances meet the Listing Policy be listed. This would allow us to focus City resources on addressing problematic areas rather than the entire beach.	<p>Comment noted. On the 303(d) list, waterbodies are listed - not specific sampling sites within a waterbody. In this case the relevant reach is the Promenade Park Beach.</p> <p>Staff notes that Appendix E (Impaired Waterbodies, TMDLs still required) and Appendix G (New or Revised factsheets) of the Staff Report indicate impairment of only one of the sampling stations at Promenade Park Beach. A comment in the 303(d) list will be revised to address this comment.</p>
7.2	City of Ventura	Jun 17	For the San Buenaventura Beach bacterial indicators listing, the fact sheet associated with this listing shows comparison of exceedances at individual stations to the Listing Policy. Therefore, individual stations, rather than the whole beach, should not be delisted from the 303(d) list. Only one (1) of the three (3) stations monitored has bacterial exceedances that do not meet the Listing Policy requirements for delisting. There may be specific activities occurring in this part of the beach or attributes of these sampling locations that are resulting in the bacterial exceedances. The City requests that all stations, except the station where the exceedances do not meet the Listing Policy for delisting, be delisted to allow City resources to be focused on addressing problematic areas rather than the entire beach.	<p>Comment noted. On the 303(d) list, waterbodies are listed - not specific sampling sites within a waterbody. In this case the relevant reach is San Buenaventura Beach.</p> <p>Staff notes that Appendix E (Impaired Waterbodies, TMDLs still required) and Appendix G (New or Revised factsheets) of the Staff Report indicate impairment of only one of the sampling stations at San Buenaventura Beach. A comment in the 303(d) list will be revised to address this comment.</p>

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7.3	City of Ventura	Jun 17	The 2008 303(d) list proposes listing arsenic in the Santa Clara River Estuary based on nine (9) exceedances out of 63 samples, which meets the Listing Policy criteria for addition to the 303(d) list of impaired waters. However, upon review of the provided data used to assess water quality, the City found only two (2) exceedances of the CTR saltwater criterion maximum concentration of 69 µg/L (0.069 mg/L) out of 63 samples. This does not meet the Listing Policy criteria for addition to the 303(d) list of impaired waters, therefore, the City requests that the Santa Clara River Estuary arsenic listing be removed from the 2008 303(d) list.	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.
7.4	City of Ventura	Jun 17	<p>The proposed 2008 303(d) list includes a listing for toxicity in the Santa Clara River Estuary. The City requests an examination of the appropriateness of the dataset, as well as clarification and procedural changes regarding this listing.</p> <p>Firstly the City would like to comment that all available toxicity data for the estuary was conducted using freshwater species. An examination of available salinity and hardness data indicate that even in samples with relatively low salinity, significant seawater mixing was occurring resulting in hardness values typically exceeding 1000 mg/L CaCO₃. Therefore, it is most likely that any "toxicity" observed was due to ion imbalance associated with elevated sea water concentrations and not due to toxic compounds. Only toxicity test results conducted using species tolerant of euryhaline conditions or tests conducted with marine species with salinity levels appropriately adjusted would be suitable for evaluating this listing. In the absence of such data, there is not enough suitable data to make a determination whether toxicity is present and should be listed.</p>	Staff disagrees. Commenter fails to provide the salinity data as evidence that the toxicity was due to ion imbalance associated with elevated sea water concentrations and not due to toxic compounds. This data is from the Ventura Waste Water Treatment Plant. If the plant modifies its testing procedures for toxicity and new data demonstrate a different level of toxicity, that data can be considered in the next listing cycle.
7.5	City of Ventura	Jun 17	<p>Secondly, the fact sheet for this listing describes the toxicity evaluation guideline as follows:</p> <p><i>Toxicity was defined as a reduction of the NOEC below 100% and was considered significant if the effect on the sample</i></p>	The Basin Plan states that "There shall be no chronic toxicity in ambient waters outside of mixing zones." The use of TUC is an appropriate evaluating value for translating the Basin Plan narrative

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			<p><i>exposure was greater than 25%. Chronic toxicity is further expressed as toxic units (TUC), where $TUC = 100/NOEC$. The No Observable Effect Concentration (NOEC) is expressed as the maximum percent of receiving water that causes no observable effect on a test organism, as determined by the result of a critical life stage toxicity test. The NOEC is defined, in (USEPA, 2002) as the lowest concentration of toxicant to which organisms are exposed in a life-cycle or partial life-cycle (short-term) test, which causes adverse effects on the test organisms (i.e., where the values for the observed responses are statistically significantly different from the controls).</i></p> <p>This definition of the listing criteria is not sufficiently straightforward and clear given that the data provided is in the form of TUCs, and the numeric TUC value to which the data were compared was not provided. A more clear presentation of the above criteria would be that significant toxicity is considered a 75% effect or greater on the test organisms as a percentage of the control.</p>	water quality objectives for chronic toxicity.
7.6	City of Ventura	Jun 17	Additionally, the toxicity listing is based on toxicity tests to multiple test species. The purpose of testing toxicity to multiple species of test organisms is that these different organisms are indicators of different types of toxicity problems. Therefore, it would be more appropriate and useful to list toxicity to each individual species independently, rather than one general toxicity listing that does not differentiate the different toxicity tests.	Staff disagrees. Multiple species are tested to ensure that the most sensitive species is protected, given the fact that certain species are more sensitive than others toward certain toxicants. Listing for toxicity rather than toxicity to a certain species is the more conservative approach because toxicity to any aquatic species impairs beneficial uses.
7.7	City of Ventura	Jun 17	Additionally, if there is significant toxicity to a test species by a survival endpoint, then toxicity by a reproduction or growth endpoint should not additionally be counted. Toxicity measured by a survival endpoint is greater than toxicity measured by a reproduction or growth endpoint, and is therefore already	Toxicity testing based on survival endpoint (i.e., acute toxicity) and toxicity testing based on a reproduction or growth endpoint (i.e., chronic toxicity) are counted and summed

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			accounted for and need not be tested separately.	separately during evaluation and subsequently listed separately in the appendices.
8.1	LACDPW	June 17	<p>In evaluating the sediment impairment in Bays and Estuaries for 303(d) listing purposes, the Regional Water Quality Control Board (Regional Board) - Los Angeles Region (Los Angeles Regional Board) utilized sediment quality guidelines and numeric objectives established by the National Oceanic and Atmospheric Administration (NOAA). These NOAA guidelines and objectives were established based on the single-line-of-evidence approach and were never intended to be used for 303(d) listing purposes.</p> <p>As you are aware, the State Water Resources Control Board (State Water Board) has developed Sediment Quality Objectives (SQO) for Enclosed Bays and Estuaries, adopted on September 16, 2008, in the State of California. For the purposes of assessing sediment impairment, the State SQO utilizes the multiple-line-of-evidence approach. Further, the State SQO was established based on the most recent scientific information available to date and is hence more robust and scientifically sound.</p> <p>The State SQO plan recommends that Regional Boards utilize the plan to evaluate sediment impairments in Bays and Estuaries to develop a new or revise the existing 303(d) list. Given that the State SQO supersedes the NOAA criteria, the State SQO must be used for appropriate evaluation of 303(d) listings of sediment impairments in Bays and Estuaries in the Los Angeles Region.</p>	See response to comment 3.11.
8.2	LACDPW	June 17	The use of calendar-month approach for calculating the geometric mean for bacteria indicators is more reasonable than the 30-day rolling approach that has been used in the past.	Comment noted.
8.3	LACDPW	June 17	Bacteria standards established by the Los Angeles Regional Board (e.g., Basin Plan), the State Water Board (e.g., Ocean Plan), and the United States Environmental Protection Agency	Staff disagrees. The Basin Plan states that, “[t]he geometric means values should be calculated based on a

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			(EPA) all require a minimum of five data points for the calculation of geometric mean to satisfy the needed statistical significance. The use of data points less than five for the calculation of geometric mean for 303(d) listing purposes does not follow the Federal and State standard guidelines. Given that the Los Angeles Regional Board indicated in its report that two or more samples were used in the calculation of the geometric mean, this does not meet the established guidelines for the calculation of geometric mean.	statistically sufficient number of samples (<i>generally</i> not less than 5 samples equally spaced over a 30-day period)". The Basin Plan does not explicitly stipulate the usage of five or greater samples for purpose of calculating geometric means.
8.4	LACDPW	June 17	It is clear that sufficient data points (> 5) may not be available in each month To avoid the insufficiency of data points, it is more appropriate to calculate the geometric mean based on calendar seasons (instead of calendar months), consistent with the EPA's recommendation. In this approach, a year can be divided into two to four seasons based on recreational uses and one geometric mean would be calculated for each season.	Staff disagrees. Bacteria densities are highly dynamic. Given the fact that beaches are more frequently visited some months than others, the calculation of a calendar month geometric mean is more protective of public health compared to a seasonal geometric mean.
8.5	LACDPW	June 17	Moreover, it is not appropriate to use geometric mean for 303(d) listing purposes. Geometric mean can be used to assess the condition of a water body over a longer time period for impaired water bodies, but not as a parameter for developing a new or revising the current 303(d) list. Thus, listing a water body for bacterial impairment shall be made exclusively based on the evaluation of the single-sample exceedances only	Staff disagrees. The Basin Plan includes geometric mean and single sample numeric objectives, consistent with USEPA's recommended 1986 Ambient Water Quality Criteria. Also, epidemiological studies have correlated increased illness to both geometric mean and single sample bacteria density. As such, the continued application of both single sample and geometric mean indicator bacteria objectives is consistent with existing US EPA criteria and is more protective of human health than just applying either the single sample or geometric mean objectives for listing purposes.

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8.6	LACDPW	June 17	<p>Further, the Basin Plan lists four bacteria indicators (total coliform, fecal coliform, Enterococcus, and fecal-to-total coliform ratio) for marine waters and two bacteria indicators (E. coil and fecal coliform) for fresh water With the exceedance-day approach used by the Los Angeles Regional Board to assess bacteria impairment, an exceedance day is defined as a day during which any of the bacteria indicators exceeds the standard In the case of marine waters having four bacteria indicators, a day with exceedance in only one bacteria indicator can still be considered as an exceedance day, even if the other three remaining indicators do not show an exceedance. This approach is not logical and could potentially result in an unimpaired water body being listed as impaired. Instead, the appropriate approach should be to list a water body when two or more of the bacteria indicators have exceeded the standard.</p>	<p>Staff disagrees. Epidemiological studies, including the Santa Monica Bay Epidemiological Study, have found an increased incidence of illness when any of the four indicator bacteria densities is elevated. Based the findings of the epidemiological studies, staff finds that an exceedance of one indicator bacteria objective is sufficient to increase the incidence of illness and jeopardize public health.</p>
8.7	LACDPW	June 17	<p>We agree that actions need to be taken to curtail the impact of invasive species on the aquatic environment and human health. However, we have reservations on listing invasive species as pollutants requiring Total Maximum Daily Loads (TMDL). Invasive species should not be interpreted as pollutants. Invasive species are alien species of which the sources are mostly unknown, and even when known, they cannot be attributed to local discharges. Further, there is no water quality standards set for invasive species in the Basin Plan. Additionally, the State listing policy, which the current listing is based on, does not include guidelines for listing invasive species. Thus, the invasive species listing should be removed from the TMDL-required list.</p>	<p>Federal courts have found that, under the Clean Water Act, the term “pollutant” includes “biological materials” and can be regulated under the Clean Water Act (see <i>Northwest Environmental Advocates v. EPA</i>, No. C 03-05760 SI (N.D.Cal. September 18, 2006)).</p> <p>The State Listing Policy does not have specific guidelines for invasive species. However, under Section 3.10 of the Listing Policy, a listing can be made for declining trends in water quality including invasive species as was done by the State Board for several waterbodies in 2006 (e.g. Bodega Harbor, North Coast Region, invasive species 2006 listing).</p>

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8.8	LACDPW	June 17	<p>Invasive species should be treated as a cause of harm to the aquatic environment, but not as pollutants that require development of TMDL allocations. The impact of invasive species on the aquatic ecosystem should then be addressed through programs other than TMDLs.</p>	<p>See response to 8.7. If another program is developed to control or eradicate the mudsnail, that program can be the implementation action for a possible future TMDL. Otherwise, if another program is developed with specific water quality attainment dates, then a TMDL may not need to be developed. In all cases, if a waterbody is impaired and the impairment to the waterbody is documented, it needs to be included on the 303(d) list.</p>
8.9	LACDPW	June 17	<p>In the current evaluations for metals listing, it is unclear whether total or dissolved metals criteria are applied and appropriate hardness values are used. However, in reviewing some of the exceedances observed in the applicable datasets in comparison with the exceedances listed in the Los Angeles Regional Board's fact sheet for the proposed listings, it appears that most of the listings are made based on observed total metals fraction. The California Toxics Rule mandates that the dissolved, and not the total, metals fraction be used, as dissolved metals concentrations more closely approximate the bioavailable fraction of a metal than total recoverable concentrations do.</p> <p>Although the California Toxics Rule includes conversion factors for total metals, only dissolved metals were intended to be used as criteria for assessing water body impairment for 303(d) listing purposes. In the absence of dissolved metals data, listing a water body for metals impairment lacks the necessary scientific and regulatory basis. Therefore, all currently proposed metals listings that are generated based on observed total recoverable metals data must be removed. The assessment of water body impairment for metals must be made only based on observed dissolved metals data.</p>	<p>Regional Board staff applied dissolved criteria when dissolved data were available. When only total metals data were available, staff used CTR conversion factors to express the dissolved criteria as total metals in order to assess the total metals data.</p> <p>Appropriate hardness values were used when analyzing metals data. When concurrent hardness values were available, they were used to adjust the criteria. When concurrent hardness values were not available, staff either omitted the sample from the data set or used the average hardness value for the previous and following data point. Both of these approaches are valid.</p> <p>CTR does not mandate the use of the dissolved data for water quality assessments. Although State Board did not use translators in developing the</p>

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				<p>2006 303(d) list, the language in CTR does not preclude the use of translators to compare total metals data to dissolved criteria in order to make water quality assessments. In fact, US EPA supports the use of translators (see US EPA's January 27, 2006 comment letter on the 2006 303(d) list) and added waters to the list based on the use of translators (see US EPA's June 28, 2007 final decision on waters added to the 2006 303(d) list).</p> <p>Staff believes that the use of translators to compare total metals data to dissolved criteria is appropriate because the CTR criteria are calculated based on total metals data. The criteria are calculated by multiplying the total metals criteria values (from the US EPA national section 304(a) criteria guidance) by conversion factors to obtain dissolved criteria (FR Vol. 65, No. 97, page 31690). The use of translators to compare total metals data to the dissolved criteria is, in essence, the same as reversing the last step in the CTR criteria calculations, which results in comparing like data to like criteria. Therefore, translators can and should be used to assess data when only total metals data are available.</p>
8.10	LACDPW	June 17	For several water bodies in the Los Angeles Region, site-specific objectives (SSOs) for ammonia were developed, amended into the Basin Plan, and became effective on April 23, 2009. As	The ammonia Site Specific Objectives (SSOs) referred to were not in effect during the period of the 2008 303(d)

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			<p>indicated in the associated Basin Plan Amendment, the SSO adopted for ammonia applies to water bodies in the Los Angeles River, San Gabriel River, and Santa Clara River Watersheds.</p> <p>With the Los Angeles Regional Board having adopted the ammonia SSO, the criteria proposed in the SSO must be utilized for evaluating the current listing. Therefore, the assessments for ammonia impairment in all of the applicable watersheds need to be re-evaluated to reflect the appropriate ammonia water quality standards in the Basin Plan.</p>	<p>assessment. The effective date of the ammonia SSOs is April 23, 2009. Therefore, the modified objectives were not used in the determination of impairment, but will be used in the next listing cycle.</p>
8.11	LACDPW	June 17	<p>Several of the new proposed 303(d) listings are generated based on the conditional beneficial use designations, which are denoted with an asterisk (*) in the Basin Plan. In the past, both the State Water Board and the EPA have taken the position that conditional beneficial uses are not final designations and should not be used for 303(d) listing purposes. As such, the State Water Board removed all of the proposed 303(d) listings generated for the conditional beneficial use designations during the 2006 303(d) listing update.</p> <p>Since the 2006 action, we are not aware of any status change on conditional beneficial use designations. Thus, the Regional Board must abide to the Federal and State policies and remove all water bodies that are proposed for the 2008 303(d) listings where a listing was done based on an evaluation of criteria for beneficial uses designated as conditional (i.e., asterisked) in the Basin Plan.</p>	See response to comment 5.1.
8.12	LACDPW	June 17	<p>In its evaluation, the Los Angeles Regional Board used recommended maximum contaminant level criteria of 250 micrograms per liter as specified in the California Code of Regulations' Table 64449-B and concluded that five out of seven data points were exceeded. However, an exceedance for sulfate was observed for only one of the seven data points per the data collected by the LACFCD and reported to the Los Angeles</p>	<p>Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.</p>

