

**2008-10 Triennial Review  
Response to Comments on the Draft Triennial Review Staff Report and Tentative Resolution  
Comment Due Date: March 5, 2010**

1. Boeing
2. Calleguas Creek Watershed
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4. City of Malibu
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<b>No.</b>	<b>Author</b>	<b>Date</b>	<b>Comment</b>	<b>Response</b>
1-1	Boeing	03/05/2010	These comments are in addition to, and build upon, Boeing's previous Triennial Review submissions dated November 10, 2008 and April 16, 2009. In our November 10, 2008 letter (submitted by the law firm of Paul, Hastings LLP), we set forth a number of issues relevant to the Regional Board's Triennial Review of water quality standards. We explained that water quality standards must be reasonable; that reasonable standards must take into account background conditions (including contaminants from atmospheric deposition, fires, and precipitation), seasonality, flow, and similar factors; and that certain beneficial use designations for ephemeral streams may not be appropriate. We also submitted substantial reports and data in support.	Comment noted.
1-2	Boeing	03/05/2010	In our April 16, 2009 letter, we suggested that the Board prioritize the Triennial Review around four issues: (1) evaluating natural background conditions in setting water quality standards; (2) considering the geology and	The Regional Board considered all issues raised by stakeholders during the data solicitation and indicated their preferences for which ones

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			<p>morphology of receiving streams; (3) establishing a design storm; and (4) accounting for economic, social, and technological factors in setting water quality standards. As discussed below, we continue to urge the Board to prioritize these issues for this Triennial Review.</p>	<p>should be addressed during the April 2, 2009 workshop. One of the issues that the Board indicated a preference for addressing at the Board workshop, as identified in Table 4 of the Staff Report is the development of a Design Storm. The Regional Board initiated work on development of a Design Storm in 2005 by convening a ‘Wet-Weather Task Force’ and overseeing a \$100,000 contract with the Southern California Coastal Water Research Project (SCCWRP) to complete the development of a conceptual framework for identifying a design storm. To the extent that additional funding becomes available to continue work on the Design Storm, Board staff has recommended it as an issue to be addressed during the current triennial review (see Staff Report). The Regional Board considered the other priorities identified by Boeing, but given the Board’s priorities and the limited resources of the Basin Planning Program (1.5 PYs per year) it is probably not possible to address them in this triennial review cycle.</p>

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1-3	Boeing	03/05/2010	Boeing appreciates that stakeholders have proposed far more issues for the Triennial Review Basin Plan amendment process than the Board has resources to address. Nonetheless, Boeing submits that the Board's consideration of natural background conditions, of the geology and morphology of receiving streams, and of economic, social, and technological factors in setting water quality standards should-and indeed-must be priorities during this Triennial Review. All of these issues go towards ensuring that beneficial uses, water quality standards, and implementing programs are protective and reasonable. See Cal. Water Code §§ 13000, 13241	<p>In the response to comments on the Triennial Review data solicitation, staff expressed the Regional Board's intent to consider developing, where appropriate and as resources allow, implementation provisions for water quality objectives where natural sources of a pollutant cause it to be elevated above the current objective, or to exceed the objective more frequently than currently allowed.</p> <p>Also, Regional Board staff has always given consideration to economics and other factors as identified in Cal. Water Code section 13241 in adopting water quality objectives, and in considerable detail in recent TMDLs. In the Draft Staff Report, staff recommends that for clarity and transparency, these considerations be clearly distinguished in public notice documents from other components of future Basin Plan amendments.</p>
1-4	Boeing	03/05/2010	<p><i>Background conditions/natural loading</i></p> <p>In their Staff Report (page 30), Board Staff state that a review of water quality standards and implementing programs (including TMDLs) in light of natural background</p>	See response to Comment No. 1-3

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			<p>conditions is warranted, but not during this Triennial Review period. Boeing urges the Board to prioritize this review now.</p> <p>As Board staff recognize (Tentative Order at 1; Staff Report at 2, 24), the Triennial Review is designed in part "to review water quality standards to ensure they are based on current science..." The Tentative Order (page 2) states that the Board will only reconsider components of the water quality standards where relevant and substantial evidence has been identified by or to the Regional Board that the particular water quality objectives as applied to specific water bodies, are not currently set at the appropriate level, or that particular beneficial uses are not appropriate where designated (or should be designated where they are not).</p>	
1-5	Boeing	03/05/2010	<p>Boeing has presented "relevant and substantial evidence" showing that the Board has not sufficiently considered background conditions -- e.g., atmospheric deposition, fires, and precipitation -- in assigning beneficial use designations or developing water quality standards and implementing programs, particularly where stormwater is concerned. In our November 10, 2008 letter, we presented and summarized many reports, workplans, and data sources that show that (1) background conditions are significant contributors of regulated constituents, in particular metals and dioxin, in stormwater discharges from Santa Susana, and (2) meeting discharge limits that do not account for those background conditions has been, and continues to be,</p>	<p>Staff responded to these comments previously in our <i>Specific Response to Comments on the Request for Input on the 2008-10 Triennial Review</i> released to the public on February 18, 2010. Please see response to Comment No. 2-14 in that document.</p> <p>Part of this response included the following statement: "<i>While this issue was not expressly identified as one that should be addressed during this triennial review period,</i></p>

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			<p>extremely difficult (if not impossible) despite Boeing's best efforts. We summarized these data and concerns in our April 16, 2009 letter.</p>	<p><i>the Regional Board will consider developing, where appropriate and as resources allow, implementation provisions for water quality objectives where natural sources of a pollutant cause it to be elevated above the current objective, or to exceed the objective more frequently than currently allowed."</i></p>
1-6	Boeing	03/05/2010	<p><i>Characteristics of receiving waters</i> Just as the Board must evaluate background conditions to arrive at water quality standards based on "current science," the Board should review the actual geology and morphology of receiving waters. As the Board is aware, the Los Angeles region is dominated by ephemeral streams whose impacts from discharges-particularly variable stormwater discharges-are different from the impacts on perennial streams. Thus, for water quality objectives to be representative and protective of receiving waters, the objectives must account for the nature and frequency of flows and the geological and morphological characteristics of the receiving waters. Such consideration also leads to more appropriate beneficial use designations in the first instance.</p> <p>Accordingly, Boeing urges the Board to evaluate beneficial use designations and water quality standards for ephemeral reaches of streams. Such reaches include those between Santa Susana and the Los Angeles River, including Bell Creek, Dayton Canyon Creek, and other tributaries to the Los Angeles River, as well as between</p>	<p>Staff responded to these comments previously in our <i>Specific Response to Comments on the Request for Input on the 2008-10 Triennial Review</i> released to the public on February 18, 2010. Please see response to Comment No. 3-13 regarding Tiered Aquatic Life Uses, and responses to Comment No. 37-18 and 37-19 in that document.</p>

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			<p>Santa Susana and Calleguas Creek, including tributaries to Calleguas Creek such as Arroyo Simi and Arroyo Las Posas. All of these reaches are currently designated WILD and/or WARM even though they have water flowing in them only after significant storm events. Board Staff appropriately recognize the value of Tiered Aquatic Life Uses (TALUs) (see Staff Report at 11-12, 20, 24) in assessing the appropriate uses of, and water quality standards for, ephemeral receiving waters, but state that "[f]urther work on this issue will be dictated by the availability of funding and Basin Planning staff resources" (Staff Report at 12). Boeing urges the Board to prioritize review of beneficial use designations and water quality standards based on receiving water geology and morphology using TALUs and other tools (and to secure and devote funding to developing those tools).</p>	
1-7	Boeing	03/05/2010	<p><i>Section 13241 economic, social, and technological, factors</i></p> <p>Section 13241 of <i>the California Water Code</i> requires that the Board take economic, social, and technological factors into account in establishing water quality objectives. See <i>Cal. Water Code</i> § 13241 ("Factors to be considered by a regional board in establishing water quality objectives <i>shall</i> include" among other things, "[w]ater quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area," "environmental characteristics of the hydrographic unit," "economic considerations," and housing needs) (emphasis added).</p>	Comment noted.
1-8	Boeing	03/05/2010	As we have previously explained, water quality objectives	Please see response to Comment

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			<p>can be unduly burdensome from economical and technological standpoints when addressing stormwater discharges unless those objectives account for natural conditions and the characteristics of receiving streams and/or incorporate an effective design storm. Measures to ensure attainment of those objectives (which may not even be possible under all conditions) sometimes yield only marginal improvements at disproportionate cost. The consideration required by Section 13241, especially as part of a cost-benefit analysis, will help correct this problem.</p>	<p>No. 1-5, 1-6 and 1-7. As described in the Staff Report, the triennial review occurs in three phases. The current (second) phase of the triennial review entails setting priorities for those standards-related issues to be addressed during the triennial review period. Section 13241 by its terms applies to the adoption (and by implication the revision) of water quality objectives. It does not apply to priority setting activities. As water quality objectives are adopted or revised as part of the third phase of the triennial review, a 13241 analysis will be performed for those activities, as required by law, and it has been performed in the past.</p>
1-9	Boeing	03/05/2010	<p>Board staff respond to this issue (Staff Report at 30) by explaining that the decision issued in <i>Cities of Arcadia v. State Water Resources Control Bd.</i> (Super. Ct. Orange County, 2007, No. 06CCO2974), which requires the Regional Boards to comply with Section 13241 in setting water quality standards, is being appealed and has been stayed. Staff's observation, while true, is irrelevant. Although the Arcadia decision has been stayed, Section 13241 has not, and it is Section 13241 that requires the Board to consider economic, social, and technological factors in setting water quality standards. Because the</p>	<p>The Arcadia II case addresses the issue of whether the entire Basin Plan must be reconsidered to consider the section 13241 factors, as they apply to storm water dischargers, and the appropriateness of the uses in the Basin Plan that are designated as "potential" (versus "past present and probable future" uses), even in the absence of any evidence that any</p>

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			Board has not already done this, Boeing urges the Board to identify this issue as a priority for this Triennial Review, at least where stormwater is concerned.	<p>particular water quality objective is not currently set at an appropriate level of protection, or that any designated beneficial use is not properly being protected. The absence of such evidence caused the trial court to acknowledge that compliance with its writ may appropriately result in no actual changes to the water quality standards.</p> <p>The matter is currently on appeal, and therefore there is presently no final judgment. Moreover, the writ is stayed during the appeal. As such, the Regional Board's obligations under the case are not yet finally determined, and the writ does not impose obligations currently.</p>
1-10	Boeing	03/05/2010	On a related and final point, Boeing urges the Board to evaluate existing and new numeric limits in light of available toxicity data during this Triennial Review. In the case of Santa Susana, with only three inconsequential exceptions, toxicity objectives would have been met even where numeric limits have not. See Boeing's November 10, 2008 letter. The Board should consider these and other toxicity data to reassess the relationship between stringent numeric limits and water quality standards, as well as the reasonableness of stringent numeric limits themselves.	<p>These issues have been addressed previously in our <i>General and Specific Response to Comments on the Request for Input on the 2008-10 Triennial Review</i> released to the public on February 18, 2010. See General Response No. 3.</p> <p>This comment is related to NPDES permitting and as such is outside the purview of the Triennial Review.</p>

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2-1	Calleguas Creek Watershed	03/05/2010	The participating members of the Calleguas Creek Watershed (CCW) MOA group appreciate the opportunity to comment on the Los Angeles Regional Water Quality Control Board's (Regional Board) Draft Staff Report and Tentative Resolution outlining the 2008-2010 selection of Basin Planning Projects. As an active participant during this Triennial Review effort, we view this opportunity to review and revise Basin Plan components as a valuable tool to better enhance all efforts protecting and preserving local water quality resources. After reviewing both the Report and Tentative Resolution, the CCW MOA group commends the hard work Regional Board staff has completed in identifying seven extremely relevant and important "High Priority Projects" being presented to the Board for adoption. In particular, we are pleased to see that the many of the issues identified as priorities by the CCW MOA group in April of 2009 have been included in the final list recommended for adoption.	Comment noted.
2-2	Calleguas Creek Watershed	03/05/2010	The CCW MOA group is more than willing to further assist all efforts associated with the seven priority projects, including support to Board Staff as they initiate <i>Project F - "Support of other Regional Board Programs including TMDLs, Municipal Permitting, and Stormwater Permitting;"</i> . This group has particular interest in supporting such TMDL related actions as Site Specific Objectives (SSOs), Water Effect Ratios (WERs), required TMDL Re-opener actions, and completion of TMDL related Special Studies, all of which will can greatly impact current and future TMDL endeavors.	Comment noted.
3-1	City of Los Angeles	03/04/2010	The City of Los Angeles Bureau of Sanitation (Bureau) appreciates the opportunity to comment on the Los	Comment noted.

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			<p>Angeles Regional Water Quality Control Board's (Regional Board) Draft Staff Report and Tentative Resolution outlining the 2008-2010 Selection of Basin Planning Projects. We believe in general that Regional Board staff has identified list of proposed priority projects that will address many of the concerns identified by the Bureau in previous communications to the Regional Board. In particular, the Bureau commends the effort that Regional Board staff will initiate projects to reevaluate water quality objectives specifically for bacteria, beneficial uses in Los Angeles regional waters, and further support Regional Board programs including the TMDL and Permitting Programs.</p>	
3-2	City of Los Angeles	03/04/2010	<p>While the Bureau generally supports the Regional Board's overall proposed "High Priority Projects" list, the Bureau would like to provide several recommendations regarding the list and request an expansion of the information contained in both the Tentative Resolution and Staff Report. The Bureau requests: Regional Board staff revises its Staff Report to include a section that details the actions staff will take associated with proposed "High Priority Projects". While the Staff Report includes descriptions that may relate to the proposed projects in sections V. (Issues identified by Staff...) and VI. (Issues Identified by Stakeholders...) there is no clear explanation of what actions Regional Board staff are proposing to take under each of the proposed projects. The information in sections V and IV could be utilized to create a description of actions intended to be taken for each of the priority projects.</p>	<p>The purpose of this phase of the Triennial Review is to identify issues of concern to be addressed during the review period. Staff has provided sufficient information on each issue for the Regional Board to determine which should be addressed. Once the determination is made the scope of each project (including actions to be taken) will be developed.</p>

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3-3	City of Los Angeles	03/04/2010	Regional Board and staff consider the specific comments and recommendations contained in the attachment to this letter to guide actions regarding the current and future triennial review processes and include an update/status on the accomplishments on the previous priority projects.	See below for responses to the specific comments and recommendations contained in the attachment to the City's letter. Regarding the status of accomplishments on previous priority projects, Board staff provided a summary of these in sections III and IV of the Staff Report.
3-4	City of Los Angeles	03/04/2010	The issues identified in this letter and the attachment to this letter is of significance to the operation of the Bureau's wastewater and stormwater programs. The City and other municipalities within the Los Angeles Region need to be provided with the appropriate guidance to be able to focus limited public funds on controls that will protect actual beneficial uses and otherwise be in the public interest. We understand the constraints facing both the state and local governments and believe these projects to be of utmost [ <i>sic</i> ] importance to better protect natural resources while utilizing limited resources from all responsible agencies.	Comment noted.
3-5	City of Los Angeles	03/04/2010	The Bureau provides world-class environmental services and continues to support the Regional Board and its mission by funding on-going regional water quality research via the Southern California Coastal Water Research Project, on-going Los Angeles River watershed monitoring and research via the Los Angeles River Watershed-Wide Monitoring Program (LARWMP), the CREST Stakeholder process for TMDL development, and	Comment noted.

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			focused receiving water studies in order to better understand existing conditions and provide solutions to address water quality in the Los Angeles region. This investment in the future is done in partnership with your agency to achieve maximum return in local environmental programs and infrastructure	
3-6	City of Los Angeles	03/04/2010	GENERAL SUPPORT OF LISTED "HIGH PRIORITY" PROJECTS: The Bureau would like to voice their support for the proposed list of "High Priority" projects listed on page 4 of the Tentative Resolution. We have reviewed and generally agree with all of the projects listed, and appreciate the inclusion of two of the Bureau's top three priority projects submitted during the 2008 review period (TMDL Support and Recreational Standards).	Comment noted.
3-7	City of Los Angeles	03/04/2010	ADDRESSING WATER RE-USE: The Bureau would like to see the topic of Recycled Water, specifically in dealing with the evaluation of maximum benefits associated with the reuse of recycled wastewater and the use of stormwater resources, as a priority project. The recently adopted State Recycled Water Policy creates an adequate resource for guiding implementation of recycled water projects for the wastewater sector, yet there is still a need to implement the policy in a consistent manner into to permits in the region and to consider maximum benefit analysis that will better assist municipalities in addressing potential issues related to wastewater recycling and the use of stormwater as a resource. Understanding the resource constraints facing the Regional Board and Los Angeles region municipalities, we fully appreciate the limitations facing your staff and the	Comment noted. These issues have been addressed previously in our <i>General and Specific Response to Comments on the Request for Input on the 2008-10 Triennial Review</i> released to the public on February 18, 2010. As stated in the response to comment documents, the Regional Board intends to fully comply with the directives of the State Recycled Water Policy, including those related to maximum benefit analysis, and will work to implement the policy in a consistent manner in permits in the region.

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			<p>need to prioritize projects. The Bureau understands this issue may not be immediately addressed, but do request this topic be revisited in the next triennial review cycle or sooner when time and/or resources become available.</p>	
3-8	City of Los Angeles	03/04/2010	<p>We believe the Regional Board should include more detailed information regarding the actions staff will take to implement each specific recommended project. Furthermore, we request that this information be contained in a distinct section of the final staff report, separate from sections V. and VI.</p>	See response to Comment No. 3-2.
3-9	City of Los Angeles	03/04/2010	<p>The Bureau recommends the following information be included for each priority project listed below:</p> <p><i>Project A - "Re-evaluate how bacteria water quality objectives should be applied in compliance determination, based on more recent results"</i> - The Bureau is supportive of this project and considers this an important and pivotal project that will greatly enhance on-going bacteria-related efforts in the region. The Bureau requests that more information be included in the Staff Report regarding Project A, including the actions that will be taken to:</p> <p>Further consider the applicability of natural sources exclusions that acknowledge that natural sources occur in areas within the region that are not comparable to the currently utilized reference sites. As examples, the lower portion of the Los Angeles River and the Ballona Creek Estuary provide important habitat to resident and migratory birds. However, the currently utilized reference sites are</p>	Comment noted. Staff will take these recommendations into consideration when developing the scope of work for this project.

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			<p>either located at a bathing beach or in the mountains. These types of sites do not adequately represent the potential loading from natural sources.</p> <p>Remove fecal coliform objectives from the Basin Plan to be consistent with USEPA's 1986 <i>Ambient Water Quality Criteria for Bacteria</i>.</p> <p>Revise the use of single sample maximum objectives to be consistent with USEPA's 1986 <i>Ambient Water Quality Criteria for Bacteria</i>.</p> <p>Revise the calculation of geometric mean from a calendar basis to a seasonal basis to be consistent with USEPA's 1986 <i>Ambient Water Quality Criteria for Bacteria</i>.</p>	
3-10	City of Los Angeles	03/04/2010	<p>Project B - "<i>Reconsider the application of REC-1 and REC-2 beneficial uses in specific instances, where appropriate</i>" - The Bureau supports an effort to revisit Beneficial Uses in the Los Angeles region. The Bureau requests that more information be included in the Staff Report regarding Project B including where the actions are being considered (i.e., specific or example waterbodies) and the actions that will be taken to:</p> <p>Reconsider the application of REC-1 and REC-2 uses during swift-water conditions regardless of channel configuration. In the draft staff report, both staff and stakeholders commented on the need to address recreational uses in engineered channels during storm-related high flows. Staff addresses this topic in Section V.</p>	Comment noted. Staff will take these recommendations into consideration when developing the scope of work for this project.

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			<p>of the report on page 15 (<i>Re-evaluate recreational beneficial uses for specific engineered channels that are concrete lined, fenced, and have no public access, where appropriate</i>). All channels are unsafe during a high-flow condition, and this policy should not be specifically limited to engineered channels. Unsafe conditions are found in both engineered and natural channels during and immediately following storm events, creating dangerous conditions no matter the type of channel, and recreational uses should not be applied to all channels during these unsafe events.</p> <p>Reconsider the application of REC-1 and REC-2 uses based on low-flow conditions. Many of the freshwater streams and rivers in the region exhibit low-flow conditions, where waters are not deep enough for recreational uses identified in the Basin Plan to exist. The applicability of recreational uses to these waters should be reconsidered.</p> <p>Reconsider the application of REC-1 and REC-2 uses based on accessibility regardless of flow conditions. Many waters in the region have limited accessibility or access is illegal for safety reasons. The applicability of recreational uses to these waters should be reconsidered.</p>	
3-11	City of Los Angeles	03/04/2010	<p>Project F - <i>"Provide support to other Regional Board Programs including TMDLs, Municipal Permitting, and Stormwater Permitting"</i> - The Bureau fully supports this high priority project, and believes this to be one of the most important projects Regional Board staff will undertake in the near future. The Bureau requests that more information be included in the Staff Report regarding Project F including</p>	<p>Providing support to other Regional Board programs is not a project in and of itself. It is an on-going function performed by the Basin Planning Program on an as-needed basis and may or may not include involvement in the commenter's list</p>

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			<p>the actions that will be taken to:</p> <p>Incorporate site-specific objectives for copper based on the 2008 Los Angeles River Copper Water-Effect Ratio Study into the Basin Plan, Los Angeles River Metals TMDL, and associated NPDES permits.</p> <p>Incorporate site-specific objectives for ammonia in Los Angeles County into the 303(d) listing process and if still appropriate, associated TMDLs and NPDES permits.</p> <p>Bring information forward that may affect TMDL targets, allocations, and implementation and corresponding NPDES permits in a timeframe consistent with re-openers identified in adopted TMDL Basin Plan amendments.</p>	<p>of projects. For example, in the commenter's first example, TMDL Program Staff have taken the lead to revise the Los Angeles River and Tributaries Metals TMDL to incorporate site-specific WERs for copper.</p>
4-1	City of Malibu	03/05/2010	<p>The City of Malibu appreciates the opportunity to participate in this process and comment on the Los Angeles Regional Water Quality Control Board's (Regional Board) Draft Staff Report and Tentative Resolution outlining the 2008-2010 Selection of Basin Planning Projects. As noted in the proposed resolution for Selection of Basin Planning Projects, the primary purpose of the triennial review is to review water quality standards to ensure they are based on current science, methodologies and U . S . E P A mandates, recommendations and guidance, as well as taking public comments on issues that the Regional Board should address through the basin planning process. In particular, the City supports Regional Board staff's effort to initiate projects to re-evaluate water quality objectives specifically for bacteria and beneficial uses in Los Angeles regional waters.</p>	<p>Comment noted.</p>

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4-2	City of Malibu	03/05/2010	While the City generally supports the Regional Board's overall proposed Basin Planning Projects list, the City would like to provide comments regarding that list, and also requests an expansion of the information contained in both the Tentative Resolution and Staff Report. The City therefore respectfully requests the Regional Board and staff consider the City's specific comments and recommendations herein submitted to inform and guide actions regarding the current and future triennial review processes and include an update/status on the accomplishments on the previous priority projects	Comment noted. See responses to the City's specific comments and recommendations below. See also response to Comment No. 3-3.
4-3	City of Malibu	03/05/2010	The issues identified in the attached submittal are of significance to the operation of the City's environmental and wastewater management programs, including the Clean Water Program. The City and other municipalities within the Los Angeles Region need to be provided with the appropriate guidance to be able to focus limited public funds on controls that will protect actual beneficial uses and otherwise be in the public interest. We understand the constraints facing both the state and local governments and believe these projects to be of utmost [ <i>sic</i> ] importance to better protect natural resources while utilizing limited resources from all responsible agencies.	Comment noted.
4-4	City of Malibu	03/05/2010	The City places water quality and environmental protection as its top priority, and continues to support the Regional Board and its mission by funding studies in collaboration with other responsible agencies, the Southern California Coastal Water Research Project (SCCWRP), various State of California agencies including the State Water Resources Control Board and the University of California system, and the United States	Comment noted.