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			Regional Board. Given the State's 303(d) listing policy requires a minimum of two exceedances for a water body to be listed as impaired, Puente Creek is erroneously listed for sulfate and must be removed from the proposed listing.	
8.13	LACDPW	June 17	Bis(2-ethylhexyl)phthalates (DEHPs) are commonly found in plastic materials used for sampling and laboratory analysis, including gloves, tubings, and buckets that are made of plastics. A review of the LACFCD's sampling data from 2001 to 2007 indicates that a significant exceedance of DEHP was observed during the 2003-04 sampling season, but not detected in any of the remaining sampling years. In 2004 our records indicate that a change was made in the equipment used to analyze the samples. During the same period, it was noted that analytical laboratories across the State were making changes to address DEHP sample contamination. Given that the major sources of DEHP are plasticizers, the DEHP detections observed during the 2003-04 sampling season could potentially be a result of sample handling and laboratory analysis. Therefore, until further evidence is found that links the DEHP to sources other than the field and laboratory equipments used, this pollutant must not be included in the 303(d) list.	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.
9.1	LA County Sans	June 17	First, the Sanitation Districts would like to take this opportunity to commend Regional Board staff for their diligent implementation of the State Water Resources Control Board's ("State Board's") Quality Control Policy for Developing California's Clean Water Act Section 303(d) List ("Listing Policy") to produce, for the most part, a well-documented and scientifically valid 303(d) List. In addition, the Sanitation Districts greatly appreciate the efforts of the Regional Board to make the listing process more transparent, particularly through making the data used to assess listings available on the Regional Board's website and through production of clear fact sheets on each water body/pollutant combination.	Comment noted.
9.2	LA County Sans	June 17	Section 3.3.3 of the 2008 Update of the Los Angeles Region Integrated Report Clean Water Act Section 305(b) Report and	The presence of biostimulatory substances in our waterways and the

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			<p>Section 303(d) List of Impaired Waters ("303(d) List Staff Report") states that in the current 303(d) List update, nitrogen impairment decisions continue to be based on the current Basin Plan objectives for nitrogen compounds. However, in the 303(d) List Staff Report the Regional Board proposes to use a new methodology for assessing nutrient-related impairments in the future. This methodology would rely on an assessment of both nutrient concentrations and one or more biological response indicators such as pH and dissolved oxygen.</p> <p>While we commend the Regional Board for recognizing the significant issues associated with eutrophication and nutrient-related impairments, the 303(d) List Staff Report is an inappropriate vehicle to introduce proposed nutrient criteria and objectives. Promulgation of new nutrient criteria and/or implementation policies related thereto constitutes an amendment to the Basin Plan, and should therefore be handled exclusively through appropriate Basin Plan amendment procedures. Adoption of Basin Plan amendments requires fulfilling the requirements of California Environmental Quality Act ("CEQA") as well as conducting an analysis in accordance with California Water Code 13241/13000 factors.</p>	<p>associated adverse impacts on beneficial uses are a significant problem. It is important that these impairments be included on the Region's list of impaired waters.</p> <p>The staff report does not propose nutrient criteria or objectives but listing guidelines to use when evaluating data relative to the narrative water quality objective for biostimulatory substances contained in the Basin Plan. Under the State Listing Policy, waterbodies can be included on the 303(d) list when standards or guidelines are exceeded. If a TMDL is developed for a waterbody listed using guidelines, the targets developed in that TMDL may be site specific having used those guidelines or other appropriate scientific approaches.</p> <p>The 303(d) list already includes listings for known biostimulatory substance-related problems such as algae, eutrophication and organic enrichment impairments. Developing a consistent approach to including waterbodies on the 303(d) list for biostimulatory substances and the associated effects is a goal.</p> <p>Staff looks forward to working with the Los Angeles County Sanitation Districts and other stakeholders as we determine the best way to proceed to address</p>

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				<p>impairments due to biostimulatory substances in our Region's waterbodies.</p>
9.3	LA County Sans	June 17	<p>The appropriate time to consider whether numeric nutrient criteria should be pursued is during the triennial review of the Basin Plan. During this and subsequent basin plan amendment review, the costs and benefits of adopting such criteria can be assessed and the priority for pursuing the criteria can be weighed against other basin planning priorities.</p> <p>To avoid duplication of effort, the Regional Board should wait until the State Board releases its NNE tools before considering whether it should develop its own independent nutrient objectives. The approach to nutrient criteria developed by the State Board and USEPA Region 9 is described in the report, "Technical Approach to Develop Nutrient Numeric Endpoints for California" ("CA NNE"), released in 2006. The CA NNE report calls for using multiple lines of biological responses to make an assessment of impairment. Based on this assessment, if an impairment exists, then nutrient concentrations can be examined to determine if they are causing or contributing to the impairment, and nutrient standards can then be developed as appropriate. In preparing this report, the State Board and other experts correctly recognized that ambient nutrient concentrations typically do not correlate with algal/nutrient related impairments, and thus nutrient concentrations should not be used to assess whether an impairment exists.</p>	<p>See response to comment 9.2. In addition, the Regional Board has identified the development of numeric nutrient objectives as a possible priority in the current triennial review cycle. Regional Board staff will continue to evaluate this along with other basin planning priorities.</p>
9.5	LA County Sans	June 17	<p>In conflict with the Statewide approach, the Regional Board approach includes nutrient concentrations (i.e., total nitrogen and phosphorous) as a line of evidence to use when assessing whether an impairment exists. Beneficial use impairment only occurs when, independent of nutrient loading, the biological response is of sufficient magnitude to adversely impact the use.</p>	<p>The Regional Board has proposed possible guidelines for including a waterbody on the 303(d) list. We propose including a numeric line of evidence with the biostimulatory substances impairment as the Listing Policy Section 3.7 requires for impairments due to "...odor, water taste, excessive algae growth..." etc.</p>

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9.6	LA County Sans	June 17	<p>Examples of the proposed Regional Board approach to nutrient criteria are presented in Tables 3-2 and 3-3 of the 303(d) List Staff Report. In this table, the Regional Board lists criteria from a number of different sources, including the 2000 USEPA National Nutrient Criteria Technical Guidance ("National Guidance") and the subsequent 2001 USEPA Ecoregion III Nutrient Criteria Recommendations for Rivers and Streams ("Ecoregion III Guidance"). The purpose of the National Guidance was not to recommend specific nutrient criteria, but rather to describe an approach to be used by the states to develop such criteria. The numbers cited by the Regional Board in Tables 3-2 and 3-3 of the 303(d) List Staff Report from the National Guidance were taken from a table listing a number of examples of numeric thresholds drawn from various studies. No justification was provided by the Regional Board as to why these particular values were chosen, or why these particular values would be applicable to waterbodies in the Los Angeles Region. Furthermore, the approach described in the National Guidance and in the Ecoregion III Guidance, which covers the Xeric West ecoregion that includes most of the Los Angeles Basin, has been widely criticized for its technical shortcomings. Under this approach, criteria for nutrients are set at the 25th percentile of nutrient concentrations for all waterbodies within an ecoregion. This arbitrarily delineates 75% of the waterbodies in a region as impaired.</p> <p>Additionally, no attempt was made in the guidance documents to show a relationship between the nutrient criteria and eutrophic conditions that would affect beneficial uses. In response to these and other flaws, the guidance was never adopted in California, and the State Board and USEPA Region 9 continued to pursue efforts to develop guidance specific to California, as described above.</p>	See comment 9.2.
9.7	LA County Sans	June 17	Another criteria source listed by the Regional Board was a New Zealand guidance document. The Sanitation Districts believe that criteria for another continent should not be used without a	The New Zealand guidance was used in the development of the Malibu Creek Nutrient TMDL and found to be useful

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			high degree of scrutiny to ensure that it is appropriate for the Los Angeles Region.	and appropriate.
9.8	LA County Sans	June 17	A site-specific study for Malibu Creek was also referenced; however, criteria for one specific water body should not be applied region-wide unless a technical review indicates that it is appropriate region-wide.	The Malibu Creek study is just one of several guidance documents referenced including national guidance and southern California guidance.
9.9	LA County Sans	June 17	The last source mentioned is the State Board NNE screening tools for 303(d) listing. While the Sanitation Districts concur that the State Board's NNE guidance, as presented in the CA NNE report, is the most appropriate guidance currently available, the Regional Board's tables do not accurately portray the guidance in the report. In particular, the pH, dissolved oxygen, total nitrogen, and total phosphorus criteria listed in Table 3-2 for the State Board NNE screening tools for 303(d) listing are not consistent with the CA NNE report.	The tables in the Staff Report do not reference the CA NNE set of reports and studies, but the <i>Nutrient Screening Tools for Use in the Clean Water Act Section 303(d) Listing Process</i> as developed by State Board in 2007.
9.10	LA County Sans	June 17	Additionally, the criteria listed for benthic algal biomass are misrepresented; the criteria listed are not meant to be used to determine impairments, but rather, to distinguish between waterbodies that are definitely not impaired versus those that are potentially impaired, but for which further study is needed to assess an impairment.	Comment noted.
9.11	LA County Sans	June 17	<p>The Sanitation Districts believe that the following water body/pollutant combinations should not be added to the 303(d) List:</p> <p style="padding-left: 40px;">Coyote Creek - sulfate and TDS (based on application of secondary MCLs) San Gabriel River Reach 1 - TDS (based on application of secondary MCLs) San Jose Creek Reach 1 - sulfate (based on application of secondary MCLs)</p> <p style="padding-left: 40px;">Santa Clara River Reach 5 - iron, specific conductivity (based on secondary MCLs); chlorodibromomethane, dichlorobromomethane (based on application of California Toxics Rule</p>	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting. Also see response to comment 5.1 for the Santa Clara River Watershed.

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			<p>(CTR) human health criteria using water plus organisms) Santa Clara River Reach 6 - iron, specific conductivity (based on secondary MCLs); chlorodibromomethane, dichlorobromomethane, bis(2-ethylhexyl)phthalate (based on application of CTR human health criteria using water plus organisms)</p> <p>These new proposed listings are erroneously based on application of the conditional Municipal and Domestic Supply (P* MUN) beneficial use. A federal court, the State Board, and the USEPA have all determined that the P*MUN beneficial use is not a properly designated use available for any regulatory purpose, including assessment of water bodies for inclusion on the Regional Board's proposed 2008 303(d) List. The application of the conditional P* MUN beneficial use resulted in the incorrect application of maximum contaminant levels (MCLs) and CTR human health criteria using "water plus organisms" standards.</p>	
9.12	LA County Sans	June 17	<p>In addition to addressing application of the P*MUN use when it evaluated the 2006 303(d) List, the State Board provided direction on several additional issues, to ensure statewide consistency in assessment of water body impairments.² These issues include the use of dissolved and total fraction metals data, the use of wet and dry weather data, and the use of concurrent or average hardness values for hardness-dependent metals. The Regional Board failed to adhere to this direction when making several listing decisions. The Sanitation Districts believe that consistent application of the guidance provided by the State Board will result in a cohesive, well-documented, and scientifically valid 303(d) List, and urge the Regional Board to follow this guidance.</p>	<p>Regarding the use of dissolved and total fraction metals data, Regional Board staff has been consistent with US EPA guidance on the use of translators to compare data reported as the total metals fraction to criteria expressed as the dissolved metals fraction. US EPA supports the use of translators (see US EPA's January 27, 2006 comment letter on the 2006 303(d) list) and added waters to the list based on the use of translators (June 28, 2007 final decision on waters added to the 2006 303(d) list).</p>

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				<p>Staff believes that the use of translators to compare total metals data to dissolved criteria is appropriate because the CTR criteria are calculated based on total metals data. The criteria are calculated by multiplying the total metals criteria values (from the US EPA national section 304(a) criteria guidance) by conversion factors to obtain dissolved criteria (FR Vol. 65, No. 97, page 31690). The use of translators to compare total metals data to the dissolved criteria is, in essence, the same as reversing the last step in the CTR criteria calculations, which results in comparing like data to like criteria. Therefore, translators can and should be used to assess data when only total metals data are available.</p> <p>Regarding the use of wet and dry weather data, staff is consistent with State Board and US EPA guidance. Staff has not separated dry and wet weather data for listing decisions.</p> <p>Regarding the use of concurrent or average hardness values for hardness-dependent metals criteria, staff has used concurrent hardness values to calculate criteria when available. When concurrent hardness values were not available, staff either omitted the sample from the data set or used the average hardness value for the previous</p>

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				and following data point. Both of these approaches are valid. Using the average hardness value for the entire data set to estimate the hardness values instead of these two approaches would not change the listing decisions.
9.13	LA County Sans	June 17	In several instances the Sanitation Districts' analyses of listing decisions reached different conclusions than the Regional Board analyses because the Sanitation Districts were able to identify additional data that, when considered together with the data considered by the Regional Board, demonstrate attainment. In all instances, the Sanitation Districts believe that these data meet the definition of "existing and readily available data," and therefore must be considered by the Regional Board. ³ In most cases, these data were collected as part of NPDES permit monitoring requirements and were submitted to the Regional Board in discharge monitoring reports. The data were, therefore, in the possession of the Regional Board. In some cases, the data were collected after the initial data solicitation for the 2008 303 (d) List, and a large enough dataset is now available to meet the minimum number of samples required for listing/delisting. In all of these instances, re-examination of the proposed decisions with respect to listing is warranted to ensure that sound listings decisions are made in accordance with the Listing Policy.	Data collected after the solicitation period will be evaluated during the next listing cycle.
9.14	LA County Sans	June 17	In addition to these general comments, the Sanitation Districts have specific comments on the listing decisions for a number of water body/pollutant combinations. Detailed specific comments are provided in the appendices to this letter, and Attachment 1 includes a tabular summary of the specific comments. Based on review of the data and fact sheets released for public comment, the Sanitation Districts have identified a number of water body/pollutant combinations proposed for inclusion on the 2008 303(d) List that are attaining water quality standards and therefore qualify for delisting (or, alternatively, when they are not already on the 303(d) List do not qualify for listing). The	See responses to the specific comments below.

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			Sanitation Districts believe it is very important for the Regional Board to follow-up on this information and make changes to the proposed 2008 303(d) List where appropriate, since the implications of erroneous listings are substantial.					
9.15	LA County Sans	June 17	<p>The Sanitation Districts have reviewed the Regional Board's 303(d) listing analyses for the water body/pollutant combinations listed below. The Sanitation Districts believe the analyses are technically sound, and support the Regional Board's decisions to remove these water body/pollutant combinations from the 303(d) list:</p> <ul style="list-style-type: none"> • Ballona Creek – silver • Coyote Creek - zinc • Los Angeles River Estuary - lead (sediment) and zinc (sediment) • Rio Hondo Reach 2 - ammonia • San Jose Creek - selenium • Wilmington Drain - ammonia • Walnut Creek Wash - toxicity 					Comment noted.
9.16	LA County Sans	June 17	Water Body	Constituent	Regional Board Proposed Decision	Sanitation Districts Recommendation	Reason	<p>Regional Board staff believes it is appropriate to use translators to compare data reported as the total metals fraction to criteria expressed as the dissolved metals fraction for both listing and delisting evaluations (see response to comment No. 9.13).</p> <p>The additional dissolved copper data provided by the commenter was collected after the solicitation period will be evaluated during the next listing cycle.</p>
			San Gabriel River Estuary	Copper	Do Not Delist	Delist	Water quality objective being achieved	
			*See Attachment 1 Fact sheet A of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.17	LA County Sans	June 17	Coyote Creek	Ammonia	Do Not Delist	Delist	Water quality objective	See response to comment 8.10

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							being achieved	
			*See Attachment 1 Fact sheet B of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.18	LA County Sans	June 17	Santa Clara River Reach 6	Copper	List	Do not list	Water quality objective being achieved	Staff disagrees. All dry weather and wet weather data were used. The criterion was recalculated for each individual sample using the corresponding hardness value for the sample and the hardness dependant criterion formula listed in CTR. Analysis of the readily available data indicates San Clara River Reach 6 is not meeting the copper water quality objective and shall remain on the list.
			*See Attachment 1 Fact sheet C of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.19	LA County Sans	June 17	San Gabriel River Reach 2	Cyanide	List	Do not list	Water quality-objective being achieved	Wet and dry weather data were not separated for the analyses. While the commenter provided an additional 108 data points, 101 of these were for sampling locations not within Reach 2 but were included in the analyses for Reach 3. In keeping with the precedent set by the 2002 and 2006 303(d) evaluations, the San Gabriel River Reach 2 is considered to extend from Firestone Blvd to the Whittier Narrows Dam. The rest of the data was generated after the solicitation period and the result of a special LACSD study not available to Staff during the assessment. Data collected after the solicitation period will be evaluated during the next listing cycle. Analysis of the available data indicates San Gabriel River Reach 2 is not meeting
			*See Attachment 1 Fact sheet D of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					

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								the cyanide water quality objective and shall remain on the list.
9.20	LA County Sans	June 17	Santa Clara River Reach 6	Chlorpyrifos	Do Not Delist	Delist	Water quality objective being achieved	<p>Staff disagrees that only two of the SWAMP were valid. Based on section 4.1 and table 4.1 of the Listing Policy, a minimum of 28 samples is needed to support delisting of a toxicant. An analysis of the data up to February 2007 indicates that there are an insufficient number of samples to support the delisting of chlorpyrifos based on section 4.1 of the Listing Policy.</p> <p>See response to comment 5.3 regarding the USEPA phase-out of chlorpyrifos.</p> <p>Data collected after the solicitation period will be evaluated during the next listing cycle.</p>
*See Attachment 1 Fact sheet E of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.								
9.21	LA County Sans	June 17	San Gabriel River Estuary	Nickel	List	Do not list	Insufficient Basis to List	<p>Regional Board staff believes it is appropriate to use translators to compare data reported as the total metals fraction to criteria expressed as the dissolved metals fraction for both listing and delisting evaluations. Also see response to comment 9.13.</p>
*See Attachment 1 Fact sheet F of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.								
9.22	LA County Sans	June 17	Santa Clara River Reach 6	Diazinon	Do Not Delist	Delist	Water quality objective being achieved	<p>Staff disagrees with rejecting data due to “holding time violation”. Concentrations of chlorpyrifos in samples can only decrease with time. These data should still be considered for listing since chlorpyrifos was detected in most of the samples even if the holding time passed.</p>
*See Attachment 1 Fact sheet G of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.								