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			<p>Geological Survey (USGS). The City participates in on-going monitoring through the Malibu Creek Compliance Monitoring Program and the Santa Monica Bay Beaches Coordinated Shoreline Monitoring Plan, and it participates in numerous regional stakeholder efforts including the integrated water resources planning efforts and SCCWRP's Bight program. The City recognizes the mutual benefit and importance to participating in these programs. Water quality protection and improvements would not be possible without the critical partnerships that are formed and communication and collaborations that are the outcome.</p>	
4-5	City of Malibu	03/05/2010	<p>As stated, the City supports the proposed Basin Planning Projects but requests more detailed information and clarifications to be included in the resolution and staff report to provide more guidance and focus as to how staff will implement each specific recommended project. The City requests the following information be included for each priority project listed below:</p>	<p>The purpose of this phase of the Triennial Review is to identify issues of concern to be addressed during the review period. Staff has provided sufficient information on each issue for the Regional Board to determine which should be addressed. Once the determination is made the scope of each project (including actions to be taken) will be developed.</p>
4-6	City of Malibu	03/05/2010	<p><i>"Re-evaluate how bacteria water quality objectives should be applied in compliance determination, based on more recent results"</i> - The City is supportive of this project and considers this an important and pivotal project that will greatly enhance on-going bacteria related efforts in the region. The City requests that more information be included in the Staff Report regarding Project A, including the actions that will be taken to:</p>	<p>Comment noted. Staff will take these recommendations into consideration when developing the scope of work for this project.</p>

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			<p>Further consider the applicability of natural sources exclusions that acknowledge that natural sources occur in areas within the region as exhibited with even the exceedances that have been observed at the reference site;</p> <p>Revise the calculation of geometric mean so that it is scientifically and statistically defensible, without inadvertently and artificially representing water quality (i.e. do not allow one outlier in data affect the geometric mean to falsely represent good water quality and or poor water quality).</p>	
4-7	City of Malibu	03/05/2010	<p>The primary purpose of the triennial review is to review water quality standards to ensure they are based on current science, methodologies and U.S. EPA mandates, recommendations and guidance, as well as taking public comments on issues that the Regional Board should address through the basin planning process. The City requests that the Regional Board and its staff consider... insert info about the studies [sic].</p>	<p>The commenter did not provide information on the studies to be considered. However Regional Board staff will consider relevant studies submitted by stakeholders when reviewing water quality standards to be addressed during the Triennial Review period.</p>
4-8	City of Malibu	03/05/2010	<p><i>"Provide support to other Regional Board Programs including TMDLs, Municipal Permitting, and Stormwater Permitting"</i> - The City fully supports this project, and believes this to be one of the most important projects Regional Board staff will undertake in the near future. The City requests that more information be included in the Staff Report regarding this project including the actions that will be taken to:</p>	<p>Providing support to other Regional Board programs is not a project in and of itself. It is an on-going function performed by the Basin Planning Program on an as-needed basis and may or may not include involvement in the commenter's list of projects.</p>

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			Account for natural sources of nutrients including phosphorus in Malibu Creek and Lagoon, and fecal indicator bacteria for Malibu Creek and Lagoon, and Santa Monica Bay Beaches into the 303(d) listing process and if still appropriate, associated TMDLs	
4-9	City of Malibu	03/05/2010	While the City understands your statements of the staff report on page 3 that "the state of science also has to be taken into consideration", and page 29 "it would be premature to modify standards while our scientific understanding is still evolving", we encourage and beseech the Regional Board to consider new and emerging science that may affect TMDL targets, allocations, and implementation and corresponding NPDES permits, and consider its interim value, versus relying on old and outdated data. This should be done in a timeframe consistent with reopeners identified in adopted TMDL Basin Plan amendments such as Santa Monica Bay Beaches Bacteria TMDL reconsideration which was due in July 2007 and Malibu Creek Bacteria TMDL reconsideration was due in January 2009. While the allocations in these TMDLs go un-reviewed, agencies are spending millions of dollars to try to comply with a target that is possibly unobtainable.	The Regional Board is obligated to protect beneficial uses. Though advances in water quality criteria for bacteria are in development, the Regional Board cannot suspend regulatory programs in the interim, but must continue to use accepted science to protect beneficial uses. In the case of bacteria water quality objectives, the Regional Board must continue to use at a minimum U.S. EPA's recommended water quality criteria, as it is doing, until new recommended criteria are published by U.S. EPA.
4-10	City of Malibu	03/05/2010	The City has itself directly provided and also been part of some collaborative efforts to provide new scientific data to the Regional Board staff; however to date these submittals have not been considered in the basin planning process. Some of these submittals include Fecal Indicator Bacteria	These data are being considered in the development of other Bacteria TMDLs such as the Los Angeles River Watershed Bacteria TMDL, and will also be considered during

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			<p>(FIB Levels During Dry Weather from Southern Reference published by the Southern California Coastal Water Research Project (SCCWRP) (also known as the Reference Watershed Study for the Malibu Creek Watershed bacteria TMDL) which shows that even in reference streams fecal indicator bacteria will occasionally exceed targets, or the Coordinated Shoreline Monitoring Plan (CSMP) data reported as a requirement of the Santa Monica Bay Beaches Bacteria TMDL shows monitoring at the reference beach, SMB 1-01, exhibited eleven (11) single-sample exceedance days during summer 2006 and zero (0) single sample exceedances during the summer of 2007 for a total of eleven (11) single-sample dry weather exceedance days over the two-summer period. Clearly this is an indication that even under summer dry weather conditions natural background occurrence of indicator bacteria associated with subwatersheds that are more than 90% undeveloped such as the Arroyo Sequit Subwatershed (SMB 1-1) are likely to produce occasional exceedances of the receiving water limitations for indicator bacteria.</p>	<p>the reconsideration of the Bacteria TMDLs for Malibu Creek and Santa Monica Bay Beaches.</p>
5-1	County Sanitation District	03/05/2010	<p>The Sanitation Districts of Los Angeles County (Sanitation Districts) are pleased to submit comments to the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) on the presentation and selection of basin planning issues for the Los Angeles Region. By way of background, the Sanitation Districts provide wastewater and solid waste management services to over 5 million people in 78 cities and unincorporated areas of Los Angeles County, Of the 11 wastewater treatment and water reclamation plants</p>	<p>Comment noted.</p>

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			owned and operated by the Sanitation Districts, nine wastewater treatment or water reclamation plants are located within the boundaries of the Regional Board. These facilities are located in the San Gabriel River, Rio Hondo, Santa Clara River, and Santa Monica Bay watersheds, and serve approximately five million people.	
5-2	County Sanitation District	03/05/2010	The Sanitation Districts have previously submitted two comment letters on the 2008-2010 triennial review, dated November 10, 2008 and April 10, 2009, and participated in a Regional Board workshop on April 2, 2009. As indicated in the comment letters and at the workshop, it is the Sanitation Districts' position that the Regional Board should make it a priority to address existing shortcomings in the Basin Plan and continue existing projects initiated under the 2004 Triennial Review before undertaking any major efforts to develop new criteria or policies. We are pleased to see that the projects proposed for the 2008-2010 Triennial Review include continued work on existing projects and indicate responsiveness to stakeholder concerns. Although we generally agree with the projects proposed, we do have some specific comments on the priorities for those projects and on the Triennial Review Staff Report (Staff Report), as detailed below	Comment noted.
5-3	County Sanitation District	03/05/2010	Development of a Design Storm Standard  The Sanitation Districts strongly agree that the development of a design storm standard should be a high priority in this Triennial Basin Plan review. During the last triennial review, the Regional Board directed staff to participate in a Wet Weather Task Force to look into	The Regional Board recognizes the importance of the Design Storm Project. At the Board's direction, Regional Board staff convened and then led a Wet-Weather Task Force comprised of representative stakeholders in the Region in order

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			<p>storm water issues. The Task Force assembled a Design Storm Subcommittee and contracted with the Southern California Coastal Water Research Project (SCCWRP) to assess the impacts of hypothetical design storms. At the conclusion of SCCWRP's efforts, a model had been developed that assessed the effect of storm size on water quality; however, more work was needed to evaluate potential treatment options and the costs associated with potential design storms. The Sanitation Districts encourage the Regional Board to continue the process of developing a design storm standard, including consideration of the factors outlined in Sections 13241 and 13242 of the California Water Code. The Staff Report does note that further development of the design storm will be dictated by the availability of funding from outside sources and Basin Planning staff resources. However, considerable resources have already been expended on this project, and the Sanitation Districts believe that the completion of this project is crucial. Therefore, even if it is necessary to eliminate a more recently approved project from the priority list, the Sanitation Districts request the Regional Board to prioritize development of a design storm standard within this triennial review period</p>	<p>to identify a menu of project concepts addressing wet-weather concerns as they relate to water quality standards. From the menu of projects identified, the Regional Board and stakeholders selected the Design Storm Project as the highest priority. Regional Board staff secured the initial funding for the project, using \$100,000 of the Board's contract funds, and entered into a contract with SCCWRP to begin conceptual development. It was made clear from the beginning that the Regional Board would provide seed money, but that additional resources would likely be needed to complete the project. Board staff will continue to explore sources of external funding to complete the project, and encourages stakeholders to do the same.</p>
5-4	County Sanitation District	03/05/2010	<p>Similarly, the Staff Report contains a statement regarding Regional Board staff's interpretation of averaging period for the application of Title 22 Maximum Contaminant Level (MCL) values as water quality objectives to waters with a Municipal and Domestic Supply (MUN) beneficial use. The Basin Plan does not specify the averaging period over which these objectives apply, but the Staff Report contains a statement of Regional Board's staff</p>	<p>As previously stated in the Staff Report, MCL-based effluent limitations are expressed as monthly averages in POTW NPDES permits as required by federal regulation (40 CFR part 122.45 (d)(2)) to determine compliance with the limitations.</p>

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			<p>opinion as to how these objectives should apply, which is on a monthly average basis. The Sanitation Districts believe application of 40 CFR Part 122.45(d)(2) to justify this position is purely elective, and results in unnecessarily overprotective limits. The averaging periods should be consistent with the application of Title 22 MCLs for drinking water, where they are applied as annual averages for most constituents. Application of the Title 22 MCLs using monthly averages is unsupported by any scientific evidence regarding the need for monthly averages to protect beneficial uses.</p>	
5-5	County Sanitation District	03/05/2010	<p>The Sanitation Districts believe the imposition of overprotective limits is ill-advised, both from the standpoint of the need to make wise use of scarce public funds, and because overprotective limits have the potential to result in the need for energy-intensive treatment upgrades that provide no demonstrated environmental benefit. Detailed comments on the averaging period issue were provided in our November 10, 2008 comment letter regarding the Triennial Review.</p>	<p>See response to comment No. 5-4. Also responses to the commenter's detailed comments were provided in the <i>Specific Response to Comments on the Request for Input on the 2008-10 Triennial Review</i> released to the public on February 18, 2010.</p>
5-6	County Sanitation District	03/05/2010	<p><i>Numeric Toxicity Objectives</i></p> <p>The Staff Report contains a discussion of the Regional Board's current application of water quality objectives for whole effluent toxicity (WET). At the end of this discussion, the Staff Report indicates that the State Board "will be proposing objectives of 1 TUC and 1 TUA, and the use of the new EPA test of Significant Toxicity statistical</p>	<p>State Board is currently working on a draft toxicity policy, which will likely contain numeric limits for toxicity equivalent to 1 TUC and 1 TUA. In developing its draft policy, the State Board is considering the use of the new EPA test of Significant Toxicity. The State Board</p>

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			method for determining compliance." Although the Environmental Protection Agency (EPA) has not formally released any documents to the public describing the Test of Significant Toxicity (TST) approach, the Sanitation Districts and other stakeholders have received information on this approach. We have conducted a preliminary evaluation of the approach and have several serious technical concerns on the TST methodology.	will undergo a public review process, with opportunities for public input, on its draft policy. The Sanitation District and other stakeholders may participate in this process, and share concerns with the State Board prior to the Board's adoption of a policy.
5-7	County Sanitation District	03/05/2010	The current promulgated acute and chronic WET testing protocols allow for the use of hypothesis testing (NOEC calculation) and point estimation (EC/IC25) for interpreting WET data. The adoption of the TST would represent an alternative hypothesis testing approach to the NOEC calculation. However, the use of hypothesis testing to evaluate WET data has been widely criticized by the scientific community for multiple reasons, including the unacceptably high false positive and false negative error rates associated with these analytical methods. In recognition of this consensus scientific opinion, the EPA included strongly worded recommendations in the WET protocols that point estimation is the preferred statistical methods for the National Pollutant Discharge Elimination System (NPDES) Permit Program.	See response to Comment No. 5-6
5-8	County Sanitation District	03/05/2010	The draft TST approach does address the false negative (erroneously identifying a "toxic" sample as "non-toxic") issue associated with NOEC hypothesis testing. Unfortunately, this is accomplished at the expense of significantly increasing the already unacceptably high false positive error rate (erroneously identifying a "non-	See response to Comment No. 5-6

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			toxic" sample as "toxic"). The TST also conflicts with the current chronic WET testing guidance that a test should not consider a sample toxic if the difference is so small that the laboratory cannot detect it.	
5-9	County Sanitation District	03/05/2010	An unacceptably high false positive error rate is troublesome for both regulators and permittees alike. For regulators, effluent false positives divert limited enforcement resources away from "real" water quality violations, and receiving water false positives may lead to inappropriate impairment listings that ultimately consume regulatory resources through the development of inappropriate and unjustified total maximum daily loads (TMDLs). For permittees, effluent false positives can represent violations that are subject to enforcement actions and citizen lawsuits, and receiving water false positives require time and effort to attempt to solve a problem that does not exist.	See response to Comment No. 5-6
5-10	County Sanitation District	03/05/2010	As an alternative to the hypothesis testing approach, the EC/IC25 point estimate is currently approved and recommended in the promulgated protocols, is the analytical technique most often supported by the scientific community for evaluating chronic toxicity results, and is also recommended and preferred by EPA for NPDES compliance determination. Additionally, the use of the EC/IC25 point estimate will minimize the false positive error rate, while consistently identifying all tests above a 25% effect as "toxic."	See response to Comment No. 5-6
6-1	Los Angeles	03/04/2010	Thank you for the opportunity to provide comments on the	Comment noted

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	County DPW		proposed triennial review issues for the Water Quality Control Plan for the Los Angeles Region (Basin Plan). These comments are being provided on behalf of the Los Angeles County Flood Control District in advance of the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), hearing scheduled for April 1, 2010. To the extent that they were not incorporated, we hereby incorporate by reference our comments previously submitted in writing on November 12, 2008, and presented orally at the public workshop held during a Regional Board meeting on April 2, 2009. Our additional comments are as follows	
6-2	Los Angeles County DPW	03/04/2010	<p>Increase staffing resources for addressing Basin Plan issues</p> <p>According to the staff report, staffing allocated to address basin planning issues is limited to 1.5 personnel years per year. Regional Board staff and stakeholders have identified over 50 basin planning issues, many of which fundamentally affect the way water-quality standards are set in the region. However, resource constraints have limited staff's recommendation to only 3 projects over the next 3 years. With the current staffing level, it would take half a century to address the current list of basin planning issues. In other words, in the mean time, receiving water-quality protection in the region will continue to rely on a limited scientific understanding and an outdated regulatory framework, often times resulting in overly conservative standards and unnecessary expenditure of public funds.</p>	<p>Circumstances are not quite as dire as the commenter fears with regard to the potential for overly conservative standards as a result of limited staffing resources. The Regional Board does not develop water quality criteria independently. The region's criteria are a result of recommendations (peer reviewed and published in the Federal Register) and directives from US EPA and State Board and will be revised as appropriate based on current science.</p> <p>The current economic crisis faced by the State may not allow for an increase in staffing resources to the Basin Planning Program, particularly as it is a General Fund program;</p>

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				however the Regional Board intends to use its limited resources efficiently by addressing the most pressing issues in as effective a manner as possible.
6-3	Los Angeles County DPW	03/04/2010	<p>Increase coordination with stakeholders to address Basin Plan issues</p> <p>Given the Regional Board's resource constraints, it is clear that external support is needed in basin planning. We are open to working with staff on a host of basin planning issues with the goal of meaningful and attainable water-quality standards. For example, we look forward to working with staff to explore the concept of Tiered Aquatic Life Use and ways to overcome technical and potential policy barriers not as a way to limit regulatory oversight, but as a way to refine the biological expectations in a highly urbanized watershed and establish truly meaningful standards. We also look forward to working with staff on the development of a design storm, the work for which was initiated by staff during the last triennial review. Finally, we look forward to working with staff on the development of prototypes as part of the process to incorporate Total Maximum Daily Loads into municipal stormwater permits.</p>	The Regional Board has been and will continue to be supportive of coordinating efforts with stakeholders to address Basin Plan issues.
7-1	Las Virgenes MWD	03/04/2010	We wish first to recognize your staff for compiling the comments and recommendations contained in over 60 letters submitted during Phase 1 of the review and organizing this material into the shorter, condensed list of "top priority" issues and the projects problems identified in the Staff Report. While substantially shorter than the	Comment noted

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			complete list of outstanding Basin planning issues identified by stakeholders, these "top priority" issues and the projects identified by staff to address them still constitute a substantial workload, and we appreciate the technical and logistic challenge they represent. Many of them have direct bearing on the JPA's water and sanitation services.	
7-2	Las Virgenes MWD	03/04/2010	Aside from the issues these priorities represent, perhaps the most challenging problem is finding the time and resources necessary to address each during the current review cycle. Economic and legal constraints associated with the Board's budget process are cited in both the draft Resolution and Staff Report as principle [ <i>sic</i> ] drivers for deferring a very large list of problems with the current Basin Plan to future Triennial Reviews. In this regard, while noting that some form of Triennial Review is required under the Clear Water Act (CWA) the draft Resolution emphasizes that this requirement is very flexible in its execution. Several court decisions are cited in support of this finding. In practical terms, this means the current review will be limited to just 1.5 person-years of staff time – less than two full-time employees – to execute the list of projects recommended in the Staff Report. These projects include both new issues identified as priorities in the current Triennial Review, and important "backlog" problems left over from previous Reviews.	Comment noted.
7-3	Las Virgenes MWD	03/04/2010	As a public agency, we certainly recognize the challenges of the current economic climate in fulfilling our mission to provide water and sanitation services for our communities. With that in mind, we view our role in this Triennial Review	The nature of the triennial review process is such that there will always be a list of issues with varying stakeholder priority to be

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			<p>as working collaboratively with the Regional Board to ensure the limited time allocated to these problems is used efficiently and wisely. If circumstances dictate a Triennial Review of limited scope, then some issues will obviously be deferred until the next review cycle (2012). In the meantime, outdated or inappropriate water quality objectives will continue to be written into enforceable permits and regulations, and public agencies responsible for meeting these standards will continue to resist the regulations and permit conditions that follow from them, Project (f) in the draft Resolution appears to anticipate this unfortunate situation. One relatively inexpensive solution is to use one-day or even half-day Regional workshops to address those issues that are Basin-wide in scope, solicit stakeholder-provided data and information, and identify the data gaps and other detailed information necessary to <i>resolve</i> these issues before they escalate in individual permits, TMDLs, and legal mandates. We join Los Angeles County and the City of Bellflower in recommending just such an approach to the issue of addressing natural sources in the Basin (see Specific Comments).</p>	<p>addressed. Therefore some degree of prioritization will always be necessary, regardless of the resources available to the Basin Planning Program.</p> <p>The Regional Board considered all stakeholder and staff issues of concern and indicated their preferences with regard to what should take priority. The recommended list is based on these preferences.</p> <p>The Regional Board is supportive of coordinating efforts with and soliciting input from stakeholders to address priority Basin Plan issues. The Regional Board will solicit input on the scope of priority projects as each project is initiated.</p>
7-4	Las Virgenes MWD	03/04/2010	<p>Where our collective efforts lead during the remainder of the current review cycle remains to be seen. All public agencies are challenged by the current economic climate, with less staff and less time available to devote to our respective mandates, whether it entails ensuring water quality for 10+ million residents in the Los Angeles Basin, or meeting the daily water and sanitation needs of 100,000 residents in the JPA's service area. In the interests of the environment and reflective of the economic times, it is clear that we need to work together. We need Water Quality</p>	<p>Comment noted. The purpose of the Triennial Review is to review and modify where appropriate water quality standards to ensure that they reflect advances in our scientific understanding.</p>

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			Objectives, based on sound science, that if implemented, will achieve their goals. We need a better Basin Plan.	
7-5	Las Virgenes MWD	03/04/2010	<p><b>Re-evaluate how bacteria water quality objectives should be applied in compliance determination, based on more recent monitoring results.</b></p> <p><u>Comment:</u> The Staff Report recommends that recent monitoring data be re-evaluated to determine how permittees are to comply with existing Water Quality Objectives (WQO's) for fecal conform, <i>E. coli</i> and <i>Enterococcus</i>. In light of recent scientific evaluations of bacterial water quality indicators by the US Geological Survey, ULCA (Ambrose et. al) and the Southern California Coastal Water Research Project (SCCWRP), we urge the Regional Board to resolve this issue quickly, before local jurisdictions invest additional public funds in complying with the existing objectives. We appreciate Staffs' position that simply suspending or even withdrawing the existing objectives may be premature from administrative or legal perspectives. However, the law provides the Regional Board with some discretion with respect to enforcement of these WQO's, particularly when new scientific findings raise legitimate questions about their efficacy or accuracy.</p> <p>In this regard, the studies cited above tested the relationship between existing bacteriological indicators (e.g. total and fecal coliform bacteria, <i>Enterococcus</i>) and the levels of human pathogens actually present at local beaches in the Los Angeles basin, applying established methods routinely used in modern geotechnical, public</p>	Staff has addressed this issue previously in the <i>Specific Response to Comments on the Request for Input on the 2008-10 Triennial Review</i> released to the public on February 18, 2010. There is on-going research on new criteria, including local epidemiological studies and methodological developments in the fields of rapid indicators and microbial source tracking. EPA is expected to develop new criteria based on these studies by 2012. Until that time, EPA continues to recommend its 1986 water quality criteria for bacteria, and therefore, the region's current bacteriological objectives based on fecal indicator bacteria will remain in effect. The Board will continue to follow the progress of the science and will make changes to the bacteria objectives based on EPA's recommendations.