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								<p>Based on section 4.1 and table 4.1 of the Listing Policy, a minimum of 28 samples is needed to support delisting of a toxicant. An analysis of the data up to February 2007 indicates that there are an insufficient number of samples to support the delisting of diazinon based on section 4.1 of the Listing Policy.</p> <p>See response to comment 5.3 regarding the USEPA phase-out of diazinon.</p> <p>Data collected after the solicitation period will be evaluated during the next listing cycle.</p>
9.23	LA County Sans	June 17	San Gabriel River Reach 1	Total Dissolved Solids	List	Do not list	Beneficial Use is wrong for water Body; MCLs do not apply	See response to comment 9.12.
			*See Attachment 1 Fact sheet H of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.24	LA County Sans	June 17	Coyote Creek	Total Dissolved Solids & Sulfate	List	Do not list	Beneficial Use is wrong for water Body; MCLs do not apply.	See response to comment 9.12.
			*See Attachment 1 Fact sheet H of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.25	LA County Sans	June 17	Santa Clara River Reaches 5 and 6	Iron & Conductivity	List	Do not list	Beneficial Use is wrong for water Body; MCLs do not apply.	See response to Comment 5.1.
			*See Attachment 1 Fact sheet H of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.26	LA County	June 17	Coyote	Diazinon	List	Do not list	Water	See response to comment 5.3.

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	Sans		Creek				quality objective being achieved	
			*See Attachment 1 Fact sheet I of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.27	LA County Sans	June 17	Coyote Creek	Copper	Do Not Delist	Delist	Water quality objective being achieved	<p>All dry weather and wet weather data were used in the assessment for this reach. Dry and wet weather data within the same line of evidence were combined. However, staff did not combine lines of evidences due to the fact different fractions were collected and analyzed.</p> <p>Total and dissolved fraction data was evaluated, but in separate lines of evidence.</p> <p>Staff has used concurrent hardness values to calculate criteria when available. When concurrent hardness values were not available, staff used the average hardness of the previous and following data point. In response to this comment, staff recalculated the criteria using the average hardness value of the entire data set and it did not change the number of exceedances.</p> <p>However, in reviewing the data for this comment, a copy error was detected for the criteria formula. Staff has corrected the error.</p> <p>An assessment of the available data</p>
			*See Attachment 1 Fact sheet J of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					

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								<p>indicates that Coyote Creek is still not meeting the copper water quality objective and shall remain on the list.</p> <p>Revised appendices (decision language only).</p>
9.28	LA County Sans	June 17	Coyote Creek	Lead	Do Not Delist	Delist	Water quality objective being achieved	<p>The error in the formula for the CCC has been corrected.</p> <p>See comment 9.27 for discussion of hardness data.</p> <p>Both the LACSD data and the MS4 data were evaluated for this analysis. All dry weather and wet weather data were used in the assessment for this reach. Dry and wet weather data within the same line of evidence were combined. However, the data sets were kept as separate lines of evidence and not combined due to the different fraction analyzed.</p> <p>An assessment of the available data indicates that Coyote Creek is still not meeting the copper water quality objective and shall remain on the list.</p>
			<p>*See Attachment 1 Fact sheet K of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.</p>					
9.29	LA County Sans	June 17	San Gabriel River Reach 2	Lead	List	Delist	Water quality objective being achieved	<p>The data evaluation was revised to include four-day average dissolved lead concentrations compared to the four-day average criteria, where available.</p> <p>The error in the formula for the CCC has been corrected. The correction</p>
			<p>*See Attachment 1 Fact sheet L of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.</p>					

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								<p>resulted in slight differences in the calculated CCC, but did not change the number of exceedances.</p> <p>See comment 9.27 for discussion of wet and dry weather and hardness data.</p> <p>No total fraction data was available for this waterbody-pollutant analysis from the original data solicitation. While the commenter did provide an additional 135 data points of total fraction data, 126 of these were for sampling locations not within Reach 2. Analyses of these data were included in the analyses for Reach 3. In keeping with the precedent set by the 2002 and 2006 303(d) evaluations, the San Gabriel River Reach 2 is considered to extend from Firestone Blvd to the Whittier Narrows Dam. The rest of the data was generated after the solicitation period and the result of a special LACSD study not readily available to Staff. Data collected after the solicitation period will be evaluated during the next listing cycle. Analysis of the readily available data indicates San Gabriel River Reach 2 is not meeting the lead water quality objective and shall remain on the list.</p>
9.30	LA County Sans	June 17	Santa Clara River Reaches 5 and 6	Chlorodibromomethane	List	Do not list	Beneficial Use is wrong for water Body; MCLs do not apply.	<p>Staff agrees. See response to comment 5.1.</p> <p>Beneficial use will change to REC1 on the fact sheet. Exceedances of CTR</p>

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			*See Attachment 1 Fact sheet M of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					Human Health Criteria for Water & Organisms impact the REC1 beneficial use.
9.31	LA County Sans	June 17	Santa Clara River Reaches 5 and 6	Dichlorobromomethane	List	Do not list	Beneficial Use is wrong for water Body; MCLs do not apply.	See response to comment 5.1. Exceedances of CTR Human Health Criteria for Water & Organisms impact the REC1 beneficial use. Revise factsheet.
			*See Attachment 1 Fact sheet N of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.32	LA County Sans	June 17	San Jose Creek Reach 1	Ammonia	Do Not Delist	Delist	Water quality objective being achieved	See response to comment 8.10.
			*See Attachment 1 Fact sheet O of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.33	LA County Sans	June 17	Santa Clara River Reach 5	Ammonia	Do Not Delist	Delist	Water quality objective being achieved	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.
			*See Attachment 1 Fact sheet P of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.34	LA County Sans	June 17	Santa Clara River Reach 5	Nitrate and Nitrite	Do Not Delist	Delist	Water quality objective being achieved	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.
			*See Attachment 1 Fact sheet Q of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.35	LA County Sans	June 17	Santa Clara River Reach 6	Ammonia	Do Not Delist	Delist	Water quality objective being achieved	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.
			*See Attachment 1 Fact sheet R of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.36	LA County	June 17	Santa Clara River	Polychlorinated biphenyls	List	Do not list	Insufficient-Basis to List	Staff agrees and has proposed delisting.

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	Sans		Reach 5	(PCBs)				<p>The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.</p> <p>Staff reevaluated data for Castaic Creek and SCR Reach 5 separately and found that there are not enough data for Castaic Creek and only 1 of the 2 samples exceeded CTR human health criteria. The proposed listing of DDT for SCR Reach 5 will be deleted.</p> <p>Excluding data from Castaic Lake, SCR Reach 5 data show that 1 of 2 samples exceeded the water quality standard. So PCB for SCR Reach 5 will not be added to the 303(d) list.</p>
9.37	LA County Sans	June 17	Santa Clara River Reach 5	DDT	List	Do not list	Insufficient Basis to List	<p>Staff agrees and has proposed not listing. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.</p> <p>Excluding data from Castaic Lake, SCR Reach 5 data show that 1 of 2 samples exceeded the water quality standard. So DDT for SCR Reach 5 will not be added to the 303(d) list.</p> <p>Staff reevaluated data for Castaic Creek and SCR Reach 5 separately and found that there are not enough data for Castaic Creek and only 1 of the 2 samples exceeded CTR human health criteria. The proposed listing of DDT</p>

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								for SCR Reach 5 will be deleted.
9.38	LA County Sans	June 17	Santa Clara River Reach 6	Bis(2ethylhexyl)phthalate (DEHP)	List	Do not list	Water quality objective being achieved	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting. Listing of Bis(2ethylhexyl)phthalate in the Santa Clara River Reach 6 will be deleted because the comment letter verified that exceedances were due to sample contamination.
			*See Attachment 1 Fact sheet U of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.39	LA County Sans	June 17	Walnut Creek .	Copper	List	Do not list	Water quality objective being achieved	Staff agrees. However, in reviewing the data for this comment, a copy error was detected for the hardness and criteria formula. Staff has corrected both errors. The data evaluation was revised to include four-day average dissolved copper concentrations compared to the four-day average criteria, where available. Corrected analysis of the data indicates Walnut Creek is meeting the water quality objective for copper and shall be removed from the list.
			*See Attachment 1 Fact sheet V of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.40	LA County Sans	June 17	Santa Clara River Estuary	Arsenic	List	Do not list	Water quality objective being achieved	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting.
			*See Attachment 1 Fact sheet W of the County Sanitation Districts of Los Angeles County comment letter for the detailed specific comments.					
9.41	LA County Sans	June 17	Walnut Creek	Lead	List	Do not list	Water quality objective	Staff agrees. However, in reviewing the data for this comment, a copy error was

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						being achieved	<p>detected for the hardness. The data evaluation was revised to include four-day average dissolved lead concentrations compared to the four-day average criteria, where available.</p> <p>Corrected analysis of the data indicates Walnut Creek not meeting the water quality objective for lead and shall be removed from the list.</p>
10.1	CPR	Jun 17	<p>First, CPR commends the Water Boards for updating the 303(d) list within the context of the Integrated Report. This approach presents a more comprehensive assessment of water quality within the region. In addition, we would like to thank the Regional Water Board for following the Listing/Delisting Policy established by the State Water Board. The establishment and use of this policy facilitates the continued improvement of the 303(d) list. One of the areas in which CPR would like to acknowledge improvement is in delisting, due to Regional Board staff's application of the Delisting Policy.</p>				Comment noted.
10.2	CPR	Jun 17	<p>State Board staff previously recommended correcting past mistakes by delisting erroneously listed water segment-pollution combinations. These proposed corrections included listings for which data used to list a pollutant was actually from a different water body, listings for which an insufficient number of samples exceeded the CTR criteria, listings for which biological impacts documented were not associated with toxicity or pollutant concentrations, listings for which the listing was based on faulty data, and listings for which data used to list a waterbody could not be found. CPR is pleased to note that Regional Board staff recognizes the validity of those State Board suggestions. Many of the proposed delistings are the result of recognizing that there were flaws in the original listings. The delisting of waterbody-segment combinations that do not need to be addressed allows</p>				Comment noted.

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10.3	CPR	Jun 17	<p>permittees to better focus water quality resources on real issues.</p> <p>However, CPR continues to be concerned that additional work is required to ensure that the 303(d) list becomes a focused and technically defensible instrument. The proposed 2008 revision continues to include listings for conditions where actual pollutants have not been identified. Requiring permittees to treat for a condition rather than a listing is problematic at best; if the Regional Board staff and permittees do not have an understanding of what we should be controlling, and, by extension, how we should be controlling it, any attempts at source control or treatment will be unfocused and are unlikely to be successful.</p>	See response to comment 3.4.
10.4	CPR	Jun 17	<p>Further, the 303(d) list still contains listings that are based on potential future uses rather than probable future uses. As CPR has stated in the past, potentiality is an unreasonably broad concept on which to base listings. Erroneous listings such as these could trigger TMDLs for uses that do not exist and are not likely to exist and would be an extremely costly mistake that could potentially waste millions of dollars.</p> <p>CPR requests that the Board direct staff to search out and remove any additional erroneous historic listings that were based on potential rather than probable future uses, and to remove all historic listings of conditions for which causative pollutants have not been identified. Given the absence of rules for listing before the Listing/Delisting Policy was adopted in September 2004, earlier listings were sometimes inconsistent, poorly documented, and ratified by the State Board without careful review. Additional work remains to ensure that all of the past listings are valid, supported by appropriate documentation, and based upon the application of a consistent set of standards.</p>	<p>The commenter has submitted no evidence that the uses in question which are identified as “potential” are “unreasonably broad”, “not likely to exist”, or a mistake of any sort, “extremely costly” or otherwise. Whether it is appropriate to identify designated uses as “potential” is the subject of the commenter’s collateral litigation in the matter of Cities of Arcadia v. SWRCB. That matter is currently on appeal. Whatever the ultimate outcome of that litigation may be, the commenter’s comment and argument must be directed to the standards setting process, not to the 303(d) listing process. Presently, the potential uses generally referenced by the commenter are components of the federally approved water quality standards under CWA section 303(c). The section 303(d) list requires an assessment of where the federally</p>

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				<p>approved 303(c) standards are not being attained. The state is required to identify as impaired all waters not attaining the federally approved water quality standards. The state lacks legal authority to omit waters not meeting designated uses identified as “potential” uses, as requested by the commenter. If the commenter presents evidence in the standards setting process, demonstrating that a particular designated use is not reasonably attainable, and the Regional Board has legal authority to modify the particular use, the Regional Board will consider whether such modifications are appropriate. Assuming such modifications are made, the 303(d) list would thereafter be modified to reflect the impaired or attainment status of the water body as compared to the modified standards. The commenter’s objection to designating potential uses does not provide a legal or evidentiary basis to fail to identify waters not attaining potential uses on the 303(d) list. Historic listings will not be reconsidered without evidence demonstrating that a particular listing is presently incorrect. The fact that a listing determination was made prior to the policy’s adoption is not itself a basis to reconsider the otherwise proper listing. Earlier decisions made prior to adoption of a policy are not rendered invalid by the subsequent adoption of a</p>

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				<p>policy. In fact, the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (September 30, 2004) expressly states: "The most recently completed section 303(d) list shall form the basis for any subsequent lists." (P. 17, section 6. Policy Implementation.) The waste of resources associated with reconsidering prior decisions without evidence that suggests the listing is not currently correct is magnified in view of the state budget deficit and the associated resulting lack of resources.</p>
10.5	CPR	Jun 17	<p>Further, because the determination of impairments is based on core beneficial uses associated with each waterbody segment, the beneficial uses defined in the Basin Plan should be thoroughly reviewed and revised as necessary before the next update to the 303(d) list.</p>	<p>Staff disagrees. The core beneficial uses as identified in the category lists are categories of beneficial uses devised by USEPA so, ultimately, data from all Regions and States could be combined even though they may have different designated beneficial uses. Impairments are determined as an impairment of a beneficial uses as listed and defined in the Basin Plan. Beneficial uses in the Basin Plan are reevaluated and revised, where deemed necessary, within the triennial review process.</p>
10.6	CPR	Jun 17	<p>CPR notes that the largest group of new listings in the 2008 303(d) list is for indicator bacteria. As acknowledged in the staff report, the "indicator bacteria" impairment category includes a range of bacterial indicators to protect water contact recreation and non-contact water recreation beneficial uses. Both the beneficial uses and the indicators of impairment require refinement to focus on existing and probable future beneficial</p>	<p>See response to comment 10.4 regarding existing and probable future uses and response to comment 10.5 for reevaluating beneficial uses. As bacterial standards are updated or refined, determinations of impairment due to bacterial indicators will also be</p>

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			uses and on human pathogens.	reviewed.
10.7	CPR	Jun 17	CPR is pleased to see that the subcategories of Water Quality Limited Segments Being Addressed by USEPA-Approved TMDL and Water Quality Limited Segments Being Addressed by Action Other than TMDL are being utilized in the 2008 list. Use of these subcategories implements suggestions made in the <i>State Guidance for Addressing Impaired Waters</i> and provides encouragement to municipalities attempting to make improvements and comply with regulations.	Comment noted.
10.8	CPR	Jun 17	CPR has a specific question about Los Cerritos Channel. In a meeting with stakeholders in the Los Cerritos Channel Watershed and Regional Board staff, Peter Kozelka from USEPA Region IX indicated that he thought that ammonia would be delisted for the channel during the current update to the 303(d) list. However, we do not see evidence that it was even considered for delisting. We would appreciate an explanation of the status of this listing and why there is no fact sheet for this waterbody/pollutant combination.	Staff has reviewed the Los Cerritos data and finds that, at this time, there is not enough data to justify delisting under the State Listing Policy.
10.9	CPR	Jun 17	Further, CPR appreciates staffs recommendation to solicit stakeholder comments on proposed criteria for the development of guidelines for listing waterbodies as impaired for biostimulative substances to be used in future updates of the 303(d) List. Developing a sound scientific basis for listing decisions is essential in order to focus resources on solving real water quality problems.	Comment noted.
11.1	Heal the Bay	June 17	Heal the Bay supports the proposed addition of 66 waterbody-pollutant segments in the Los Angeles Region (Region 4) to the 2008 List. Specifically, we strongly support the addition of invasive species listings for numerous waterbodies in the Malibu Creek Watershed and indicator bacteria listings at several impacted beaches. Regional Board staff correctly identified a negative trend in water quality in association with the proliferation of invasive species (specifically New Zealand Mudsnails) and the associated degradation of the Aquatic Life Support core beneficial use. In the case of the proposed indicator	Comment noted.

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			bacteria listings, these listings are critical as beach bacteria water quality standards are clearly not being met and public health is at risk.	
11.2	Heal the Bay	June 17	During the public solicitation of water quality data and information for the 2008 public comment period, Heal the Bay submitted seven Index of Biological Integrity (“IBI”) data sets from multiple sources. ¹ As described below, these data sets provided sufficient information to necessitate listings for “biological community impairment.” However, there is no mention of any evaluation of these data in the Staff Report and no proposed new listings were made for biological community impairment in the Region.	Staff has reviewed the submitted data sets, reviewed the available reports which originally reported that data and have proposed for inclusion on this 303(d) list, 11 new listings for “Benthic Macroinvertebrate Bioassessment.”
11.3	Heal the Bay	June 17	Specifically, water segments with IBI data in the poor and very poor ranges meet the listing factors in sections 3.9 and 3.11 of the Listing Policy. Inherently, the IBI scoring system compares monitoring site conditions to reference sites. Thus, in accordance with Section 3.9, the IBI data indicate significant degradation in biological populations and/or communities as compared to reference sites. In addition, one sample is sufficient for considering IBI scores due to the extensive sampling protocol used in the IBI process, which takes into account site variability and is designed to combat sampling errors. ⁵ In essence, one IBI score is really multiple samples within a creek run. In other words, the Board does not need to use the Listing Policy’s binomial distribution table to correct for these issues because the sampling methods are so rigorous.	Comment noted.
11.4	Heal the Bay	June 17	Also, IBI scores can and should be evaluated using the situation-specific weight of evidence approach. Section 3.11 of the Listing Policy states that “if the weight of evidence indicates non-attainment [of water quality standards], the water segment shall be placed on the section 303(d) list.” Listing Policy at 8. The IBI scores should be weighed heavily in conducting such an analysis. Water quality standards and beneficial uses are not being attained in waterbodies with an IBI score less than 39.	Comment noted.
11.5	Heal the Bay	June 17	As acknowledged in the Staff Report, the Basin Plan’s “nitrogen	Comment noted.