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			health and medical research (e.g. isotopic tracers, groundwater resistivity surveys, gene probes, epidemiological surveys). <i>These studies found that the tests currently relied upon to identify public health risks misrepresent the actual levels of human pathogens at local beaches, the sources of these pathogens, and the public health risks associated with them.</i>	
7-6	Las Virgenes MWD	03/04/2010	Accordingly, while the JPA agrees with the staff recommendation that the re-evaluation of these objectives should occur in the current Triennial Review cycle, our concurrence is based on our expectation that the re-evaluation will include a technical workshop to review the results of these recent scientific studies, especially with respect to how reliable the existing bacterial indicators are as measures of the risk of waterborne illness. While substantial public funds are expended each year by local cities and other responsible agencies to meet the existing bacteria-indicator based water quality objectives, there is little confidence in both the regulated and scientific communities that these funds are achieving their intended goal of protecting public health	The Regional Board's re-evaluation of the bacteria objectives will be limited to the current fecal indicator bacteria and will not involve a consideration of other indicators that are currently being researched. See response to Comment No. 7-5.
7-7	Las Virgenes MWD	03/04/2010	This issue should be resolved as quickly as possible by both the Regional Board and the US EPA given the very substantial and on-going economic impact to local cities and other responsible agencies to comply with the existing bacteria objectives. In the meantime, we ask the Regional Board to direct its staff to exercise as	Comment noted.

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			much latitude as possible in its compliance determinations for the existing bacteria objectives, consistent with the State's existing enforcement policy.	
7-8	Las Virgenes MWD	03/04/2010	<p>B. Reconsider the application of REC-1 and REC-2 beneficial uses in specific instances, where appropriate.</p> <p>Comment: The JPA concurs with the staff recommendation.</p>	Comment noted
7-9	Las Virgenes MWD	03/04/2010	<p>C. Complete an administrative update of the Basin Plan as specified in the Staff Report</p> <p><u>Comment:</u> We request more clarity on staffs' intentions with respect to the potential re-designation of ocean and inland dischargers. The legal and regulatory requirements associated with these categories are very different, and both water and basic sanitation services throughout the basin have necessarily been built around the regulatory requirements of either ocean or inland receiving waters, an integration that at this date, spans decades. Reclassification of discharges, especially those associated with public water supplies and sanitation services, could potentially result in profound impacts on these services. We are concerned with the inclusion of this item under "Administrative Updates", as it carries potential ramifications for virtually every aspect of our facilities and operations. Some additional clarity from staff would be greatly appreciated, particularly their view on how this element of the proposed administrative update might apply to small, intermittent inland dischargers such as the JPA.</p>	The Regional Board currently has no intention of re-designating ocean and inland discharges. The mapping update referred to simply involves clarification of boundaries of reach segments, groundwater basins, estuaries, harbors and enclosed bays.

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			Depending on the scope of work envisioned by staff, we believe it could qualify as a project under CEQA independent of the pro forma findings on compliance with CEQA recorded in the draft Resolution.	
7-10	Las Virgenes MWD	03/04/2010	<p><b>D. Complete work on the Design Storm project (should funding become available).</b></p> <p><u>Comment:</u> None at this time, the JPA may provide additional comments and recommendations on this project as its scope becomes clearer.</p>	Comment noted.
7-11	Las Virgenes MWD	03/04/2010	<p><b>E. Continue work on the Hydromodification Policy.</b></p> <p><u>Comment:</u> As for our previous comments on Administrative Updates (Item C, above), we would appreciate additional clarity from Staff as to their views on the ultimate goal of this policy, especially how it might translate to enforceable permit conditions for existing inland dischargers. As an acknowledged leader in water recycling, the JPA fully supports the Regional Board's desire for greater recycling, and we share its vision of 100 percent, consumptive use wastewater recycling. However, we feel compelled to point-out the obvious: The goal of 100 percent recycling is likely to be decades away, even assuming adequate public political and financial support. Until then, essential water and sanitation services throughout this region of 14+ million people will necessarily depend on facilities and operations that modify the natural hydrology of the watersheds where they are located.</p>	The purpose of the hydromodification policy is to develop criteria and evaluation requirements to be used by Board staff when evaluating projects for water quality certification under Clean Water Act section 401, or issuing waste discharge requirements for dredge and fill activities, and setting conditions for certification or approval. The goals of such a policy would be to strongly encourage the preservation of water courses in their natural state and to reduce negative water quality impacts associated with their alteration in the manner described above.

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7-12	Las Virgenes MWD	03/04/2010	Accordingly, we ask the Regional Board to clarify how this policy may be applied to existing NPDES permits. Attention to this issue at the outset may avoid expensive and time-consuming legal challenges later that may arise as the Hydromodification Policy is applied in individual permits. Does Staff envision that its work on the Policy will result in permit conditions within the current Triennial Review cycle (i.e. 2009-12)? If so, we ask that the draft Resolution include language directing the Executive Officer to convene a workshop or public hearing to receive stakeholder input <u>prior</u> to the use of the Hydromodification Policy to modify or amend existing individual NPDES discharge permits. At a minimum, the goal of restoring native flows needs to be reconciled with the need to protect effluent-dependent wildlife under federal and state endangered species laws. This reconciliation should be done at the outset, and contained within the Hydromodification policy, rather than left to the appeal process associated with individual NPDES permits	Stakeholders and interested parties were involved in crafting the initial resolution directing staff to begin work on the policy (see Regional Board Resolution R05-002). Regional Board staff intends to again engage stakeholders and interested parties in the development of the policy and will provide opportunities for public review and input prior to the Board's consideration of a draft policy, and prior to implementing such a policy through the Board's regulatory programs.  The Tentative Resolution that was circulated for this triennial review cycle is the mechanism for the Board's selection of the projects to be worked on during the current Triennial Review period as is not the place for directives on how these projects should be conducted.
7-13	Las Virgenes MWD	03/04/2010	We feel a workshop or informal hearing is warranted given the potentially broad spectrum of consequences that attend hydromodifications of any sort, either those that reduce flows (i.e. diversion of natural waters for other uses) or increase them (i.e., wastewater discharges or imported water supplies). This policy deserves a careful screening for potential, unintended consequences before it is implemented in individual permits	See response to Comment No. 7-12

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7-14	Las Virgenes MWD	03/04/2010	<p>F. Provide support to other Regional Board Programs including TMDLs, Municipal Permitting, and Stormwater Permitting.</p> <p><u>Comment:</u> Our concern is that this support will reduce the very limited staff time available update the Basin Plan in areas unrelated to these three programs. While each of these programs has a nexus with the Basin Plan in an administrative sense, shouldn't the staff time necessary to fulfill the legal mandates of these programs be included within the budget for these specific programs? The water quality objectives in the Basin Plan are the starting point for TMDLs and permits; it seems that greater priority should be given to ensuring they are correct at the outset, in the next version of the Basin Plan, rather than continuing to invest time and money addressing their consequences in subsequent TMDLs and permits. We appreciate that no amount of diligence and review will guarantee the accuracy of the standards in the Basin Plan, and that correcting these errors "downstream" in the regulatory schedule can consume significant staff time. But we believe the funds designated for improving the standards themselves in the Basin Plan itself should take priority. Perhaps it would be useful if the staff report could identify how much of the existing budget for this cycle of the Triennial Review might be devoted to this item, in relation to the other priorities.</p>	<p>Providing support to other Regional Board programs is a necessary on-going function performed by the Basin Planning Program on an as-needed basis. As stated in the draft Staff Report, one and a half (1.5) Basin Planning PYs are required over the course of three years to complete ongoing projects, participate in statewide Basin Planning initiatives, and support other Board programs, leaving three (3) Basin Planning PYs available over the next three years to address the projects selected during this Triennial Review.</p>
7-15	Las Virgenes MWD	03/04/2010	<p>G. Address legal and regulatory mandates (where required).</p> <p><u>Comment.</u> We reiterate our comments in (f) above. The draft Resolution records the number of Basin Plan</p>	<p>The legal and regulatory mandates referred to here would be as a result of court rulings and directives from US EPA or State Board, respectively. The Regional Board</p>

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			<p>amendments approved in each of the three preceding cycles of Triennial Review, but it is not clear how many of these amendments were adopted as a result of the Basin Planning process (i.e. a revision of a Water Quality Objective found incorrect or inappropriate during the Triennial Review process, for example), versus amendments adopted only when a legal challenge subsequent to the review required it. In other words, before the JPA can comment on this recommendation, we would like to know at least from a recent, historical perspective, how much time has been devoted to one of the central goals of the Triennial Review - catching and correcting errors in the existing Basin Plan before they can propagate into existing permits and new regulations - and how much of these funds or staff time have been spent addressing legal mandates to correct errors afterwards. We do not question the Board's right or duty to respond to legal and regulatory mandates, even using funds intended to complete the Triennial Review. But it is difficult to comment on this item absent more information or the amount expended to date on mandates that can trace their origins to incorrect information in the Basin Plan. Accordingly, if available, we request additional information on the number of amendments the Basin Plan in the last review cycle that were adopted in compliance with a legal or regulatory mandate to revise a Waster Quality Objective outside of the Basin Planning process. Alternatively, if this information is not readily available, perhaps staff could speak to this issue in its report to the board. We believe the Board, and all stakeholders would like a better sense of how much time and/or money is spent on correcting the Basin Plan through the Triennial Review process versus</p>	<p>cannot predict when these may arise or what they may entail, and in the past has not distinguished between Basin Plan amendments based on why they were prompted.</p>

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			that spent on correcting via other processes such as legal mandates or TMDLs.	
7-16	Las Virgenes MWD	03/04/2010	<p>Biological Indicators</p> <p>The JPA is concerned with some stakeholders' desire to accelerate the adoption of so-called biological indicators into the regulatory requirements contained in NPDES permits. In our opinion, based on the review of available scientific literature, there is a substantial amount of work needed to make a transition from the theoretical premise of biological indicators as integrated measures of water quality to legally-enforceable water quality objectives. The objective – to measure water quality using the organisms that live in it - holds much promise, but before these indicators are incorporated into the Basin Plan (let alone individual NPDES permits), it must first be demonstrated how the approach separates from these indicators those effects that have little or nothing to do with human activities in general and wastewater discharges in particular. To cite a real example New Zealand mud snails, an non-native, invasive species, has substantially impacted the aquatic macroinvertebrate community in the JPA service area; how will these effects be separated from water quality effects in a routine way by our staff during compliance monitoring? Can a method be sufficiently developed during the current review cycle to justify the adoption of legally-enforceable water quality objectives in the next, updated Basin Plan? In our view, we believe it is extremely unrealistic to expect Regional Board staff to accelerate the process sufficiently to support the incorporation of biological indicators into the Basin Plan</p>	<p>Staff did not recommend the adoption of biological indicators as one of the projects to be addressed during the current triennial review period. However, the State Board is pursuing groundwork to develop biological objectives at a statewide level. As such, comments regarding the timing and approach to adopting biological objectives should be directed to the State Board.</p>