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			<p>water quality objective does not protect waterbodies from impairments related to biostimulatory substances and eutrophication.” Staff Report at 10. Thus, staff proposes to include waterbodies on the 303(d) List for biostimulatory substances “when both nutrient concentrations and one or more biological response indicators are at levels which characterize eutrophic conditions and/or beneficial uses of the waterbody are impaired.” Staff Report at 11. We strongly support this approach and Tables 3.1 and 3.2 of the Staff Report which present various nutrient concentrations and associated biological response indicator criteria limits. Specifically, the Tables present thresholds that are representative of the concentrations at which one sees biostimulatory impacts in the Region. Criteria such as these are long overdue, as eutrophication and nutrient enrichment is one of the biggest water quality issues facing California and the Nation, and should be utilized in current 303(d) listing decisions.</p>	<p>Staff looks forward to working with Heal the Bay and other stakeholders as we determine the best way to proceed to address impairments due to biostimulatory substances in our Region’s waterbodies.</p>
11.6	Heal the Bay	June 17	<p>Although the Staff Report outlines these recommendations for biostimulatory substances listings, the Regional Board fails to take any action on these pollutants during the current 2008 listing cycle. “In future updates, Regional Board staff is considering categorizing these impairments all as ‘biostimulatory substances’ using a Los Angeles Region specific, nutrient concentration/biological response method as described below. In this 2008 list update, however, no “biostimulatory substances” impairments have been included.” Staff Report at 10. It is inappropriate for the Regional Board to delay these critical listings to the next listing cycle. Thus, we urge the Regional Board to evaluate the current data sets using the criteria outlined in Tables 3.1 and 3.2.</p>	<p>Due to the importance of the issue, the several efforts that are underway to develop criteria and guidelines, and the potential consequences of listing decisions, Staff believe additional involvement and feedback from stakeholders is prudent before making new listing decisions using the new criteria and/or guidelines.</p>
11.7	Heal the Bay	June 17	<p>The Staff Report states that when evaluating exceedances of bacteria limits, “...a calendar month approach as opposed to a rolling 30 day sample approach was used to assess geometric mean to maintain sample independence.” Staff Report at 8. In other words, only one geomean was calculated per month as</p>	<p>Staff is compelled to follow the provisions of the Listing Policy. As such bacteria impairments are determined through the usage of Table 3.2 which relies on binomial</p>

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			<p>opposed to the four or five results one would produce when using a rolling calculation. Using a static time-frame like a calendar month to assess a very dynamic system is completely inappropriate, statistically unsound, and is not protective of public health. In fact, the state’s Ocean Plan requires all indicator bacteria monitoring programs to meet beach water quality standards based on the 30 day rolling geometric mean. The Regional Board fails to provide any sound justification for taking a different approach and does not discuss how this could possibly be statistically superior to and more protective of public health than a rolling average when dealing with indicator bacteria. The end result of this approach will be far fewer beaches listed, far fewer TMDL violations, and far more beachgoer illness. Thus, we urge the Regional Board to evaluate indicator bacteria data using the rolling 30 day geometric mean.</p>	<p>distribution. The application of binomial distribution requires sample independence, which a rolling geometric mean would not provide.</p> <p>Additionally, the use of a calendar month for calculation of the geometric mean is one of the alternatives identified by the US EPA in its BEACH Act Rule.</p> <p>Finally, the State Ocean Plan does not require a <i>rolling</i> geometric mean calculation.</p>
11.8	Heal the Bay	June 17	<p>The Staff Report states that “if [beach] water quality monitoring was conducted April 1 through October 31 only, a four percent exceedance percentage shall be used.” The Staff Report continues to say that for delisting purposes, “A 19% exceedance percentage was used for water quality monitoring conducted April 1 through October 31...” Staff Report at 7. After talking to staff, it became clear that the provided exceedance percentages are used as the null hypothesis for the binomial distribution in the Listing Policy. This should be clarified within the Staff Report as it is not obvious as currently written.</p>	<p>Comment noted. The staff report will be revised to address this comment.</p>
11.9	Heal the Bay	June 17	<p>In January 2009, Heal the Bay released a report entitled License to Kill. During the eight and a half year study time period (2000-2008), among the 42 dischargers, there were there were 408 chronic and 64 acute toxicity exceedances among all receiving water testing stations.⁶ Clearly beneficial uses are not being maintained in many of these waterbodies. Although this report was completed and submitted to Regional Board after the Regional Board’s data submission deadline, these toxicity data are readily available to the Regional Board in discharger monitoring report submittals. However, there are only a few new</p>	<p>See response to comment 3.2. Staff reviewed all available NPDES receiving water data including POTW data and other sources of data on a reach by reach basis as with other pollutants. Currently approximately 35 waterbodies in this Region are listed for toxicity.</p>

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			<p>proposed toxicity listings, and only one listing appears to use POTW monitoring data. It is unclear from the Staff Report if any other POTW toxicity data were assessed. We urge the Regional Board to review these data for 2008 listing decisions.</p>	
11.10	Heal the Bay	June 17	<p>The Staff Report states that “[t]wo of 16 samples exceed the effects range median for copper for surface sediment samples and this exceeds the allowable frequency...However, current conditions have changed due to the new shallow water habitat created in Cabrillo Beach area and <i>may no longer</i> be negatively impacted due to copper.” Emphasis added. This reasoning for a delisting decision is inappropriate for several reasons.</p> <p>First, the shallow water habitat did not cap the entire Cabrillo area, so some sediments may still be contaminated with high copper concentrations. Also there are still large sources of copper (namely boat paint) to the waterbody that have not been adequately addressed. Finally, burying a pollutant does not necessarily indicate that the pollutant will stop impacting beneficial uses. For example, species such as ghost shrimp and spoon worms go down a meter or more into the sediments. Thus, buried contaminated sediments can impact the benthic community. Also sediments can be dynamic and can move and be buried due to a single storm event. By stating that the waterbody “<i>may no longer be negatively impacted due to copper</i>”, the Regional Board appears to concur that the impacts are unknown. Delisting cannot occur without extensive data supporting the waterbody-pollutant removal. Thus, copper should remain on the 303(d) list for Los Angeles Harbor – Inner Cabrillo Beach Area until such a time new data is provided to justify delisting.</p>	<p>Two observed exceedences occurred in 1992 within the Inner Cabrillo Beach waters; whereas, since then, zero of 14 exceedences of the copper sediment guideline exist, including two recent samples collected in 2006. The shallow water habitat has created improved sediment conditions within the Cabrillo Beach waters. The habitat was built in three phases, ranging from the mid-90s to 2005, placing approximately 25 feet of clean sediment material on top of previous sediment. (By design, the water depth changed from 40 ft. to 15 ft.) Also, there are no boats moored within the Inner Beach waters and thus no boat paint contributors. Given this evidence, there is sufficient rationale to support delisting copper from this waterbody.</p>
11.11	Heal the Bay	June 17	<p>Staff asserts that silver sediment data were incorrectly applied to Ballona Creek, and the samples were actually collected in the Ballona Estuary. If this is actually true, it is unclear why staff did not propose that the Ballona Estuary be listed as impaired for silver due to the alleged mix-up. The samples came from either</p>	<p>The Ballona Estuary TMDL does transfer the impairment for silver in sediment from the Creek to the Estuary and assigns a waste load allocation to address this impairment. The silver</p>

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			the Creek or the Estuary. So one or both are impaired. The State Board cannot delist this pollutant in the Creek on the basis of mis-location without then adding silver to the list for the Estuary if that is where the data was taken. Thus we urge the Regional Board to make this correction.	impairment in Ballona Estuary is therefore already being addressed through a TMDL. As such, silver in the Ballona Creek Estuary was listed by USEPA as being addressed by a TMDL during the 2006 303(d) listing process and included in the final approved 2006 303(d) list and proposed 2008 303(d) list.
11.12	Heal the Bay	June 17	That Staff Report states that for zinc in Coyote Creek “The USEPA final decision was to not delist this water body-pollutant combination from the section 303(d) list for 2006, based on the information contained in the lines of evidence.” However, it is unclear from the information provided by the Regional Board in the Staff Report why their proposal for the 2008 303(d) List differs from the previous USEPA decision. Are there new data available? The Regional Board should clarify the reasoning for this decision.	Staff agrees. The fact sheets and appendices will be revised to clarify Regional Boards rationale.
11.13	Heal the Bay	June 17	Staff proposes to delist the current lead and zinc sediment impairments listings for the Los Angeles River Estuary (Queensway Bay) because the available data includes surface and core sediment samples. How extensive were the sediment data spatially and temporally? How deep were the core samples? It is often important to examine the top layer and deeper layers of sediment in order to get sufficient insight on the ecological health of the water body and to determine if beneficial uses are maintained. Species such as ghost shrimp and spoon worms go down a meter or more into the sediments. Thus, buried sediments can impact the benthic community. Also sediments can be dynamic and can move and be buried due to a single storm event. Clearly, the Regional Board should consider deeper sediments and larger spatial areas in its listing and delisting decisions. Further the Staff Report states that “[b]ased on the readily	The current assessment is based on review of surface sediment results for chemistry, and either toxicity or benthic community effect. Chemical results were from the top of the core sediment samples. This assessment methodology is consistent with the State Listing Policy. As summarized in the fact sheet, available data show sediment toxicity is evident in the Los Angeles River Estuary, yet there are no exceedences of sediment quality guidelines for lead or zinc; thus there is sufficient justification for removing these two pollutants for this waterbody from the 303(d) list.

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			available data and information, the weight of evidence indicates that there is sufficient justification against removing this water segment-pollutant combination from the section 303(d) list in the Water Quality Limited Segments category.” This statement appears to be in conflict with the fact sheet header that proposes to delist this waterbody-pollutant combination. We agree with staff’s statement and they should clarify this inconsistency.	The typographical error in the fact sheet has been corrected.
11.14	Heal the Bay	June 17	The Staff Report indicates that the Malibu Lagoon Benthic Community Effects listing should be moved to the 303(d) list’s “being addressed by action other than TMDL” category. The reasoning provided is that “[t]he Malibu Lagoon Restoration Feasibility Study Final Alternatives Analysis describes restoration measures for Malibu Lagoon. These proposed restoration efforts, if fully implemented, is anticipated to correct the conditions which allow the negative indicator species to thrive.” We are hopeful that the restoration efforts will improve benthic communities; however, it is premature to make this conclusion and move this listing. The Malibu Lagoon Restoration efforts have not started and the start date is uncertain because of the budget crisis. In addition, this listing change presumes that the benthic community problems are only a result of the lagoon’s configuration and poor tidal flushing, and not any pollutant contribution. While this may be the case, it is simply premature to state this conclusively. Thus, the benthic community effects listing should remain on the main 303(d) List.	The Malibu Lagoon Benthic Community Effects listing has not been removed from the 303(d) list but categorized as “being addressed by action other than TMDL.” Similar to when a listing has been addressed by a TMDL, it gets categorized as such, but remains on the list until it is demonstrated that the impairment has been removed. This listing reassignment is in compliance with Section 2.2 of the State Listing Policy, which states that a waterbody shall be placed in this category if a program “... is reasonably expected to result in the attainment of the water quality standard within a reasonable, specified time frame.”
11.15	Heal the Bay	June 17	The Staff Report appears to base the Walnut Creek Wash Toxicity delisting decision on the fact that the majority of exceedances were observed in older samples. Staff concludes that “[f]ive out of 42 samples exhibit toxicity to Ceriodaphnia. However, four toxic results occurred in samples from 1992-93. In between 2003 and 2007, only one of 38 samples exhibited toxicity, thus significant improvements in survival and reproduction endpoints have been observed in the most recent timeframe...Based on the improving trend in water quality	This listing decision is a fairly strict interpretation of the Listing Policy. The recent data were collected as part of a joint effort between USEPA and dischargers to further evaluate the toxicity impairment in Walnut Creek. The data were collected over a longer time period and at more frequent intervals than the older data and clearly

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			<p>conditions and only one toxic result in the past four years, it is evident that beneficial uses are being supported.” While we understand staff’s reasoning, it appears that this is not a strict interpretation of the Listing Policy and opens the door to future misinterpretations of the Policy. The Staff Report indicates that section 4.6 of the Listing Policy is used for this delisting decision. This section of the Listing Policy states: “Water/Sediment Toxicity or associated water or sediment quality guidelines are not exceeded using the binomial distribution as described in section 4.1.” However by comparing the data to the binomial distribution, it is clear that the delisting should not occur. By only looking at the more recent data, staff is basically saying that the old data does not matter. This could be problematic, especially as tight monitoring budgets in the coming years reduce the amount of available newer data. We discourage the Regional Board from using this line of reasoning for listing/delisting decisions.</p>	<p>demonstrate a change in the water body segment. This is likely the result of the implementation of management practices throughout the subwatershed. Staff therefore believes it is appropriate to exclude the older line of evidence based on section 6.1.5.3 of the Listing Policy.</p>
11.16	Heal the Bay	June 17	<p>Staff proposes to delist PAHs in San Pedro Bay. However, there appears to still be some uncertainty about this decision, as the Staff Report appears to ask a question of staff: “zero of 27 surface sediment samples exceeded the <i>CONFIRM WITH PK</i> in marine sediment and this meets the allowable frequency...” Emphasis added. Please clarify what staff intends for this listing.</p>	<p>Comment noted. The fact sheet and appendices will be revised to address this comment.</p>
12.1	Lake Sherwood JAC	June 16	<p>We are concerned with the State Water Resources Control Board and Los Angeles Regional Board’s inadequate communication with the small stakeholder. This has been confirmed by the absence of the State and/or Regional Board’s to notify Lake Sherwood lake management of the inclusion of Lake Sherwood in the following listings:</p> <p>The 1998 California 303(d) List and TMDL Priority Schedule The 2002 CWA Section 303(d) List of Water Quality Limited Segment The 2006 CWA Section 303(d) List of Water Quality Limited Segment Requiring TMDLS</p>	<p>The Regional Board recognizes the importance of working with all stakeholders and is committed to continued improvement in stakeholder outreach. Each revision of the 303(d) list has been announced by newspaper notice and communication with all known interested parties. This availability of the proposed 2008 303(d) list for public comment was announced in the newspaper on April 30, 2009, and has</p>

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			The 2008 CWA Section 303(d) List of Water Quality Limited Sections	been available on our website since that time. Email notification of the availability of the proposed list and the July 16 hearing was made to all self-identified interested parties for all watersheds in the Region.
12.2	Lake Sherwood JAC	June 16	The State and Regional Board's have failed to provide Sherwood lake management any current evidence for listing Lake Sherwood as an impaired body of water.	<p>These previous listings were made through a public process and approved by this Regional Board and/or State Board and the USEPA.</p> <p>While data from previous listing cycles has not been posted with the data from this listing cycle, we can assist Lake Sherwood management with any request to provide original listing information available from Regional Board files. In addition, the USEPA TMDL (Total Maximum Daily Load for Nutrients Malibu Creek Watershed US Environmental Protection Agency Region 9 established March 21, 2003) discusses the Lake Sherwood impairments in some detail: http://www.epa.gov/region09/water/tmdl/final.html</p> <p>Additionally, with each listing cycle, staff will continue to update listings as new data are assessed.</p>
12.3	Lake Sherwood JAC	June 16	Additionally, the State and Regional Board's have repeatedly failed to notify Sherwood lake management of the request for solicitation of data and information. This lack of communication has effectively denied the owners, SVHOA, the opportunity to respond to and/or comply with the suggested impairments	The data solicitation was sent on December 4, 2006. Notification included all parties who had identified themselves as interested parties in the Malibu watershed and individuals

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			indicated in the California 303(d) List.	including the Malibu Watershed Council. Furthermore, the nutrient TMDL for the Malibu watershed, which was developed to ameliorate the nutrient related impairments in Lake Sherwood and other waterbodies within the watershed, has been in place since 2003.																		
12.4	Lake Sherwood JAC	June 16	<p>We do not believe that adequate efforts have been displayed by the Regional Board to communicate with the Lake Sherwood lake management in order to update the Regional Boards information of current Lake Sherwood lake management policies or actions. This is evidenced by the outdated generic listing of the sources for pollution in the Supporting Information section of the current draft 303(d) List that has been applied to all suggested impairments.</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top;">Source (303(d) listing)</td> <td style="vertical-align: top;">Present Status</td> </tr> <tr> <td>• Agriculture-animal</td> <td>Significant reduction upstream, ongoing monitoring by SVHOA</td> </tr> <tr> <td>• Atmospheric Deposition</td> <td>No data available (exception: Mercury)</td> </tr> <tr> <td>• Golf Course Activities</td> <td>Ongoing monitoring by SVHOA</td> </tr> <tr> <td>• Groundwater Loadings</td> <td>No data to confirm as source pollutant</td> </tr> <tr> <td>• Irrigated Crop Production</td> <td>Discontinued, no data to confirm as source pollutant</td> </tr> <tr> <td>• Major Municipal Point Source</td> <td>Does not exist, no data to confirm as source pollutant dry and/or wet weather discharge</td> </tr> <tr> <td>• Onsite Wastewater Systems (Septic Tanks)</td> <td>Removed, septic tanks do not exist</td> </tr> <tr> <td>• Urban Runoff/Storm Sewers</td> <td>Does not exist, no data to confirm as source pollutant</td> </tr> </table>	Source (303(d) listing)	Present Status	• Agriculture-animal	Significant reduction upstream, ongoing monitoring by SVHOA	• Atmospheric Deposition	No data available (exception: Mercury)	• Golf Course Activities	Ongoing monitoring by SVHOA	• Groundwater Loadings	No data to confirm as source pollutant	• Irrigated Crop Production	Discontinued, no data to confirm as source pollutant	• Major Municipal Point Source	Does not exist, no data to confirm as source pollutant dry and/or wet weather discharge	• Onsite Wastewater Systems (Septic Tanks)	Removed, septic tanks do not exist	• Urban Runoff/Storm Sewers	Does not exist, no data to confirm as source pollutant	Comment noted. The appendices will be revised to address this comment.
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12.5	Lake	June 16	It has become apparent that all communication originating from	Staff disagrees. This revision to the																		

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	Sherwood JAC		the Regional Board is aimed specifically towards industry, counties, municipalities and/or water districts. We believe communication focused solely towards the large stakeholder unfairly isolates the smaller stakeholder from participating in the process to contribute and partner with the Regional Board in establishing water quality standards that are reasonable, realistic and relate specifically to that water body. The small stakeholder, such as Lake Sherwood, requires ongoing communication with the Regional Board to provide timely, appropriate and accurate information in order to stay current in the important processes of water quality management.	303(d) list was notified to all individual interested parties including the larger entities and municipalities and also smaller organizations and individuals. However, we recognize the challenges of the smaller municipalities and organizations with small staffs to fully interact with our processes and we remain committed to improving communication with these stakeholders and Lake Sherwood, specifically. Many smaller stakeholders also interact with their local municipalities such as their County as they may have similar interests in the process. The Malibu Creek watershed has an active watershed group, the Malibu Creek Watershed Council. This sort of group will also have stakeholders with similar interests and can be of assistance when navigating the complexities these processes.
12.6	Lake Sherwood JAC	June 16	Lake Sherwood is listed as having the following designations and examples of how they apply: Municipal and Domestic Supply (MUN) (potential) <i>This water body is not used as a municipal or domestic water supply.</i>	Comment noted. Note however that the Regional Board is required by the federal Clean Water Act to protect all existing and designated beneficial uses of a waterbody. Potential uses are designated beneficial uses, which have been established by the Regional Board for a number of reasons, identified in Basin Plan.
12.7	Lake Sherwood JAC	June 16	Proactive Measures for Water Quality Improvement: [Lake Sherwood JAC letter lists 13 measures taken between	Regional Board staff recognizes and commends the efforts of the Lake Sherwood management to improve and

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			<p>1984 and 2008 to protect water quality in lake Sherwood. - See Lake Sherwood JAC letter for full list]</p> <p>Ongoing maintenance program:</p> <p>[Lake Sherwood JAC letter lists all beneficial uses of Lake Sherwood with comments on current usage. - See Lake Sherwood JAC letter for full list]</p>	<p>maintain the quality of the waters of Lake Sherwood. Information on the beneficial uses of Lake Sherwood can be considered during the Regional Board during a future review of its water quality standards, which include the beneficial uses designated for a waterbody. This process is known as the triennial review, and occurs in three-year cycles.</p>
12.8	Lake Sherwood JAC	June 16	<p>The development of Best Management Practices in a continuous review and update process by lake management has provided the ability to introduce new techniques and positive actions towards this maintenance effort. This effort includes a water quality testing program that has yielded long-term data to support de-listing from the 303(d) list. Unfortunately, due to a lack of notification by the Regional Board, Lake Sherwood lake management was not given the opportunity to present this data within the solicitation window for the 2008 de-listing. Lake management is now faced with an unacceptable and costly delay that requires continued testing until the solicitation period for 2010 is decided. This unnecessarily extends the period in which Lake Sherwood remains on the 303(d) list for an additional 2 to 4 years.</p>	<p>Regional Board staff recognizes and commends the efforts of the Lake Sherwood management to improve and maintain the quality of the waters of Lake Sherwood.</p> <p>Regional Board staff would be glad to discuss with your staff the utility of continued testing in terms of the type of data being collected (e.g. will this data demonstrate whether or not the targets of the TMDL are being met?) and the amount of data being collected.</p> <p>Lake Sherwood is impaired for algae, ammonia, eutrophic conditions and organic enrichment/low dissolved oxygen. The USEPA established a TMDL for the Malibu Creek watershed for nutrients to address these listings on March 21, 2003. These impairments are on the proposed 2008 303(d) list as “being addressed by a USEPA approved TMDL.” The assessment of whether or not it is appropriate for the Lake to be removed from the 303(d) list must consider how those conditions interact</p>

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				with nitrogen and phosphorus levels, as discussed in the TMDL, and whether the TMDL targets are being met.
12.9	Lake Sherwood JAC	June 16	Accept and analyze data from the small stakeholder for de-listing when the data is available. Waiting for a solicitation period is financially impractical. This burden limits the ability of the small stakeholder to contribute and participate with the Regional Board.	The State of California does not use a continuous updating method to update the 303(d) list.
12.10	Lake Sherwood JAC	June 16	We believe that the water quality testing program at Lake Sherwood has developed sufficient data and information to justify removal from the 303(d) List for Ammonia and Total Nitrogen. We request the Regional Board accept this data outside the solicitation period and remove Lake Sherwood from the 303(d) List for these items.	See response 12.7. Regardless of whether the list is continuously or periodically updated, all changes to the 303(d) list (whether to newly list or delist) must also be approved by the State Board and USEPA to be considered final.
12.11	Lake Sherwood JAC	June 16	We believe that there is insufficient data to list Lake Sherwood for Eutrophic and Organic Enrichment as no criteria appears to exist for these pollutants in the documents provided on the LARWQCB website or elsewhere. We request the Regional Board remove Lake Sherwood from the 303(d) List for these items.	Staff disagrees. The listings were made through a public process and approved by this Regional Board and/or State Board and USEPA. Additionally, the TMDL established by USEPA in 2003 discusses the lake Sherwood impairments and the nutrient targets in detail. The Regional Board will continue to review and update listings through the periodic listing process, especially as new data become available and as staff resources allow.
12.12	Lake Sherwood JAC	June 16	Establish one department with consistent staff to communicate with the small stakeholder on the 303(d) and TMDL process.	The 303(d) list and TMDL department at the Regional Board is the Regional Programs Section, Renee Purdy, Acting Section Chief. We have verified that the Lake Sherwood JAC is on the Regional Board's interested parties list for the Malibu watershed, including TMDLs and Basin Planning. Regional

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				Board staff also encourages the Lake Sherwood management to subscribe to other e-mail subscription lists, if convenient, regarding other topics of interested to lake management. Available subscriptions are listed on the Regional Board website.
12.13	Lake Sherwood JAC	June 16	Develop an ongoing, proactive communication effort specifically geared towards the small stakeholder to provide timely, appropriate and accurate information.	The Regional Board remains committed to continue to improve stakeholder outreach.
12.14	Lake Sherwood JAC	June 16	Simplify and streamline the processes of the Regional Board when communicating with the small stakeholder. Agencies employing full-time staff that specializes in water related issues and standards have a distinct advantage in comprehending formulas and communicating with Regional staff. The small stakeholder does not possess the full-time staff to track the actions and decipher policies of the Regional Board. Our participation, and I am sure many other small stakeholders, has been hampered by confusing rhetoric and complicated processes.	Many smaller stakeholders also interact with their local municipalities such as their County as they may have similar interests in the process. The Malibu Creek watershed has an active watershed group, the Malibu Creek Watershed Council. This sort of group will also have stakeholders with similar interests and can be of assistance when navigating the complexities of these processes. (The Malibu Creek watershed includes three other urban lakes, Lindero, Westlake, and Malibou, which are also included in the Malibu nutrient TMDL and which may have other interests in common.) The Regional Board recognizes the challenges of the smaller municipalities and organizations with small staffs to fully interact with our processes and remains committed to improving communication with these stakeholders and Lake Sherwood, specifically.
12.15	Lake Sherwood	June 16	Partner with small stakeholders to encourage the development of testing programs and standards. Communicate with the	The Malibu Creek Watershed Council has a monitoring subcommittee which

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	JAC		stakeholder in order to minimize duplicate or erroneous efforts to maximize the budget potential for both the stakeholder and Regional Board.	currently coordinates between stakeholders in order to monitor effectively throughout the watershed.
12.16	Lake Sherwood JAC	June 16	Develop clear cut definitions and criteria. We have, as an example, found it difficult to receive specific definitions on something as basic as Dissolved Oxygen levels.	Clear definitions and criteria, also referred to as water quality objectives, are contained in the Los Angeles Region's Water Quality Control Plan (Basin Plan). The Basin Plan is the primary document that establishes the water quality standards to be achieved in surface and ground waters throughout the region. The Basin Plan and amendments to the Plan are available on the Regional Board website.
12.17	Lake Sherwood JAC	June 16	Consider the impact that Lake Sherwood has on the watershed, given that the lake does not discharge water into Potrero Creek except during high flows in the winter season. During these times of high flow, Dissolved Oxygen, Ammonia as N, Total Nitrogen, Total Phosphorus and Chlorophyll-a do not exceed TMDL standards developed by the USEPA as waters are well mixed. These waters either fall within objectives or the objectives currently do not exist.	Comment noted. As stated earlier, the Regional Board will continue to review and update listings through the periodic listing process, especially as new data become available and as staff resources allow.
12.18	Lake Sherwood JAC	June 16	Maintain accurate data that is easily available to the small stakeholder. Update all information to a digital format for acquisition and viewing over the internet as Listing data cannot be located on the Regional Boards website. Adopted 2003 TMDL was not presented until 2008.	The link to the 303(d) Impaired Waterbodies list is on the Region's home page, both in the center of the page and listed under the "Announcements" section. This is the first listing cycle where data supporting new decisions was available on the website by hyperlink from the decision factsheet. The Regional Board was glad to offer this improvement in transparency over previous listing cycles. We are committed to continue to improve transparency and access to

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13.1	Las Virgenes MWD	June 17	<p>Table 1 (attached) lists our recommended changes to the state’s draft update for specific listings. The majority of our recommended changes to the state update are related to proposed listings that appear to be unsupported by the data in the state decision lines of evidence (LOE), or where data relevant to their decision may have been overlooked. The one exception is our recommendation to list Cold Creek for invasive species, which is based on our understanding of the invasive potential of the New Zealand mudsnail found in 2008 for the first time in the creek’s headwaters.</p> <p>Note we are recommending that the Regional Board not list several water bodies currently listed or proposed for listings for metals (selenium), nutrients, organic enrichment, and specific conductivity. Our findings strongly suggest that natural sources are responsible for the observed exceedances of the water quality objectives and guidelines for these pollutants in the affected water bodies.</p>	<p>data.</p> <p>Specific responses to comments which are also included in your Table 1 are in response to comments 13.13 through 13.40, below.</p>
13.2	Las Virgenes MWD	June 17	<p>JPA staff also reviewed our comments on earlier 303(d) updates in 2002 and 2006 to determine which recommendations were addressed by the state and/or incorporated into the state’s current draft update. Formal requests were submitted for both the 2002 and 2006 state updates to better document the 303(d) listing process, from source data to staff recommendation. <i>We are pleased to report substantial progress by the state</i> in this regard for the current 303(d) list update, although the traceability of pre-2006 listings remains extremely difficult.</p>	<p>Comment noted. See response to comment 3.3 on the pre-2006 listings.</p>
13.3	Las Virgenes MWD	June 17	<p>A long-standing problem throughout the country is how to translate narrative Biostimulatory Substances objectives into numerical thresholds – so called “Numerical Nutrient Endpoints, or NNE’s - for quantifying the levels at which biostimulatory substances impair beneficial uses. Both the state and the US EPA have tried to provide national, regional and sub-regional guidance on this issue, as referenced in the 2008 Update Staff Report in Tables 3-2 and 3-3¹. Some of this guidance is quite</p>	<p>Comment noted.</p>

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			dated and/or unsupported by recent independent scientific peer review, and we therefore support the Regional Board’s decision to defer adopting any of the potential criteria listed in Tables 3-2 and 3-3 in the current 303(d) listing cycle, pending further study by staff.	
13.4	Las Virgenes MWD	June 17	<p>Nonetheless, we remain concerned that these criteria may be used in NPDES permits outside of the 303(d) listing process, or otherwise used to regulate JPA facilities. Our concerns center on three issues:</p> <p style="padding-left: 40px;">(1) Application of “guidance” criteria without adequate regard for site-specific, natural conditions at the watershed level.</p> <p>In the following section and in our previous comments for the Triennial Review, we provide evidence that the nutrient levels observed in the Malibu Creek watershed do not fall below levels determined by natural sources of marine sedimentary phosphatic shale (Monterey Formation).</p> <p>It is essential that the Regional Board acknowledge and address natural sources of nutrients, metals and salt <u>within the current 303(d) listing cycle</u>. Failure to do so may result in the subsequent promulgation of new regulations seeking to remedy water quality problems that are likely due to natural sources.</p> <p style="padding-left: 40px;">(2) Overly-narrow focus on phosphorus and nitrogen biostimulatory substances</p> <p>For several decades regulators have focused almost exclusively on nitrogen and phosphorus compounds when applying and translating the biostimulatory narrative standard into water quality objectives. However, recent findings show that algal growth, particularly in those taxa responsible for the algal mats seen in local waters, is often better correlated with the specific conductivity of the waters in which they grow, with the highest</p>	<p>Staff intention is to appropriately identify waterbodies which are impaired by biostimulatory substances. Guidance developed to identify nutrient impaired waterbodies may consider natural conditions and any nutrient TMDL developed will consider natural sources as part of the load allocation.</p> <p>Staff appreciates the thorough approach Las Virgenes MWD has taken in the discussion of biostimulatory substances and looks forward to working with Las Virgenes MWD and other stakeholders as we address the issue of biostimulatory substances and the related negative effects on waters in our Region.</p>

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			<p>growth seen in high conductivity waters (See Fig. 5 from Biggs and Price, 1987 below)².</p> <p>The precise mechanism behind this correlation is unknown³, although it appears to be independent of the particular ionic species that collectively contribute to overall water conductivity. Regardless, to date there have been five site-specific studies of algal growth in the Malibu Creek watershed; all five studies found better correlation of algal growth with specific conductivity. None of these studies were able to demonstrate a quantitative, <u>causal</u> relationship between “conventional” biostimulants – nitrogen and phosphorus – and algal growth, probably due to N and P levels in excess of that needed for algal growth in the sites studied. This includes sites located in open spaces upstream of urban development.</p> <p>(3) Recent scientific literature on saturation levels of biostimulatory substances in algae.</p>	
13.5	Las Virgenes MWD	June 17	<p>Most of the guidance-based biostimulatory NNE’s cited in Table 3-3 of the Staff Report are correlative in nature, meaning they are based on various statistical measures of ambient nutrient levels found in relatively unimpaired freshwater streams and lakes. As regulatory remedies for excessive algal growth, these NNE’s assume that nutrient levels in waters with low algal growth would also result in low algal growth if applied elsewhere⁴. The efficacy of this approach depends on two conditions; (1) that the NNE’s can be met by controlling human nutrient sources and (2) that the NNE’s, if met, are in fact capable of limiting algal growth. Our findings show that neither condition is met in the Malibu Creek watershed.</p> <p>In our review we searched the scientific literature for laboratory and field studies on the limiting concentrations of nutrients for the specific algal taxa responsible for floating algal mats (e.g. Cladophora and Rhizoclonium) and bottom-coating algal films (periphytic diatoms) in the Malibu Creek watershed.</p>	<p>Staff appreciates the thorough approach Las Virgenes MWD has taken in the discussion of biostimulatory substances and looks forward to working with Las Virgenes MWD and other stakeholders as we address the issue of biostimulatory substances and the related negative effects on waters in our Region.</p>

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			<p>Concentrations of phosphate of 0.714 mg/L and 0.12 – 0.47 mg/L were sufficient to sustain maximum growth in <i>Cladophora glomerata</i> and periphytic diatoms, respectively (Stevenson et. al., 1996; Taylor et al., 2001)⁵.</p> <p>As for the NNE’s proposed by Regional Board staff in the Staff Report (Tables 3-2 & 3-3), these levels are consistently exceeded in the Malibu Creek watershed, including those locations upstream of all known point and non-point sources and presumably minimally impacted by human activities (see Fig. 1 and JPA LOEs 1-3). These levels are lower than all five of the NNE’s proposed in the Staff Report.</p> <p>We are not suggesting that the proposed NNE’s are inappropriate for the entire Los Angeles basin. They may prove effective in those water bodies where algal impairments are related to algal species whose limiting nutrient levels are higher than the proposed NNE’s, and where natural nutrient sources do not exceed these levels. We do note, however, that the algal species responsible for most occurrences of floating algal mats (e.g. <i>Cladophora glomerata</i> and <i>Rhizoclonium</i> sp.) are fairly widespread in the region, and can support sustained growth on relatively low levels of nutrients.</p>	

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13.9	Las Virgenes MWD	June 17	<p>Native geological sources of nutrients, metals and salts are well-known in the scientific literature (e.g. Isaacs & Rullkotter, 2001⁹), and their locations in the Los Angeles region are documented in US Geological Survey and Mineral Management Service maps (Fig. 2). Yet neither the current Basin Plan nor any of the completed nutrient TMDLs for the Los Angeles region mentions this known source of metals (e.g. Selenium), biostimulatory substances (e.g. phosphorus, high specific conductivity), and high levels of total organic carbon (TOC). It is also important to note that Stein and Yoon (2007) discussed potential geological effects in broad terms, noting that marine sedimentary rocks in general can contribute to high observed levels of TDS, nutrients and some metals. They did not specifically discuss Monterey Formation-fed streams, which show elevated levels of these pollutants significantly higher than the other marine sedimentary drainages in their study.</p>	<p>Comment noted. Regional Board staff has been exploring possible natural loadings of constituents such as nutrients, metals and salts via a scientific study done under contract with the Southern California Coastal Water Research Project (SCCWRP). Staff will continue to evaluate the findings from this study and others to determine whether modifications to water quality objectives, implementation provisions, or TMDLs are warranted to account for natural loadings of these constituents to waterbodies.</p>