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			<p>during the current, three-year review cycle. As a tool in assessing water quality, this approach may prove useful in concert with existing measures of water quality found in the Basin Plan. But we believe their elevation to legally enforceable Water Quality Objectives in the current review cycle is a mistake.</p>	
7-17	Las Virgenes MWD	03/04/2010	<p><b><u>Numerical Nutrient Endpoints</u></b></p> <p>Similar to Biological Indicators - in fact, a form of biological indicator - numerical nutrient endpoints are proving to be very elusive, both from the scientific and water treatment perspectives. We incorporate by reference the review by Jungreis and Thomas (2007) on NNEs and their challenges for the regulatory community. As for the Hydromodification Policy, we ask that the Regional Board build into the NNE development process substantial public process to ensure that any proposed NNE is properly reviewed and vetted with the regulatory community before their adoption into the Basin Plan as Water Quality Objectives, preferably after a real-world test of some duration to verify their efficacy in controlling those specific water quality impairments attributed to nutrient enrichment in our local creeks, lakes, and estuaries.</p>	<p>As is the case with all Basin Plan amendments, development of numerical nutrient endpoints will include a public process to allow review by and input from interested parties and stakeholders.</p>
7-18	Las Virgenes MWD	03/04/2010	<p><b><u>Natural Background Sources</u></b></p> <p>We agree with comments by the Los Angeles County, the City of Bellflower and other stakeholders on the need to identify natural background loadings of pollutants of concern. We urge the Regional Board to adopt their</p>	<p>Comment noted.</p>

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			<p>recommendation to form a <u>Natural Sources Study Task Force</u> consisting of regulated agencies, the Regional Board, environmental community, and research institutions. This type of multi-agency, collaborative approach, focused on a specific issue, is an efficient way to enlist stakeholders to share their data and information on natural sources from various jurisdictions in the Basin, reserving the Regional Board staff's limited time for oversight and review. This approach could dramatically improve the Basin Plan while minimally increasing Regional Board staff workload. At the Regional Board's discretion, information gathered in this way can serve as the basis for Basin Plan revisions, TMDL implementation, and the development of effective, Site-Specific Objectives (SSO's).</p>	
7-19	Las Virgenes MWD	03/04/2010	<p>Staffs' response that natural sources may be addressed during Water Quality Objective (WOO) implementation as time and resources allow seems to dismiss this issue as less important than those projects identified as priorities in the draft Resolution. It also places the burden of addressing these sources at the end of the regulatory process (i.e. after WQO's are adopted) rather than simply conducting an single, Basin-wide inventory of known natural sources, and recording it in a central, widely-accessible document like the Basin Plan. This information can inform TMDL development at the outset, rather than during the implementation phase or as revisions to already-established TMDLs. In this regard, we point out that the nutrient TMDL for Malibu Creek, cited in Staffs' response as one of the four, statewide NNE case studies,</p>	<p>Staff did not intend to appear dismissive of this issue. To the contrary, the response was intended to acknowledge the importance of this issue and to express the Regional Board's intent to address it while being mindful that it may not be possible to do so immediately given our current resource constraints. Our response also considered the fact that the Board, during the April 2009 Board workshop, did not indicate a preference for this issue to be addressed during this review period.</p>

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			<p>was established without any evaluation or even mention of local geological formations that preclude the attainment of the phosphorus NNE it established for this watershed (0.1 mg/L TP), despite the availability of geological maps for the entire watershed and a large scientific literature on the mineral and chemical content of marine Tertiary sediments in the watershed that are high in phosphorus, selenium, sulfate, salts and metals. Furthermore, this natural source extends well beyond the TMDLs watershed boundaries (i.e. is not site-specific), and will likely hinder the attainment of this NNE in most of the drainages north of the San Fernando Valley and other hydrologic units throughout the Basin where it occurs.</p> <p>We respectfully suggest that the Basin Plan is the right location for this information, either in Chapter 4 (WQOs) or even the Introduction, where the Basin's geology is described. Regardless, given its effects on both surface and groundwater quality, this information should really appear <i>somewhere</i> in the Basin Plan, and not be left for Staff and permittees to address piecemeal as TMDLs or permits are developed for individual water bodies in the Los Angeles Basin.</p>	
7-20	Las Virgenes MWD	03/04/2010	<p>We believe a regional workshop during the current Triennial Review is the right approach to this issue. Alternatively simply including a geological map showing where Tertiary marine sediments occur in the Basin in the Geology section of the Introduction would be an improvement over the current content, which describes the Basin geology in the most general terms and does not mention that some of the Formations present in the Basin can (and do) contribute high levels of salts, phosphorus,</p>	See response to 7-19.

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			arsenic, selenium and sulfate, all of which are regulated under existing WQOs.	
7-21	Las Virgenes MWD	03/04/2010	We appreciate the opportunity to comment. As always, the JPA's comments are intended as constructive and we welcome feedback from you or your staff in advance of the April 4 <sup>th</sup> public hearing on any of our comments or recommendations.	Comment noted. Also, please note that the public hearing is scheduled for April 1, 2010.
8-1	Rutan & Tucker	03/05/2010	This office represents and these comments are being submitted on behalf of the Cities of Arcadia, Bellflower, Carson, Cerritos, Claremont, Commerce, Downey, Duarte, Glendora, Hawaiian Gardens, Irwindale, Lawndale, Monterey Park, Paramount, Santa Fe Springs, Signal Hill, Vernon, and Whittier, along with the Building Industry Legal Defense Foundation (hereafter collectively "Petitioners"). Petitioners are parties to that action entitled <i>Arcadia v. State Board</i> , OCSC Case No. 06CCO2974 (the "Arcadia Case"). These comments and attachments are in response to the Regional Board's notice of January 19, 2010, regarding the April 1, 2010 Board Hearing on the 2008-10 Triennial Review ("2010 TR Notice").	Comment noted.
8-2	Rutan & Tucker	03/05/2010	These comments are in addition to previous comments and exhibits submitted by Petitioners to the Board on November 10, 2008 ("2008 Comments"), in response to the Regional Board's request of September 25, 2008 ("2008 TR Notice") for "data and information on water quality standards and other basin planning issues for the Los Angeles region." A review of Board staff's Responses to Comments shows that none of the Petitioners' 2008 Comments were accepted or agreed to by Board staff, and as such, continue to remain to be addressed by the Board during this 2010 Triennial Review. Petitioners request that	Comment noted. These comments and the 2008 comments, including exhibits, will be included in the administrative record.

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			<p>both these comments and their 2008 Comments, as well as all exhibits included herewith and with the 2008 Comments, be included in the administrative record for this 2010 Triennial Review, and we thank you and the Los Angeles Regional Water Quality Control Board ("Board" or "Regional Board") for its review and consideration of the same.</p>	
8-3	Rutan & Tucker	03/05/2010	<p>Petitioners' 2008 Comments focused on the need for the Regional Board to comply with the writ of mandate and judgment issued in the Arcadia Case during the current triennial review by:</p> <p>(a) reviewing and, where appropriate, revising the water quality standards ("Standards"), which apply or are to be applied to storm water and urban runoff (collectively "Stormwater"), in light of the factors and requirements set forth under Water Code sections 13241 and 13000, including, but not limited to, the specific factors set forth under Water Code sections 13241(a) — (f), and the considerations provided under Water Code section 13000; and</p> <p>(b) revising the Standards that apply or are to be applied to Stormwater, such that no "potential" use designations for such Standards remain in the Basin Plan.</p> <p>In responding to Petitioners' 2008 Comments on the 2010 Triennial Review in precisely the same manner as the Board Staff responded to similar comments on the 2004 Triennial Review, the Regional Board is once again poised to proceed in violation of the law, namely, California Water Code ("CWC") sections 13241 and 13000 and the Clean</p>	<p>The commenters seek to impose Water Code section 13241 requirements upon the current priority-setting phase of the triennial review process. As described in the Staff Report, the triennial review occurs in three phases. The current phase of the triennial review entails setting priorities for those standards-related issues to be addressed during the triennial review period. Section 13241 by its terms applies to the adoption (and by implication the revision) of water quality objectives. It does not apply to priority setting activities. As water quality objectives are adopted or revised as part of the third phase of the triennial review, a 13241 analysis will be performed for those activities, as required by law, and it has been performed in the past.</p> <p>The Arcadia II case addresses the issue of whether the entire Basin</p>

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			<p>Water Act's triennial review ("TR") provisions, which require a review and, "as appropriate," modifications to the Standards. (33 U.S.C. § 1313(c)(1).) While the Arcadia Case Final Judgment and Writ of Mandate may currently be stayed, the laws upon which they were based are not stayed and remain in full force and effect.</p>	<p>Plan must be reconsidered to consider the section 13241 factors, as they apply to storm water dischargers, and the appropriateness of the uses in the Basin Plan that are designated as "potential" (versus "past present and probable future" uses), even in the absence of any evidence that any particular water quality objective is not currently set at an appropriate level of protection, or that any designated beneficial use is not properly being protected. The absence of such evidence caused the trial court to acknowledge that compliance with its writ may appropriately result in no actual changes to the water quality standards.</p> <p>The matter is currently on appeal, and therefore there is presently no final judgment. Moreover, the writ is stayed during the appeal. As such, the Regional Board's obligations under the case are not yet finally determined, and the writ does not impose obligations currently.</p>
8-4	Rutan & Tucker	03/05/2010	<p>In the Arcadia Case, the Trial Court specifically held that the triennial review is "the appropriate time for the Board to</p>	<p>As noted above, the matter is on appeal and the writ is stayed</p>

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			<p>consider the 130001/13241] factors," and further that <i>the Board abused its discretion in asserting that such review was "beyond the scope of the triennial review."</i> (Superior Court Decision, Exhibit "2" to 2008 Comments, pp. 6-7 ["The Board should not have brushed off the Petitioners' comments and urgings to perform the 13241/13000 analysis at the 2004 TR."].) Yet, incredibly, the Regional Board is once again about to take precisely the same arbitrary action it took previously, even using the same language, to "brush-off" the Petitioners' comments. The Board is clearly turning a deaf ear to the Superior Court's interpretations of California law. No other conclusion can be reached from the Board's stated position.</p>	<p>pending appeal.</p> <p>If the writ is affirmed by the Court of Appeal, the Regional Board will then determine how to comply with it.</p>
8-5	Rutan & Tucker	03/05/2010	<p>For example, the Board makes the legally unsupportable claim that "Section 13241 by its terms applies to the adoption (and by implication the revision) of water quality objectives. It does not apply to priority setting activities." (General Response, p. 2.) Yet under the plain language of the Clean Water Act, the triennial review process is not a mere "priority setting" exercise. To the contrary, CWA specifically requires that "at least once every three year period" a State is to "hold public hearings <i>for the purpose of reviewing applicable water quality standards</i> and, as appropriate, <i>modifying</i> and adopting standards." (33 U.S.C. § 1313(c)(1).) Similarly, under CWA sections 13240 and 13143, basin plans are required to be "periodically reviewed" and "revised" as appropriate. Thus, reviewing and revising the Standards to ensure that they are scientifically and legally appropriate, is <i>exactly</i> what a triennial review is required to accomplish.</p>	<p>Comment noted. Regional Board staff disagrees with the commenters' legal assertions. See first paragraph of response to Comment No. 8-3.</p>