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13.11	Las Virgenes MWD	June 17	<p>Several lines of evidence demonstrate that many of the proposed and existing 303(d) listings are due to this natural source. Historical water well logs often included basic water quality tests for total dissolved solids, conductivity and some metals. Well data from the Malibu Creek watershed show that Total Dissolved Solids (TDS) and chloride levels in excess of Basin Plan water quality objectives predate the importation of non-native State Water Project water the majority of the region's development (Fig. 4)⁷.</p> <p>Two additional lines of evidence come from two independent sets of recent surface water quality monitoring results from sites located in undeveloped areas upstream of urban areas and potable and recycled water systems (See Fig. 3). In the Malibu Creek watershed these include creeks that lie within the Monterey Formation and immediately downstream of it (e.g. sites HTB-6, HTB-9 and LV-1), and also in similar undeveloped headwaters lying outside of the Monterey Formation (e.g. upper Cold Creek). Both datasets show that specific conductivity and phosphorus levels in the undeveloped Monterey Formation sites are substantially higher than similar sites in equally undeveloped areas underlain by other geology (Figs. 5-7)⁸.</p> <p>Aside from salts and nutrients, the Monterey Formation is a known source of sulfate and heavy metals (e.g. selenium) currently listed or proposed for listing in several tributary streams within the Monterey Formation or immediately downstream of it (see Table 1). Our CTR test results (Fig. 8) were consistent with this association, showing detectable levels of selenium and other metals known to occur in the Monterey Formation⁹, but non-detects for other organic compounds common in runoff from more developed areas¹⁰.</p>						<p>There are several possible regulatory tools for addressing the issues related to natural sources of metals or minerals, which may be contributing to levels above water quality standards. These may include, but are not limited to, site specific objectives and implementation provisions similar to the natural sources exclusion approach established for bacteria objectives in the region's Basin Plan. These regulatory options would however need to be developed outside the 303(d) listing process.</p> <p>If site-specific objectives were to be defined in the future on the basis of natural background levels then the 303(d) list would be refined to reflect the new objectives.</p> <p>The natural sources exclusion approach is implemented within a TMDL by identifying and quantifying natural background loads and anthropogenic loads, and then eliminating anthropogenic loads. Once anthropogenic loads are eliminated the TMDL would allow a certain level of exceedance of the objective(s) based on the remaining load, attributable to natural background.</p>
13.13	Las Virgenes	June 17	Waterbod	Impairm/ Pollutant	Impairm/ Pollutant	State Decision	Recomme nded Revision	Rationale	The waterbody/pollutant combination is being addressed by a USEPA approved TMDL. Re-assessment of sources from an approved TMDL is outside the scope
			Lake Lindero	Eutrophic	Eutrophic	Listed on 303(d)	List if Supportin	See Table 1 of the	

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						(being addressed by USEPA approved TMDL)	g Information revised (see right)	Las Virgenes MWD comment letter.	of the 303(d) listing process.
13.14	Las Virgenes MWD	June 17	Lake Lindero	Selenium	Selenium	Listed - TMDL required	Delist - Natural source	See Table 1 of the Las Virgenes MWD comment letter.	Selenium exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.15	Las Virgenes MWD	June 17	Lake Lindero	Chloride	Chloride	Listed	Delist - Natural source	See Table 1 of the Las Virgenes MWD comment letter.	Chloride exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.16	Las Virgenes MWD	June 17	Lake Lindero	Specific Conductivity	Specific Conductivity	Listed	Delist - Natural source	See Table 1 of the Las Virgenes MWD comment letter.	Specific conductivity exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.17	Las Virgenes MWD	June 17	Lake Sherwood	Eutrophic	Eutrophic	List on 303(d) list (being addressed by USEPA approved TMDL)	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Eutrophic conditions have been demonstrated to exist and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved TMDL is outside the scope of the 303(d) listing process.
13.18	Las Virgenes MWD	June 17	Lake Sherwood	Organic Enrichment /Low Dissolved	Organic Enrichment /Low Dissolved	List on 303(d) list (being addressed	Delist - unsupported by weight of	See Table 1 of the Las Virgenes	Organic enrichment and low DO have been demonstrated to exist and a USEPA approved TMDL has been

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				Oxygen	Oxygen	by USEPA approved TMDL)	evidence, approved TMDL	MWD comment letter.	developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved TMDL is outside the scope of the 303(d) listing process.
13.9	Las Virgenes MWD	June 17	Lake Sherwood	Eutrophic	Eutrophic	List on 303(d) list (being addressed by USEPA approved TMDL)	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Eutrophic conditions have been demonstrated to exist and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved TMDL is outside the scope of the 303(d) listing process.
13.20	Las Virgenes MWD	June 17	Las Virgenes Creek	Nutrients (Algae)	Nutrients (Algae)	List on 303(d) list (being addressed by USEPA approved TMDL)	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Nutrients and algae have been demonstrated to exist and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved TMDL is outside the scope of the 303(d) listing process.
13.21	Las Virgenes MWD	June 17	Las Virgenes Creek	Organic Enrichment /Low Dissolved Oxygen	Organic Enrichment /Low Dissolved Oxygen	List on 303(d) list (being addressed by USEPA approved TMDL)	Delist – unsupported by weight of evidence, approved TMDL	See Table 1 of the Las Virgenes MWD comment letter.	Organic enrichment and Low DO have been demonstrated to exist and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved

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									TMDL is outside the scope of the 303(d) listing process.
13.22	Las Virgenes MWD	June 17	Las Virgenes Creek	Selenium	Selenium	Listed	Delist – Natural source	See Table 1 of the Las Virgenes MWD comment letter.	Selenium exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.23	Las Virgenes MWD	June 17	Lindero Creek Reach 1	Selenium	Selenium	Listed	Delist – Natural source	See Table 1 of the Las Virgenes MWD comment letter.	Selenium exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.24	Las Virgenes MWD	June 17	Lindero Creek Reach 2	Selenium	Selenium	Listed	Delist – Natural source	See Table 1 of the Las Virgenes MWD comment letter.	Selenium exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.25	Las Virgenes MWD	June 17	Malibou Lake	Eutrophic	Eutrophic	List on 303(d) list (being addressed by USEPA approved TMDL)	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Eutrophic conditions have been demonstrated to exist and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved TMDL is outside the scope of the 303(d) listing process.
13.26	Las Virgenes MWD	June 17	Malibou Lake	Organic Enrichment /Low Dissolved Oxygen	Organic Enrichment /Low Dissolved Oxygen	List on 303(d) list (being addressed by USEPA approved	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Organic enrichment and Low DO have been demonstrated to exist and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets

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								TMDL)	
									the requirements of the TMDL. Re-assessment of sources from an approved TMDL is outside the scope of the 303(d) listing process.
13.27	Las Virgenes MWD	June 17	Malibu Creek	Copper (dissolved)	Copper (dissolved)	Delist – TMDL	Delist - TMDL unnecessary	See Table 1 of the Las Virgenes MWD comment letter.	Malibu Creek is not listed for copper.
13.28	Las Virgenes MWD	June 17	Malibu Creek	Selenium	Selenium	List – TMDL Required	Delist – Natural source	See Table 1 of the Las Virgenes MWD comment letter.	Selenium exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.29	Las Virgenes MWD	June 17	Malibu Creek	Sulfates	Sulfates	List – TMDL Required	Delist - TMDL unnecessary	See Table 1 of the Las Virgenes MWD comment letter.	Sulfates exceed standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.30	Las Virgenes MWD	June 17	Malibu Creek	Toxicity	Toxicity	Delist – TMDL	Delist - TMDL unnecessary	See Table 1 of the Las Virgenes MWD comment letter.	Malibu Creek is not listed for toxicity.
13.31	Las Virgenes MWD	June 17	Malibu Creek	Nutrients (algae)	Nutrients (algae)	Delist – approved TMDL	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Nutrients have been demonstrated exceed standards and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved

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									TMDL is outside the scope of the 303(d) listing process.
13.32	Las Virgenes MWD	June 17	Malibu Lagoon	Antimony Arsenic PAHs Dibenz[a, h]anthracene Lead Phenanthrene Pyrene Zinc	Antimony Arsenic PAHs Dibenz[a, h]anthracene Lead Phenanthrene Pyrene Zinc	Delist – TMDL	Delist - TMDL unnecessary	See Table 1 of the Las Virgenes MWD comment letter.	Malibu Lagoon is not listed for Antimony, Arsenic, PAHs, Dibenz[a,h]anthracene, Lead, Phenanthrene, Pyrene, Zinc
13.33	Las Virgenes MWD	June 17	Malibu Lagoon	Sediment Toxicity	Sediment Toxicity	Delist – TMDL	Delist - TMDL unnecessary	See Table 1 of the Las Virgenes MWD comment letter.	Malibu Lagoon is not listed for sediment toxicity.
13.34	Las Virgenes MWD	June 17	Malibu Lagoon	Eutrophic	Eutrophic	Delist – TMDL	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Eutrophic conditions have been demonstrated to exist and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved TMDL is outside the scope of the 303(d) listing process.
13.35	Las Virgenes MWD	June 17	Medea Creek Reach 1	Selenium	Selenium	Listed – TMDL required	Delist – Natural source	See Table 1 of the Las Virgenes MWD comment letter.	Selenium exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.36	Las Virgenes MWD	June 17	Medea Creek Reach 2	Selenium	Selenium	Listed – TMDL required	List if Supporting	See Table 1 of the Las	Selenium exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See

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							Information revised (see right)	Virgenes MWD comment letter.	response to comment 13.11.
13.37	Las Virgenes MWD	June 17	Triunfo Canyon Creek	Invasive Species	Invasive Species	Do not list	List for invasives	See Table 1 of the Las Virgenes MWD comment letter.	Invasive species may be listed under Section 3.10 of the Listing Policy, "Trends in Water Quality." This section requires that at least three years of data be considered and that a negative trend be demonstrated. In Triunfo Canyon Creek, while New Zealand mudsnails have been documented, in the data available, no site showed an increase in density of mud snails over the three years of sampling (2006, 2007, 2008).
13.38	Las Virgenes MWD	June 17	Westlake Lake	Eutrophic	Eutrophic	List on 303(d) list (being addressed by USEPA approved TMDL)	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Eutrophic conditions have been demonstrated to exist and a USEPA approved TMDL has been developed. The State Listing Policy requires inclusion on the 303(d) list until such time as the waterbody meets the requirements of the TMDL. Re-assessment of sources from an approved TMDL is outside the scope of the 303(d) listing process.
13.30	Las Virgenes MWD	June 17	Los Angeles River Reach 6	Selenium	Selenium	Listed	List if Supporting Information revised (see right)	See Table 1 of the Las Virgenes MWD comment letter.	Selenium exceeds standards such that the State Listing Policy requires inclusion on the 303(d) list. See response to comment 13.11.
13.40	Las Virgenes MWD	June 17	Cold Creek	Invasive Species	Invasive Species	Do no list	List for invasives	See Table 1 of the Las Virgenes MWD comment	Invasive species may be listed under Section 3.10 of the Listing Policy, "Trends in Water Quality." This section requires that at least three years of data be considered and that a negative trend

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							letter.	be demonstrated. In Cold Creek, while New Zealand mudsnails have been documented, in the data available, no site showed an increase in density of mud snails over the three years of sampling (2006, 2007, 2008).
14.1	Los Padres Chapter Sierra Club	Jun 17	<p>It has come to our attention that the Oxnard Industrial Drain, J Street Drain and the Bubbling Springs water way are not included on the 303(d) list for monitoring purposes. Both the Oxnard Industrial Drain and the J street drain are manmade concrete lined water ways that drain a large area of Oxnard's residential, industrial and agriculture runoff into the Ormond Beach Lagoon which is at the south End of Perkins Rd., adjacent to the HALACO Superfund site. The bubbling Springs waterway is more natural in appearance but at it's terminus is pumped into the same lagoon. The apparent effect of the discharge of these waterways is to fill the lagoon to a maximum level that registers 7 feet on a depth gauge next to the foot bridge and is sometimes in contact with the bridge's structure.</p> <p>During a month of observations of the area the water level has never lowered but seems to gradually rise. There is no outlet to the ocean at this time. During heavy rains and high surf the lagoon does occasionally breach and drains into the ocean. We have been told by city officials that sometimes bulldozers are used to arbitrarily create a breach for drainage. However this practice has implications to wildlife that may have not been considered in the past.</p>					Comment noted.
14.2	Los Padres Chapter Sierra Club	Jun 17	<p>The Oxnard Industrial Drain appears to be constantly full of water that is within two feet of the bottom of the bridges on Hueneme Road. Today we followed this water way inland to Pleasant Valley Road, about one mile north of Saviors Road. The Edison high tension Power lines cross Hueneme road at this point. We observed standing water that appeared to be at least one foot in depth. There were thick algae, much trash and a foul</p>					<p>Comment noted.</p> <p>Staff recognizes the concerns of the Sierra Club and is waiting for finalized water quality reports and superfund site data so that we may make an appropriate assessment.</p>

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			<p>odor at this location. It is obvious that the Lagoon is full and the water is backed up miles inland. The water appears to be stagnant and most likely bacteria laden and a potential breeding ground for mosquitoes.</p> <p>So far what we describe in layman's terms does not appear to pass the visual or smell test that are criteria of water quality permits. Apparently there is no professional testing of this waterway system. Sierra Club asks that the Waterboard makes the same visual observations and goes further to recommend testing and observation of this waterway system. We would be more than willing to act as your guides if you so desire.</p>	<p>Consideration of inclusion on the 303(d) list will happen in the next listing cycle.</p>
14.3	Los Padres Chapter Sierra Club	Jun 17	<p>We have more concerns about the Lagoon which is the receiving water of these manmade drainage channels. In addition to what has been described, the Abandoned HALACO building, paved area and Slag heap are all draining into the lagoon. The Slag Heap is in contact with the lagoon and Oxnard drain for hundreds of feet along the toe of the manmade mountain. As you know the site has been designated as a Superfund site and has been managed by Wayne Praskins for at least three years. During this time limited testing of the slag heap has found an abundance of heavy metals and radioactive isotopes (thorium).</p> <p>When asked at a recent media event that we held that was publicized in newspapers and ABC TV, Mr. Praskins disclosed that no water samples or underwater sediment had been tested. Sierra Club asks that this testing be ordered as well as marine life tissue samples.</p>	<p>We understand that USEPA has conducted groundwater testing at the superfund site and that surface water testing is scheduled for this year. We are also aware that there are draft water quality reports with data for these areas generated by the Coastal Conservancy. When these reports are finalized we will be able to assess the data for possible inclusion in the 303(d) list during the next listing cycle.</p>
15.1	Nature Conservancy	Jun 15	<p>I am requesting that the J - Street lagoon at Ormond Beach in South Oxnard be placed on the impaired waters list and receive a TMDL for trash. This area receives a tremendous amount of trash from both the Oxnard Industrial Drain and the J Street drain. I have attached photos of the lagoon.</p>	<p>Staff recognizes the concerns of stakeholders around the Oxnard Industrial Drain and J Street Drain and appreciates you sending the photos. However, the Listing Policy suggests the use of both qualitative assessments and numeric data to list for trash</p>

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				impairment in a waterbody and staff will assemble the water quality data as it becomes available for assessment and possible inclusion in the 303(d) list in the next listing cycle.
16.1	Newhall Land and Farming Company	June 17	We commend the Regional Water Quality Control Board (RWQCB) for making continued progress toward improving the clarity and objectivity of the 303(d) listing process through the development and implementation of the Water Quality Control Policy for Developing California's Clean Water Act 303(d) List (Listing Policy) (September 2004). We understand that the goal of the Listing Policy is to "establish a standardized approach for developing California's 303(d) list" and we support those efforts.	Comment noted.
16.2	Newhall Land and Farming Company	June 17	In September of 2007, the RWQCB issued an NPDES permit for the proposed NRWRP. In accordance with the permit, semi-annual samples have been collected in reach 5 of the SCR. In addition, the County Sanitation Districts of Los Angeles County (LACSD) also collects monthly receiving water samples throughout Reaches 5 and 6 as part of their NPDES permit monitoring program for their Valencia and Saugus WRPs. These data were previously submitted to the RWQCB through quarterly and annual monitoring reports and are currently publicly available through the NDPEs permit reporting program. We request that these data be included in the RWQCB's administrative record and 303(d) database, and that the RWQCB consider these datasets in making listing determinations.	Data collected after the solicitation period will be evaluated during the next listing cycle.
16.3	Newhall Land and Farming Company	June 17	Currently, the conditional potential MUN (MUN*) designation is applied in the Basin Plan for SCR Reaches 5 and 6. The conditional potential MUN designation is not enforceable and cannot be used as the basis for regulatory actions. Recognition that the MUN use is not applicable to these receiving waters leads to the conclusion that the proposed listing for iron, specific conductivity (based on secondary MCLs); chlorodibromomethane, dichlorobromomethane; and bis(2-ethylhexyl)phthalate (based on application of California Toxics	Staff agrees. See responses to comment 5.1.