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8-6	Rutan & Tucker	03/05/2010	The Boards' position that the review/revision ordered by the Superior Court is beyond the scope of the triennial review because it interferes with the Board's list-making process, is not supported by any applicable federal or State law. As the Superior Court determined in its Final Judgment in the Arcadia Case dated November 26, 2010 (a copy of which is included herewith and marked as Exhibit "15" — the next exhibit in order from the exhibits submitted with the 2008 Comments):	The Arcadia II case is currently on appeal and the writ is stayed pending appeal. The Regional Board will take appropriate action with respect to these comments when the matter is resolved.
8-7	Rutan & Tucker	03/05/2010	The Court, having reviewed the applicable provisions of State and federal law governing the triennial review process to be followed when reviewing and revising Standards ( <i>see</i> 33 U.S.C. § 1313(c)(1) and Cal. Water Code §§ 13143 and 13240), hereby further declares that a public hearing is to be conducted as a part of the triennial review process, and that such public hearing is to be conducted for the express purpose of reviewing and, as appropriate, modifying the Standards or adopting new Standards. ( <i>See</i> 33 U.S.C. § 1313(c)(1).) The Court declares that, under applicable State and federal law, the triennial review process is <i>not</i> to be concluded until such time as the need for appropriate modifications to the Standards has been considered, and until such time as actual modifications, where appropriate, have been made to the Standards or determined not to be made.	The Arcadia II case is currently on appeal and the writ is stayed pending appeal. The Regional Board will take appropriate action with respect to these comments when the matter is resolved.
8-8	Rutan & Tucker	03/05/2010	(Exhibit "15," November 26, 2008 Final Judgment, p. 4, 11-4; <i>see also</i> Exhibit "16," a true and correct copy of the Final Writ issued by the Superior Court in the Arcadia Case [which requires the Boards to conduct the 13241/13000 analysis, and to correct the improperly designated "potential" designations, either during the new 2004 TR	Comment noted. The Arcadia II case is currently on appeal and the writ is stayed pending appeal. The Regional Board will take appropriate action with respect to these comments when the matter is

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			process (the Board's Resolution concluding the original 2004 TR was voided) or during the "next" scheduled triennial review.]	resolved.
8-9	Rutan & Tucker	03/05/2010	The triennial review process is <i>not</i> intended to be a perpetual listing process, yet that is precisely what the Board appears to have made it. Indeed, the 2010 TR Staff Report indicates that the process began with a list of 10 issues which were "outstanding from the 2005 to 2007 Triennial Review priorities list," presumably meaning the list of items designated during the 2004 TR process had not been addressed. (2010 TR Staff Report, p. 13.) Thus, issues which were identified in 2004 TR as being a "priority" have now once again been re-listed as "priorities" for consideration over the next three (or, more likely, five) years.	<p>Staff disagrees with this comment. The triennial review is not a listing process; rather it involves the identification of priority issues to be addressed, and the completion of their associated projects within a given period. Due to the large number of stakeholders and the corresponding number and variety of issues raised, prioritization of projects is necessary. The Staff Report documents the projects completed during the previous (2005-2007) and current (2008-2010) triennial review periods (see Staff Report, pp. 5-12). Twenty five Basin Plan amendments were completed during the previous triennial review. Seven more have been completed in the current review period. The staff report also discusses on-going basin planning projects and those expected to be completed within the current review period.</p> <p>The purpose for prioritizing at the start of each triennial review period is to ensure that issues with the</p>

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				greatest need for address receive consideration, regardless of when they may have arisen.
8-10	Rutan & Tucker	03/05/2010	And if the Board again fails to then address these issues in the next 3-5 years, it will presumably include such issues on its "next" "priority list" during the "next" triennial review. In fact, at least one of the projects proposed to be addressed during the current 2010 Triennial Review, i.e. to "Continue work on the Hydromodification Policy," appears to have been carried over from the <b>2001 TR</b> , meaning issues identified in 2001 have still not been fully addressed by the Board after more than nine years of "reviews." This perpetual "lifting" process is clearly inconsistent with the CWA's requirement that the Standards be reviewed, and, as appropriate, modified "at least once every three year period." (33 U.S.C. § 1313(c)(1).)	See response to Comment No. 8-9.
8-11	Rutan & Tucker	03/05/2010	Likewise, the Board's claim that general or "blanket revisions of standards" are inappropriate during the triennial review process is not supported by any law. While Board staff repeatedly indicates it will consider revisions only to "specific" criteria or uses where "specific justifications" are given, it fails to cite any authority to support this position, and the position is obviously inconsistent with the Superior Court's Judgment in the Arcadia Case. Attached hereto as Exhibit "17" is a copy of Petitioners' Combined Opposition/Opening Brief filed with the Appellate Court in the Arcadia Case, which more thoroughly describes Petitioners' concerns and explains why a review/revision of the Standards was required in 2004, and why the designated "potential" uses must be deleted or changed to "probable future" uses. Since such a	Comment noted. The Arcadia II case is currently on appeal and the writ is stayed pending appeal. The Regional Board will take appropriate action with respect to these comments when the matter is resolved.

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			review has still not been undertaken, it is required during the current 2010 Triennial Review for the same reasons explained in the Arcadia Case.	
8-12	Rutan & Tucker	03/05/2010	Moreover, the Superior Court's decision in the Arcadia Case aside, the need to review and revise the Standards, in light of the Board's decision to apply numeric limits to Stormwater, is further demonstrated by additional data and reports showing the unique challenges involved in addressing urban runoff. For example, a recent report prepared by the County of Orange Resources and Development Management Department on the effectiveness of a Water Quality Improvement Package Plant's treatment of urban runoff (attached hereto as Exhibit "18") found that while the plant was very effective in reducing bacteria levels in the discharge it treated (resulting in a 99.6% reduction in the fecal coliform geomean), much of this benefit was lost because of rapid bacterial regrowth in the effluent from the plant, i.e. "[t]he treated water experiences a rapid regrowth of bacteria concentration after being released back into the stream." (Exhibit "18," pp. 15-17.) Thus, even treating Stormwater before it is discharged into surface waters may not result in attainment of Standards for the receiving water bodies, because of natural sources of pollution and other issues.	Comment noted. The US EPA is actively working on the development of new water quality criteria to protect recreational waters, and is scheduled to complete this work by 2012. The Regional Board will update its water quality objectives, as appropriate, once the final updated water quality criteria are published by the US EPA pursuant to Clean Water Act section 304(a). However, in the meantime, the EPA continues to recommend the use of fecal indicator bacteria as water quality criteria, as set forth in <i>Water Quality Criteria for Bacteria – 1986</i> , and the Regional Board is required to have water quality objectives consistent with these federally recommended criteria.
8-13	Rutan & Tucker	03/05/2010	Indeed, several members of the State Water Board commented on the difficulties of achieving the Water Quality Standards set forth in the Basin Plan for urban runoff back in 2002, when the Boards amended the bacteria objectives for waters designated for contact recreation, with the then-Chair of the Board, Arthur Baggett, stating (after the Board had approved the new	Note that the Regional Board, in direct response to the concerns of the State Board, immediately undertook a use attainability analysis (UAA) for engineered channels during high-flow conditions. As a result of this

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			<p>objective) as follows: I guess I see 20 years from now the scene in L.A., you are going to tertiary treat every drop of stormwater. There is not going to be a drop of water in the L.A. River going to the ocean that is going to be used for groundwater recharge. That is what I see as a long term — what this is driving things for, which isn't a benefit, in my opinion, to the fish, to the citizens, to those who recreate or anybody else. We will certainly have clean water going to the beach because there won't be any. When the price gets to the point it is starting to move to, I guess whatever we can do to assist.... (Exhibit "19," July 18, 2002 State Board Transcript, p. 72.)</p>	<p>analysis, just a year after the State Board's comments, the Regional Board adopted an amendment to the Basin Plan to suspend the recreational beneficial uses and the associated bacteria objectives during high-flow conditions resulting from storm events (Regional Board Resolution No. R03-010). Additionally, since 2002, the Regional Board in adopting federally required TMDLs has provided significantly longer timeframes for municipalities to implement measures to achieve the TMDL in order to encourage approaches that integrate water resources planning, including the capture and re-use of stormwater.</p>
8-14	Rutan & Tucker	03/05/2010	<p>The Chair's comments were echoed by Board Member Peter Silva, who stated "I agree. I was down in Orange County all last week looking at MS4 issues and stream flow issues. I agree, we are headed for a train wreck.... I'm frustrated." (Exhibit "19," p. 72.)</p> <p>Board Member Gary Carlton then summed up the situation:</p> <p>I think that these great controversies that we are facing now are going to get more intense because of the Basin Plan. I think this is a Basin Planning problem.... I think all the stakeholders are aware that the Boards are not well funded on their own to evaluate the Basin Plans. I think</p>	<p>See response to Comment No. 8-13. Additionally, note that Regional Board staff is recommending as a priority in this review period a continuation of the above re-evaluation of recreational uses in engineered waterbodies.</p>

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			<p>that what has happened in the Central Valley is those stakeholders impacted by provisions of the Basin Plan which need reexamination have come forward and put the right foot forward with funding and unbiased objective efforts to go ahead and make these evaluations. I think that is what has to happen around the state. (Exhibit "19," p. 73.)</p> <p>Chair Baggett concluded the matter, stating:</p> <p>I would agree this is a train wreck. We probably — none of us will be here very likely when this wreck occurs. I think somebody has to start looking ten and 20 years out. What is the long-term solution? I don't know that it is going to benefit anybody or at least the people and the wildlife that live there. (Exhibit "19," p. 74.)</p>	
8-15	Rutan & Tucker	03/05/2010	<p>Unfortunately in the nearly eight years since this discussion, the Boards have done nothing but continue down the same track, a track which at least three State Board members recognized was leading to a "train wreck." Indeed, it was the Boards' refusal to address this "Basin Planning problem" during the 2004 TR that caused the Petitioners to file the Arcadia Case. Since the Basin Planning problem still has yet to be addressed, and given that the Regional Board is about to make precisely the same legal mistakes it made during the 2004 Triennial Review, Petitioners respectfully urge the Board to take up these issues now, once and for all, and to conduct the analysis required under the Porter-Cologne Act, without waiting until the Boards are finally forced to do so by the Writ and Judgment issued in the Arcadia Case. To wait and do otherwise will only lead to more litigation.</p>	See response to Comment No. 8-13 and 8-14.