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			<p>Rule (CTR) human health criteria using water plus organisms) is not warranted. The objectives used to support the proposed impairments for iron and specific conductance are drinking water quality standards (in fact, the standards used were Secondary Maximum Contaminant Levels (SMCL) - which are aesthetic drinking water standards that are meant for control of taste and odor). Specifically regarding the proposed iron and specific conductivity listings, the SMCLs that were used as the basis for these listings are "non-enforceable guidelines that are intended to assist public water systems in managing their drinking water for aesthetic considerations, such as taste, color and odor. Contaminants are not considered to present a risk to human health at the SMCL."² Further, SMCLs are intended to be applied to drinking water at the point of delivery, and are an inappropriate standard for natural surface waters, particularly for waters without an MUN designation. Section 6.1.3 of the Listing Policy is instructive with respect to this point as it specifies the use of evaluation guidelines that are "applicable to the beneficial use." Thus the water quality standards used to evaluate data and determine the potential for impairment of beneficial uses must be applicable and appropriate, to assure an accurate determination of water quality impairment. Therefore, we respectfully request that iron and specific conductivity not be listed in Reaches 5 and 6 since the MUN use is not applicable to those receiving waters. Similarly chlorodibromomethane, dichlorobromomethane; and bis(2-ethylhexyl)phthalate should not be listed in Reaches 5 and 6 since the MUN is not applicable to those receiving waters.</p>	
16.4	Newhall Land and Farming Company	June 17	It is requested that ammonia be removed from the 303(d) list for Reaches 5 and 6 of the Santa Clara River because existing water quality data demonstrate that the Basin Plan water quality objectives are being met. (See Fact Sheet No.1)	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting. See response to comment 9.34 and 9.36.
16.5	Newhall Land and Farming	June 17	It is requested that nitrate plus nitrite be removed from the 303(d) list for Reach 5 of the Santa Clara River because existing water quality data demonstrate that the criteria for de-listing has been	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address

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	Company		met (only nine exceedances out of 243 measurements). In light of the data being equal to the delisting criterion, and Section 6.1.5.3 of the Listing Policy's direction to consider the change (improvement) in a water body segment following the implementation of NDN management measures by the Sanitation Districts as a result of the TMDL implementation plan, nitrate plus nitrite should be delisted. (See Fact Sheet No.1)	the delisting. See response to comment 9.35.
16.6	Newhall Land and Farming Company	June 17	As discussed previously, the proposed listing of iron and specific conductivity in Reaches 5 and 6 of the Santa Clara River does not meet the listing standard since those reaches are designated potential conditional municipal (MUN). Therefore, iron and specific conductivity should not be listed because existing potential MUN beneficial use designation for these reaches has no legal effect and is inapplicable for listing purposes.	Staff agrees and has proposed delisting. The appendices to the Staff Report and the 303(d) list will be revised to address the delisting. See response to comment 5.1.
16.7	Newhall Land and Farming Company	June 17	Chlorpyrifos was added to the 303(d) list in 2006. There have been only two exceedances of the 4-day Criterion Continuous Concentration (CCC) threshold from a combined LADPW and SWAMP set of samples; two or less exceedances is the delisting criteria in the listing policy. In addition, chlorpyrifos has been phased out by EPA for non-agricultural uses, including the cessation of sales of all indoor and outdoor residential use products. In light of the data being equal to the delisting criterion, and Section 6.1.5.3 of the Listing Policy's direction to consider the change (improvement) in a water body segment following the implementation management measures, chlorpyrifos should be delisted. (See Fact Sheet No.2)	Staff disagrees. See responses to comments 5.3 and 9.22.
16.8	Newhall Land and Farming Company	June 17	The proposed listing of copper for Reach 6 is based on Staff's analysis of MS4 data only. When considered with data provided by the Sanitation District and others, only three exceedances of the CCC and two exceedances of the CMC were observed from sample lots of 69 and 71, respectively. Copper does not meet the minimum of six exceedances of the CCC and CMC as required by the Listing Policy. Therefore, copper should not be listed for Reach 6 because water quality objectives are currently being achieved. (See Fact Sheet No.3)	See response to comment 9.18.

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16.9	Newhall Land and Farming Company	June 17	More recent data for diazinon should be considered preferentially consistent with EPA guidance and the Listing Policy regarding temporal representation of data. Two substantial source controls for diazinon have been imposed: USEPA's 2004 ban on residential use of the pesticide, and the provisions and conditions of the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands within the Los Angeles Region (Order No. R4-2005-0080) (the "Ag Waiver") adopted by the LARWCB in 2005. Post-ban data demonstrate that only two of 29 samples exceeded the applicable threshold, thus the listing of diazinon for this reach is not warranted per the listing policy and should be delisted. Should the RWQCB maintain this proposed listing despite EPA Guidance and the Listing Policy, diazinon in Reach 6 should be listed under the "Water Quality Limited Segments Being Addressed" category due to the existing USEPA ban on diazinon sales for residential use and monitoring and control of diazinon required pursuant to the Ag. Waiver. Nonetheless, the small number of diazinon exceedances since the ban warrants delisting. (See Fact Sheet No.4)	Staff disagrees. See response to comment 5.3.
16.10	Newhall Land and Farming Company	June 17	Pursuant to the draft 303(d) fact sheet for this proposed listing, SWAMP data for Castaic Creek was included in the primary data set supporting the proposed listing for SCR Reach 5. Table 2-1 of the Basin Plan identifies Castaic Creek as a separate water body with designated uses that are independent of SCR Reach 5. Therefore DDT data for Castaic Creek should be evaluated separately and should not be included in the primary data set considered in determining a listing for SCR Reach 5.	See response to comment 9.37.
16.11	Newhall Land and Farming Company	June 17	SCR Reach 5 data shows that only 1 of 2 samples exceeded the water quality standard Thus available SCR Reach 5 data do not meet the Listing Policy requirements for number of exceedances, and no new listing is warranted for DDT in SCR Reach 5. A similar listing deficiency was acknowledged by Staff in 2006 when DDT in Reach 6 were not placed on the 303(d) list due to comparable circumstances from samples in Bouquet Creek. Furthermore, the 2001 SWAMP data does not appear to be	See response to comment 9.37.

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			representative of typical or long-term conditions within the waterbody (Santa Clara River Reach 5), as well as being a collected from a separately-defined reach (Castaic Creek) by the Basin Plan. (See Fact Sheet No.5)	
16.12	Newhall Land and Farming Company	June 17	Pursuant to the draft 303(d) fact sheet for this proposed listing, SWAMP data for Castaic Creek was included in the primary data set supporting the proposed listing for SCR Reach 5. Table 2-1 of the Basin Plan identifies Castaic Creek as a separate water body with designated uses that are independent of SCR Reach 5. Therefore PCB data for Castaic Creek should be evaluated separately and should not be included in the primary data set considered in determining a listing for SCR Reach 5.	See response to comment 9.37.
16.13	Newhall Land and Farming Company	June 17	SCR Reach 5 data shows that only 1 of 2 samples exceeded the water quality standard Thus available SCR Reach 5 data do not meet the Listing Policy requirements for number of exceedances, and no new listing is warranted for PCBs in SCR Reach 5. Furthermore, the 2001 SWAMP data does not appear to be representative of typical or long-term conditions within the waterbody (Santa Clara River Reach 5), as well as being a collected from a separately-defined reach (Castaic Creek) by the Basin Plan. (See Fact Sheet No.6)	See response to comment 9.37.
16.14	Newhall Land and Farming Company	June 17	Section 3.6 of the Listing Policy states, "If the pollutant causing or contributing to the toxicity is identified, the pollutant shall be included on the section 303(d) list as soon as possible (i.e., during the next listing cycle)." Appendix B of the 2005 SWAMP report Water Quality in the Calleguas Creek and Santa Clara River Watersheds identifies diazinon as the probable cause of toxicity in the Reach 6 (Bouquet Creek) samples. Therefore, the proposed toxicity listing in Reach 6 should be replaced with diazinon, consistent with these scientific findings and the guidelines of the Listing Policy. However, due to the existing USEPA diazinon ban, diazinon should either not be listed (since by preferentially using post-ban data only, listing would not be warranted), or be listed under the "Water Quality Limited Segments Being Addressed" category (see above comments on	See response to comment 5.3.

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16.15	Newhall Land and Farming Company	June 17	<p>Reach 6 proposed diazinon listing).</p> <p>Pursuant to the RWQCB staff report Section 3.3.3, comments were solicited on the possible use of biostimulatory substances in future impairment determinations. Any establishment of water quality objectives involving biostimulatory substances (nitrogen, phosphorus and other compounds that stimulate growth) or other physical parameters (dissolved oxygen, temperature, etc) should be subject to detailed analysis under the State Basin Plan amendment process, including compliance with the California Environmental Quality Act (CEQA) and other requirements under State law. In addition, the Newhall Ranch Sanitation District NDPEs discharge permit incorporates nutrient-related water quality objectives, including algal biomass. Furthermore, the RWQCB should wait until the SWRCB releases its Nutrient Numeric Endpoint guidance, which is currently under peer review. Nutrient criteria developed by the SWRCB and USEPA Region 9 is described in the report, "Technical Approach to Develop Nutrient Numeric Endpoints for California" ("CA NNE"), released in 2006.</p>	<p>The presence of biostimulatory substances in our waterways and the associated adverse impacts on beneficial uses are a significant problem. It is important that these impairments be included on the Region's list of impaired waters.</p> <p>Under the State Listing Policy, waterbodies can be included on the 303(d) list where standards or guidelines are exceeded. In the case of biostimulatory substances, the Los Angeles Region Basin Plan contains a narrative objective for biostimulatory substances, which may be used in assessments by relying upon numerical guidelines.</p>
17.1	Ormond Beach Wetlands Environmental Coalition	Jun 17	<p>We have been alerted that somehow the Southern California Regional Water Board has not been made aware of toxic cesspool problems that suffers one of our few remaining wetlands areas in California. Please place this issue in your upcoming agenda as an emergency action item.</p>	<p>The Los Angeles Regional Board has a long history with the site. In September of 2007 the site was added to the Federal Superfund list. Wayne Praskins is the EPA Project Manager.</p>
17.2	Ormond Beach Wetlands Environmental Coalition	Jun 17	<p>As you can see from the attached photos, the area is an amazing habitat for coastal wildlife and a very attractive area for families to enjoy a day at the beach. The lagoon visually offers a family what might appear to be a safe wading area for small children.</p> <p>However as far as we know, no agency has been testing the water quality at the Ormond Wetlands and there are no warning signs in Spanish and English foretelling of probably pollution.</p> <p>Trash from local throwaways, picnickers', homeless is adding to the continual flow of trash from two or three Oxnard farmland</p>	<p>The Regional Board is aware that there are draft water quality reports with data for these areas generated by the Coastal Conservancy. When these reports are finalized Board staff will be able to assess the data for possible inclusion in the 303(d) list during the next listing cycle.</p>

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			and industrial drains that empty into the wetlands. As you can see by the attached photos this trash is a serious detriment to the water quality and has been a long term health hazard to those unaware who take their families to enjoy a day at the beach and lagoon.	
17.3	Ormond Beach Wetlands Environmental Coalition	Jun 17	Likewise, the estimated 700 thousand tons of toxic heavy metal slag hill that creates a double sized football field approximately sixty feet high and its large footprint expanding underwater and sinking into the wetlands has been reported leaking contamination. By one EPA report the abandoned smelter and slag hill may harbor radio-isotopic materials that are blending into the local aquifers as well as the tidal action that pulls the toxic substances into the ocean at reach tide.	The Regional Board understands that USEPA has conducted groundwater testing at the Superfund site and that surface water testing is scheduled for this year. When available, Board staff will be able to assess these data for possible inclusion in the 303(d) list during the next listing cycle.
18.1	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	<p>In 2006, a number of listings were placed on the 303(d) list for Organochlorine Pesticides. These listings were based on information developed during the preparation of the Calleguas Creek Watershed Organochlorine Pesticides and PCB TMDL that demonstrated that some additional reaches had data that supported additional impairments. In 2006, the State Board included these additional impairments on the 303(d) list because an USEPA approved TMDL was in effect. The Fact Sheets for the constituents listed in Table 1 for the 2006 list from the SWRCB included the following language as the rationale for including the constituents on the list:</p> <p>"After review of the available information for this recommendation, SWRCB staff conclude that the water body pollutant combination should be placed in the Water Quality Limited Segments Being Addressed category of the 303(d) list because a TMDL has been approved."</p> <p>Based on this rationale, we request that the following listings be changed from category A to category B in the 2008 list. Table 1 summarizes the listings.</p>	Staff agrees. The fact sheets, appendices and 303(d) list will be revised to address this comment.

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			*Table 1 is located in the of the Parties Implementing TMDLs in Calleguas Creek Watershed comment letter.	
18.2	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	Additionally, the USEPA approved TMDL for salts (effective December 2, 2008) addresses the boron, sulfate and TDS listings in Fox Barranca, a tributary to the Calleguas Creek watershed. We request that the following listings be moved from Category A to Category B based on the same rationale as expressed in the fact sheets for the other reaches of the Calleguas Creek watershed which will be addressing the salts issue on a watershed scale approach. Table 2 summarizes the listings.	Staff agrees. The factsheets, appendices and 303(d) list will be revised to address this comment.
18.3	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	We would like to support the recent Ventura Coastkeepers (VCK) re-submittal of data used as the basis for the trash listing in the Arroyo Simi. Members of the MOA group identified a discrepancy in the data available on the fact sheet (Decision ID 10423). VCK staff have since identified the errors and revised the data sheet to accurately reflect the conditions observed in Reach 7 (Arroyo Simi) during the 2006 sampling period. We are supportive of this data submission and appreciate VCK staff working in a cooperative effort to help identify and revise the data. We appreciate the VCK taking a proactive approach to ensure that data is accurate and correct, and support Regional Water Board staff accepting this revised data.	Comment noted.
18.4	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	We request, in light of the re-submittal of the data, that the Regional Board staff consider the information in the context of the State's Listing Policy. The FED for the Listing Policy (page 90) discusses the need to use both numeric and non-numeric data for determining a trash listing. We request that the decision to list trash be based on consideration of both numeric and non-numeric data as discussed in the FED. Although not available for review, we would request that the listing in Arroyo Simi only be listed if the resubmitted data includes one or both of the following non-numeric types of information that can be used to verify the numeric values for trash.	See response to comment 6.1.

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18.5	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	<p>Additionally, we request that the following information be a requirement of any data submittal used as the basis for a new trash listing, and that the information be available for review during the review process:</p> <p>1. Photographic or Other Documentation Providing Evidence of the Impairment – By utilizing photographic information in the listing, the Regional Board will be better able to identify specific locations of the impairment and possibly better identify sources of impairment. Beyond the TMDL development stage, by having more detailed information contained in photos, this would assist in the development of implementation plans. If photographs are not available, field logs, survey forms, or other information should be provided to ensure the submitted results are verifiable by the SWRCB or RWQCB as required by the Listing Policy.</p> <p>2. Specific Trash Details - Having more specific data beyond the general trash category will further assist in the development of the TMDL and the subsequent TMDL implementation effort. This information would greatly assist in both phases of the TMDL process.</p>	See response to comment 6.1.
18.6	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	During our last review, the group had extensive issues in trying to obtain the original data submitted for the Revolon Slough/Beardsley Wash Trash listing. We appreciate the new approach utilized for the 2008 listing procedure with associated fact sheets that include the listing data available for review.	Comment noted.
18.7	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	Should Regional Board staff decide that the information is sufficient for listing per the Listing Policy requirements, we request that the listing be placed on the list with a characterization of Category C-Being addressed by action(s) other than a TMDL.	See response to comment 6.2.
18.8	Parties	Jun 17	The FED specifically acknowledges that storm water permits and	See response to comment 6.2.

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	Implementing TMDLs in Calleguas Creek Watershed		<p>associated Storm Water Management Plans (SWMP) are an existing program that can be utilized for justifying this categorization.</p> <p>“If trash is a nuisance in water bodies of the State and storm drains are the major source, then existing storm water permits could be used to reduce the trash discharged via storm drains.”</p> <p>The recently adopted Ventura County Municipal Storm Water NPDES Permit contains a number of provisions to address trash that can be utilized to address the trash impairment.</p> <ul style="list-style-type: none"> • Catch basin prioritization, inspection, and cleaning based on the amount of trash generated. • Trash management at public events. • Trash can installation and maintenance in high trash generation areas. • Trash excluder installation on catch basins or conduct alternative BMPs to reduce trash discharges to receiving waters within two years. <p>These provisions are sufficient to categorize the trash listing in Category C on the 303(d) list. The permit is an adopted regulatory program that is enforceable by the RWQCB, contains a monitoring program, and reporting programs that demonstrate progress and the provisions will address discharges of trash to the Arroyo Simi within a reasonable amount of time.</p>	
18.9	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	The chlorpyrifos in fish tissue listing should be removed from the 303(d) list based on section 4 of the Listing Policy. The Listing Policy calls for the delisting of waters if the decision is found to be faulty and it is demonstrated that the listing would not have occurred in the absence of such faulty data. The original listing was based solely on an EDL. The Listing Policy does not allow the use of EDLs in listing or delisting decisions.	Staff disagrees. The listing is supported by chlorpyrifos exceedances in water. A comment will be added to the 303(d) list until the listing fraction (ie “tissue”) can be amended. As new listings are added or updated specific fractions are not included in the pollutant name.

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18.10	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	The Listing Policy calls for the delisting of waters if the decision is found to be based on faulty data and it is demonstrated that the listing would not have occurred in the absence of such faulty data. The data that was used for the original listing was collected in the downstream reach (Reach 4) and EDLs, which are considered to be faulty, formed the basis of the listing. As such, the Reach 5 chlorpyrifos listing in fish tissue should be removed from the 2006 303(d) list. In a similar case State Board staff recommended delisting cadmium in Ballona Creek because data collected in a downstream reach were applied inappropriately.	See response to comment 18.9.
18.11	Parties Implementing TMDLs in Calleguas Creek Watershed	Jun 17	Similar delisting recommendations were made for the removal of dacthal in fish tissue listings in the remainder of the Watershed: Reaches 4, 9A, 9B, 10, 11, and 13. As there are no sediment quality guidelines published in the peer-reviewed literature or developed by state or federal agencies for dacthal, the sediment listing for dacthal in Reach 5 should be removed from the 303(d) list.	See response to comment 18.1.
19.1	Santa Barbara Channel Keeper	Jun 16	Channelkeeper strongly supports the Regional Board's decision to list San Antonio Creek for indicator bacteria and total dissolved solids water quality impairments as well as the existing listing for nitrogen. These listings are supported by Channelkeeper's Stream Team citizen monitoring program data, which has been submitted to the Regional Board and cited as a line of evidence in making these determinations. San Antonio creek provides multiple benefits to the communities of Ojai and Ventura County. This creek flows through multiple residential neighborhoods and ranches. It is easily accessed by the public at multiple locations and frequently used for multiple forms of recreation including swimming. A deep pool exists immediately downstream of the confluence of San Antonio Creek and the Ventura River. Local community members regularly use this pool for swimming. San Antonio Creek also supports diverse riparian plant and animal communities. San Antonio Creek provides critical habitat for endangered steelhead trout, which	Comment noted.

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			have been observed there by biologists in recent years. In the summer of 2008 biologists counted over 200 steelhead smolts in this pool. It is imperative that these existing beneficial uses are protected and that impairments identified through water quality monitoring activities are included on the revised 303(d) list.	
19.2	Santa Barbara Channel Keeper	Jun 16	Channelkeeper strongly supports the Regional Board's decision to list Canada Larga Creek for total dissolved solids as well as the existing listings for fecal coliform. These listings are supported by Channelkeeper's Stream Team citizen monitoring program data, which has been submitted to the Regional Board and cited as a line of evidence in making these determinations.	Comment noted.
19.3	Santa Barbara Channel Keeper	Jun 16	We note that for the purposes of consistency and clarity, the Regional Board should consider modifying the listing for 'fecal coliform' to 'E. coli' or 'indicator bacteria' since the data collected by Channelkeeper that supports this listing is in fact E. coli data.	Canada Larga was listed in 2002 for fecal coliform. See response to comment 3.2.
19.4	Santa Barbara Channel Keeper	Jun 16	Channelkeeper strongly supports the Regional Board's decision to develop a numeric evaluation criterion to interpret the Basin Plan Water Quality Objective for biostimulatory substances. The existing Basin Plan nitrate objective to protect domestic and municipal water supplies is not protective of aquatic ecosystems, and the lack of such numeric criteria has been one of the most critical limitations of the existing Plan.	Comment noted.
20.1	Teresa Jordan	May 18	<p>Page 2, it is stated in the legal NOTICE, under Background of the 2008 Integrated Report, in the first paragraph that "The Regional Water Board is proposing to revise the surface water quality assessment under Clean Water Act section 305(b) and the list of impaired water under Clean Water Act section 303(d) in a 2008 Integrated Report."</p> <p>By revising the surface water quality assessment in 2009 for the 2008 Integrated Report, the Regional Water Board is in essence changing the dynamics of NPDES permits' requirements and other Orders approved for pollutants in discharges that are impairing waterbodies throughout the region. It would be a</p>	Staff disagrees. Section 305(b) of the Clean Water Act requires states to biennially assess the conditions of surface waters to USEPA. The proposed biostimulatory guidelines are an assessment tool for determining impairments of surface waters from biostimulatory substances and eutrophication and is not anticipated to affect adopted NPDES permit requirements and other orders.

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			different picture if the Integrated Report stated something to the effect that beginning in XX XX, XXXX the proposed criteria (Table 3-2 Lakes: Nutrient Concentration and Biological Response Indicators Criteria Limits (Rivers and Streams), and Table 3-3 Rivers and Streams: Nutrient Concentration and Biological Response Indicators Criteria Limits(Lakes)) will be used after the Board public hearing.	Staff also notes that section 3.4 of the staff report states that, “[i]n this 2008 list update, however, no “biostimulatory substances” impairments have been included” and that “[t]he Regional Board intends to solicit stakeholder comments regarding the criteria presented below for development of the guidelines to be used for listing in future updates of the 303(d) list.”
20.2	Teresa Jordan	May 18	Since the Tables (Draft Integrated Report, Pages 13 and 14) information is inaccurate--Table 3-2 states "Lakes" yet the information is for "Rivers and Streams", and Table 3-3 states Rivers and Streams" yet the information is for "Lakes"--even if I had the mathematical and technical knowledge to decide which of the mg/Ls and mg/m2s better protects the health of the: 1. public, 2. aquatic life, 3. wildlife, and 4. environment, I cannot comment because my support or opposition would be flawed.	The titles for tables 3-2 and tables 3-3 in the staff report have been corrected.
20.3	Teresa Jordan	May 18	Even if I commented on the corrected criteria Tables, and even though it is stated on Page 2 of the Tentative Resolution, top of page, that "Regional Board staff responded to oral and written comments received from the public", there is no guarantee that my comments will be responded to by Regional Board staff. Example: I submitted 5 letters on the Ventura Countywide MS4 NPDES permit (3 by the deadline, and 2 within days of the deadline). Not one of my letters' comments were responded to by Regional Board staff. Many of my comments involved inaccuracies in the documents.	Staff intends to respond to all comments received from the public by the comment submittal deadline. While comments on the MS4 permit are out of the scope of this action, Storm Water Permitting Staff had responded to all the comments in question and integrated certain editorial changes, though specific comments may not have specifically call out the commenter or their comments.
20.4	Teresa Jordan	May 18	It is stated also on Page 2 of the Tentative Resolution, last paragraph before the Executive Officer's statement, that "If during State Board's approval process the State Board determines that minor, non-sustentative corrections to the language of the report are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Board of any such	Storm Water Permitting staff has included their editorial changes and is submitting their revised documents to State Board. Further comments regarding revised documents may be addressed to State Board during their

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			changes." The revised documents still contained the inaccuracies that my letters pointed out. The State Water Board is going to be considering corrections to the Calleguas Creek Watershed area's Nitrogen TMDLs. Thus, the Regional Board staff must revise the "Response to Comments" Notation of the April 30, 2009 Ventura Countywide MS4 NPDES permit.	comment solicitation period. The notice, issued on April 30, 2009, was intended to soliciting written comments for the 2008 Integrated Report and 303(d) list. Comments received and not pertaining to the 2008 Integrated Report or 303(d) list are beyond the scope of comments solicited. As such, these comments should be addressed to the relevant program.
20.5	Teresa Jordan	May 18	The Regional Board staff's "Response to Comments" for the Boeing Company's Santa Susana Field Laboratory NPDES permit must also be revised to correct the misspelled name of commenter Ginn Doose-listed as "Moose" on Page 102 of 103.	Comment noted. The notice, issued on April 30, 2009, was intended to soliciting written comments for the 2008 Integrated Report and 303(d) list. Comments received and not pertaining to the 2008 Integrated Report or 303(d) list are beyond the scope of comments solicited. As such, these comments should be address to the relevant program.
20.6	Teresa Jordan	May 18	That there are 66 proposed new 303(d) listings in 35 waterbodies (Draft Integrated Report, Page 1, fourth paragraph) does not bode well for the Regional Board's responsibilities and actions. This means that enforcement continues to be a major problem in this region since according to the information on Page 19 (Draft Integrated Report) points to a number of "limitations". It is shameful that so many years have passed and just now the required Integrated Report is providing "the most complete 305(b) report for the Los Angeles Region" (last sentence, Page 19).	This Region continues to have significant water quality issues in many waterbodies. Staff is committed to continuing to improve the Integrated Report and 303(d) listing cycle in terms of standardization, accuracy and transparency with each listing cycle.

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20.7	Teresa Jordan	May 18	I am opposed to delisting the Calleguas Creek Reach 4 (Revolon Slough Main Branch: Mugu Lagoon to Central Avenue) for Boron, Sulfates, and Total Dissolved Solids from the 303(d) list.	Comment noted. Staff has determined that Calleguas Creek Reach 4 below Laguna Road is tidally influenced and had observed salinity levels in the brackish range. As such, the freshwater water quality objectives do not apply for boron, sulfate, and total dissolved solids (TDS). As no saltwater objectives are available for boron sulfate, and TDS, staff recommends delisting these waterbody pollutant combinations from the 303(d) list.
20.8	Teresa Jordan	May 18	I would have done a better job of addressing this extremely important subject, but already I have delayed commenting on the Department of Water Resources' Draft 2009 Water Plan Update's Volume 3 (Regional Report, specifically the South Coast) since the many draft tentative NPDES permits orders at the Regional Water Board level, and many State Water Board policies and plans that I have addressed have taken up a lot of time cross-referencing other documentation, though the information has all been priceless.	Comment noted.
20.9	Teresa Jordan	May 18	Also, the Ex Parte Communications entanglement ate up a lot of my time as well. I have yet to hear from the Staff Senior Counsel from the State Water Board as to whether or not I violated the law. As long as this situation remains in limbo, I am being punished for participating in the public review and comment period because I have pointed out documents' incompleteness and inaccuracies, and in speaking out about defrauding of taxpayers.	Comment noted. As a public agency, the integrated reporting process is open to all stakeholders.
21.1	USEPA	June 17	We carefully reviewed the draft listing decisions and factsheets and we have concluded the vast majority of the assessment determinations are consistent with federal listing requirements. We write to support Regional Board staff recommendations to identify certain impairments as being addressed by a TMDL alternative.	Comment noted.

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21.2	USEPA	June 17	EPA supports staff recommendations to delist Wilmington Drain ammonia and requests that Regional Board staff consider delisting this waterbody for copper and lead. The City of Los Angeles has collected thirty-three samples from 2007 to 2009 in this waterbody and two additional samples were collected by the Regional Board in that timeframe. The overall record indicates only two excursions above the standard for copper and zero excursions above the standard for lead. We urge staff to evaluate these monitoring results and review the assessment decisions for either of these metals in Wilmington Drain.	The data available (from the City of Los Angeles) which documents a non-impairment of Wilmington Drain for copper and lead and would support delisting for these metals was not evaluated as part of the 2008 listing cycle. The data was not evaluated because all of the data provided was collected after the data solicitation deadline for this listing cycle. Staff will consider the additional data in the next listing cycle.
21.3	USEPA	June 17	Additionally, EPA requests that Regional Board staff consider delisting three volatile organic compounds (TCE, PCE and 1,1-DCE) on Los Angeles River Reach 6. The City of Los Angeles has collected forty samples from 2006 to 2007 in this reach. Monitoring results for trichloroethene (TCE), tetrachloroethene (PCE) and 1,1-dichloroethene (DCE) show no excursions above the applicable standard for all non-drinking water purposes. A potential municipal use is associated with this segment of the Los Angeles River. However, both TMDLs and assessments are based on designated and existing uses, not potential uses. This segment is therefore not impaired by volatile organic compounds. For both of these waterbodies EPA has provided the raw data in prior communications.	Staff agrees. The factsheets, appendices and 303(d) list will be revised to address this comment. Also see response to comment 3.20 for 1,1-DCE.
21.4	USEPA	June 17	Additionally, EPA urges Regional Board staff to consider delisting the shellfish harvesting advisory from Malibu Lagoon. The Malibu Creek Watershed Bacteria TMDLs (EPA approval on 1/10/06) addressed impairments for coliform, swimming restrictions and enteric viruses and pointed out that shellfish harvesting was not a designated beneficial use in Malibu Lagoon. This waterbody is therefore not impaired by the shellfish harvesting advisory as indicated on the draft 303(d) list.	Staff agrees. The Basin Plan does not include a shellfish harvesting beneficial use for Malibu Lagoon and furthermore, there are no shellfish advisories for the lagoon. The appendices and 303(d) list will be revised to address this comment.
21.5	USEPA	June 17	EPA supports the Regional Board staff recommendation to identify Malibu Lagoon benthic community effects listing as	Comment noted.

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			being addressed by an alternative to a TMDL. An upcoming Malibu Lagoon restoration project will address this impairment. The Malibu Lagoon Restoration Feasibility Study lists structural and non-structural best management practices that will be implemented during restoration. These measures are expected to improve sediment delivery and increase scour to some areas, increase grain size, and allow more oxygen rich water to bed sediment. This restoration project will commence in 2009 and will be effective at restoring the beneficial uses.	
21.6	USEPA	June 17	EPA also supports the Regional Board staff recommendation to identify Port Hueneme DDT (dichlorodiphenyltrichloroethane) and PCBs (polychlorinated biphenyls) as being addressed by an alternative to a TMDL. A Port Hueneme Harbor dredging project was initiated in 2008 and is designed to remove contaminated sediments from the harbor, and as a result eliminate the bioaccumulation potential of the DDT and PCBs contaminated sediment and ongoing impacts to the aquatic biota thereby addressing these impairments.	Comment noted.
21.7	USEPA	June 17	Two waterbodies are listed incorrectly in the draft list as requiring a TMDL for impairments that have had TMDLs completed already. EPA requests that Regional Board staff correct the listing for beach closures at Robert H. Meyer Memorial Beach to indicate that a TMDL has already been approved. It was included in the Santa Monica Bay bacteria TMDLs (EPA approval on 6/19/03) which included all of the waterbody pollutant combinations identified in Assessment Unit 48 of the <i>Heal the Bay v. Browner</i> consent decree.	Staff agrees. The fact sheets, appendices and 303(d) list will be revised to address this comment.
21.8	USEPA	June 17	Additionally, EPA would like Regional Board staff to correct the listings for boron, sulfates and total dissolved solids at Fox Barranca and indicate that a TMDL has already been approved. Many waterbody segments in this watershed were resegmented and renamed. EPA believes these TMDLs were included in one of the reaches in the Calleguas Creek Salts TMDLs (approval on 12/2/08) that covered the waterbody pollutant combinations identified in Assessment Units 3 and 4 of the <i>Heal the Bay v.</i>	Staff agrees. The fact sheets, appendices and 303(d) list will be revised to address this comment. See response to comment 18.2.

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21.9	USEPA	June 17	<p><i>Browner</i> consent decree.</p> <p>In addition, various reaches of Calleguas Creek are shown in the draft 303(d) list as requiring a TMDL for endosulfan, dacthal, and ChemA. These were identified in the Calleguas Creek Watershed Organochlorine Pesticides and PCBs TMDL (EPA approval on 3/14/06) as "category 2" because they were found to not be causing impairment. They were, however, given load and wasteload allocations set equal to numeric targets for all listed reaches. EPA requests that Regional Board staff correct the draft 303(d) list to identify these waterbody pollutant combinations as either delisted or having an approved TMDL for the contaminants in question. The Calleguas Creek Organochlorine Pesticides and PCBs TMDLs and the Calleguas Creek Toxicity TMDLs (EPA approval on 3/14/06) addressed all waterbody pollutant combinations identified in Assessment Units 2 and 5 of the <i>Heal the Bay v. Browner</i> consent decree and none of those waterbody pollutant combinations should be identified as requiring TMDLs on the State's 303(d) list.</p>	<p>Staff agrees. The fact sheets, appendices and 303(d) list will be revised to address this comment. See response to comment 18.1.</p>
21.10	USEPA	June 17	<p>Several waterbody pollutant combinations remain on the draft 303(d) list even though existing TMDL documents contain information supporting findings of non-impairment for these contaminants. For example, during the development of the Marina del Rey Harbor Toxics TMDLs (EPA approval on 3/16/06), Regional Board staff concluded non-impairment due to DDT and dieldrin in these waters. Similarly Ballona Creek was found to be non-impaired due to cadmium as part of the Ballona Creek Metals TMDLs (EPA approval on 12/22/05). Apparently, Regional Board staff have not elected to remove these waterbody pollutant combinations from the 303(d) list because, although the data available show a lack of impairment, sufficient data do not exist to meet the State's binomial statistical methodology requirements for delisting. EPA considers these contaminants appropriate for delisting since federal guidelines do not contain minimum sample size requirements for making assessment decisions (EPA 2006 Integrated Reporting Guidance, pp.36-37)</p>	<p>Staff agrees with the finding of non-impairment for these waterbodies. The State Listing Policy requires a certain number of samples to de-list a waterbody pollutant combination, however (Section 4.1), so staff is unable to de-list at this time. However a comment will be included in the 303(d) list next to the listing to identify the finding of non-impairment.</p> <p>Also see response to comment 3.8 for dieldrin and DTT in the Marina Del Rey Harbor.</p>

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22.1	Ventura Coastkeeper	June 17	VCK supports in full Decision ID 10423 listing Calleguas Creek Reach 7, Water Body ID CAR4036200020000228103510, on the 303(d) list for trash as a pollutant and nuisance.	Comment noted.
22.2	Ventura Coastkeeper	June 17	<p>However, based on VCK's Stream Team's 2006 and 2007 Monitoring Data (see attached), gathered pursuant to VCK's QAPP that is certified and approved by the Regional Board, the weight of evidence indicates that additional water segment-pollutant combinations in the Calleguas Creek Watershed should be placed on the section 303(d) list for trash as a pollutant and nuisance in the Water Quality Limited Segments category because applicable water quality standards) are exceeded in these additional waterbody segments impairing their beneficial uses, and the trash in these waterbody segments contributes to or causes the exceedences.</p> <p>The additional waterbody segments that should be listed on the 303(d) list for trash as a pollutant and nuisance include the water body segments that include these VCK monitoring stations in Table 1 below (see attached "VCK 2006-2007 Calleguas Creek Watershed Monitoring Stations") where the following trash data was observed and counted as part of the sampling efforts of Ventura Coastkeeper's Stream Team from February 2006 through June 2007:</p> <p>Trash TMDL, is not strictly adhered to, the presence of trash at all of these monitoring stations is of the frequency, consistency, and magnitude to warrant that the waterbody segments that contain each of these monitoring stations (AS1, CJ1, CJ2, CJ3, CL1, CL2, and RS1) are listed on the 303(d) list as impaired for trash.</p>	Comment noted. Staff will incorporate these trash impaired reaches into the 303(d) list and the factsheets, appendices and 303(d) list will be revised to address this comment.