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8-16	Rutan & Tucker	03/05/2010	<p>The fact that there are significant problems with the way urban runoff is currently being regulated has also been noticed at the federal level. The challenges faced in regulating Stormwater were discussed in a detailed 500 page report issued in 2008 and prepared by the National Research Council ("NRC") of the National Academies, entitled <i>Urban Stormwater Management in the United States</i>. (Attached hereto as Exhibit "20," see also The National Academies Oct. 15, 2008 Press Release, attached hereto as Exhibit "21.") The NRC report was the result of a request by the U.S. EPA for the NRC to "review [EPA's] current permitting program for stormwater discharge under the Clean Water Act and provide suggestions for improvement." (Exhibit "20," p. vii.) The request was based upon the recognition that "the current regulatory framework, which was originally designed to address sewage and industrial wastes, has suffered from poor accountability and uncertainty about its effectiveness at improving water quality." (Exhibit "21," p. 1.) It is important to note that one of the Regional Board's own prior employees, Dr. Xavier Swamikannu, then Chief of the Stormwater Permitting Program for this Regional Board, was among the contributors to the NRC Report. (Exhibit "20," pp. v, 512.)</p>	<p>Comment noted; however, the NRC Report, as the commenter states, was in response to an EPA request to "review [EPA's] current permitting program for stormwater discharge under the Clean Water Act..." Comments related to NPDES permitting of stormwater discharges are outside the purview of the triennial review of water quality standards.</p>
8-17	Rutan & Tucker	03/05/2010	<p>Significantly, the NRC Report also indicated that Stormwater considerations should be taken into account when designating beneficial uses:</p> <p>Some states, such as Ohio, have added important details to their beneficial uses by developing tiered aquatic life uses that recognize a strong gradient of anthropogenic background disturbance that controls whether a waterbody</p>	<p>As discussed in the Staff Report and in the <i>Specific Response to Comments on the Request for Input on the 2008-10 Triennial Review</i> released to the public on February 18, 2010, the development of tiered aquatic life uses is an issue that the Regional Board began to address in</p>

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			<p>can attain a certain water quality and biological functioning. The concept of tiered beneficial uses and use attainability is especially important with regard to urban stormwater because of the potential irreversibility of anthropogenic development and the substantial costs that might be incurred in attempting to repair degraded urban watersheds to "swimmable-fishable" or higher status. Indeed it is important to consider what public benefits and costs might occur for different designated uses. For example, large public benefits (in terms of aesthetics and safety) might be gained from initial improvements in an urban stream (e.g., restoring base flow) that achieve modest aquatic use and protect secondary human contact. However, achieving designated uses associated with primary human contact or exceptional aquatic habitat may be much more costly, such that the perceived incremental public gains may be much lower than the costs that must be expended to achieve that more ambitious designation. (Exhibit "20," pp. 46-47) These are precisely the type of issues which Petitioners have been requesting the Boards consider for the better part of a decade, e.g. Petitioners have consistently asked the Boards to reconsider the appropriateness of designating concrete-lined flood control channels as REC-1 and similar uses, which cannot reasonably be attained. Petitioners now again request that, among other things, the Board reconsider the appropriateness of all designated uses for each flood control channel, in light of the NRC's findings.</p>	<p>the previous triennial review. The first step of the development process was to tailor the national conceptual framework for application to western semi-arid streams and, in particular, coastal streams where it is vital to protect downstream sensitive and ecologically rich coastal waterbodies. The Regional Board worked with EPA, Tetra Tech and local experts to begin to modify the national framework to this setting. The Regional Board continued this work by soliciting input from stakeholders on the concept of tiered aquatic life uses, and the additional data needed to implement tiered uses in regulatory programs in the LA Region. This work culminated in the identification of 13 projects that need to be undertaken to develop scientifically defensible tiered uses, and integrate these tiered uses into the existing water quality standards program. Further work on this issue will be dictated by the availability of funding and Basin Planning staff resources. Regarding recreational uses, see response to Comment No. 18-13 and 18-14.</p>

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8-18	Rutan & Tucker	03/05/2010	The NRC Report's finding that "the technical demands of the TMDL program make for a particularly bad fit with the technical impediments already present in monitoring and managing stormwater" (Exhibit "20," p. 51) is also of particular significance, given the Board's recent push to adopt TMDLs and to incorporate numeric effluent limitations based on such TMDLs into stormwater NPDES permits. The Board should reconsider the appropriateness of incorporating TMDLs into such permits, particularly without first conducting the 13241/13000 review/revision of the Standards ordered in the Arcadia Case, and without first correcting the improper "potential" use designations.	Each TMDL has its own public review and participation process. Comments should be directed to these specific proceedings in a timely and appropriate manner. The Triennial Review is a proceeding to consider the current technical and legal efficacy of the water quality standards, or to address changed circumstances that may warrant a subsequent review; it is not a forum to reargue previous regulatory decisions made by the Regional Board without new significant evidence.
8-19	Rutan & Tucker	03/05/2010	Two of the other responses to comments made by the Board in response to Petitioners' 2008 Comments merit comment. First, in Response to Comment 46-6, the Board responds to Petitioners' request that the Board consider the "comments, data, exhibits and other documents submitted by many of these Petitioners in connection with the 2004 Triennial Review" by asserting that there is no need to incorporate a prior triennial review record into the current triennial review record, and arguing that doing so would present "a skewed and inaccurate history of basin planning activities." The Board then goes on to wrongly claim that, during the Arcadia Case, Petitioners placed incomplete triennial review records before the Court, enabling Petitioners "to incorrectly argue that basin planning activities had not occurred, that actually had, and to	Comment noted, please see response to comment 8-20 below.

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			<p>mischaracterize the nature of the triennial review process and the scope of the regional board's management of its basin plan." These assertions reflect a complete lack of understanding of the proceedings in the Arcadia Case, and of the administrative review process in general.</p>	
8-20	Rutan & Tucker	03/05/2010	<p>To the point, Petitioners have offered relevant evidence for consideration by the Board and to be included within administrative record for the 2010 TR. A portion of this evidence was also submitted to the Board for consideration in connection with the 2004 TR. (See Exhibit "6" to the 2008 Comments, a compact disk of the 2004 TR administrative record submitted in the Arcadia case.) Rather than consider such evidence during the 2004 TR, the Regional Board simply (as stated by the Superior Court) "brushed off" Petitioners evidence and comments. (Exhibit "2" to 2008 Comments, p. 7.) Worse, now the Regional Board is refusing to even accept this information for consideration during the 2010 TR, i.e., the Board is turning a deaf ear to the Petitioners' concerns and to the Superior Court's rulings. If Board staff truly believes that even more evidence needs to be available to the Regional Board for review, then, of course, Board staff is free to introduce such additional evidence. Such is the way the administrative process is designed to work. But Board staffs attempt to prevent this evidence from being included in the administrative record for this 2010 TR, and to prevent the Board from even looking at the evidence, is a clear abuse of discretion and is action contrary to law.</p>	<p>After further consideration, the commenters' 2004 comments, including exhibits, will be included in the administrative record of this proceeding.</p>
8-21	Rutan & Tucker	03/05/2010	<p>Finally, the Boards' contention that Petitioners have wrongly argued that the Triennial Review must be conducted through a "single hearing," rather than multiple</p>	<p>Comment noted.</p>

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			<p>hearings, is meritless, given that Petitioners have never contended the triennial review must be conducted in a "single hearing." In fact, Petitioners' prior comments quoted the language of the Judgment in the Arcadia Case, which provides that the process is to include a "full and fair public hearing <i>or hearings.</i>" (Exhibit "15," p. 3, emph. added.) The triennial review process may be conducted in a single hearing or multiple hearings, but it must be conducted consistent with both State and federal law, and any Standards developed in conflict with those laws must be reviewed, and "as appropriate," modified before the triennial review process can be completed. (33 U.S.C. § 1313(c)(1).)</p>	
9-1	Ventura Countywide SWQMP	03/03/2010	<p>The Ventura Countywide Stormwater Management Program (Ventura Program) would like to thank you for the opportunity to provide the following comments on the subject, in response to your January 19, 2010 notice requesting written comments on the Los Angeles Regional Water Quality Control Board's (Regional Board) proposed 2008-10 Triennial Review Tentative Resolution and Staff Report.</p>	Comment noted
9-2	Ventura Countywide SWQMP	03/03/2010	<p>Given the circumstances and available resources, the Ventura Program would like to acknowledge the extraordinary efforts made by the Regional Board in prioritizing the region's water quality issues and identifying the seven highest priority projects and recommendations being considered on April 1, 2010. We are pleased to see that most of the issues and requests we made during the comment period were addressed, reviewed, and/or listed in the final recommendations. Therefore, we fully support the identified seven Basin Plan projects that will be</p>	Comment noted

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			presented before the Regional Board for adoption.	
9-3	Ventura Countywide SWQMP	03/03/2010	It is important to stress that as science and new circumstances evolve, the Regional Board should also consider reviewing and updating its priorities and projects. In particular, the incorporation of EPA-established TMDLs into the MS4 permit should be included in the development of the new guidance. As more and more TMDLs without implementation schedules are adopted and incorporated into enforceable regulatory mechanisms, it would be valuable and extremely useful for municipalities and other affected responsible parties to receive appropriate guidance as to how the allocations should be attained in a timely manner.	While incorporation of TMDLs into MS4 permits is outside the purview of the triennial review, Regional Board staff recognizes the need to provide more information on (i) how waste load allocations (WLAs) are expressed in permits, (ii) how compliance with the WLAs will be determined, (iii) enforcement triggers, and (iv) monitoring and reporting requirements. This level of specificity is provided in the recently incorporated Los Angeles River Watershed Trash TMDL in the Los Angeles County MS4 Permit. In providing a greater degree of specificity, as exhibited in the recently incorporated provisions, the unique elements of different TMDLs for different types of pollutants become more evident. Guidance that broadly covers incorporation of all TMDLs, including those established by EPA, into permits may not adequately reflect these distinctions. Therefore, staff has recommended that prototypes be developed on a pollutant-by-pollutant basis as part of the process of renewing MS4 permits as

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				well as other types of NPDES permits, waste discharge requirements, and waivers. This will result in all TMDLs for a given pollutant or group of pollutants being incorporated in a consistent manner.
9-4	Ventura Countywide SWQMP	03/03/2010	The Ventura Program supports efforts made toward improving the Basin Plan and protecting our vital water resources. We wish to continue working cooperatively with the Regional Board staff in prioritizing and directing resources appropriately to cost-effectively improve water quality and meet the objectives set forth in the Basin Plan.	Comment noted
10-1	Heal the Bay	03/04/2010	Heal the Bay submitted comments on November 10, 2008 and April 16, 2009 that recommended many critical issues to be considered for this Triennial Review cycle (see attached). While we understand in the Response to Comments that several of these items are being pursued at the State Board level, there are other issue areas that should be addressed by Regional Board. Examples include exploring water quality objectives for total phosphorus, CECs, and exotic species. Also given the slow pace of the State Board, it may be prudent to explore some of the items that the State Board and USEPA are supposedly spearheading. For example, the USEPA has been working on developing nutrient criteria for nearly 15 years. Meanwhile, eutrophication problems continue to plague our nation's waterways including those in the LA Region. We encourage you to revisit these comments.	<p>The nature of the triennial review process is such that there will always be a list of issues with varying stakeholder priority to be addressed. Therefore some degree of prioritization will always be necessary, and may not reflect the priorities of specific stakeholders or interested parties.</p> <p>The Regional Board considered all stakeholder and staff issues of concern and indicated their preferences with regard to what should take priority. The recommended list is based on this evaluation and the Board's preferences, expressed at the Board</p>

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				workshop.
10-2	Heal the Bay	03/04/2010	We support several of the projects described in the Staff Report that Regional Board staff will provide assistance on. For instance, the Report states that staff will support the State Board in developing narrative and numeric objectives for biological integrity. Also staff recommends developing guidance on incorporating TMDLs into permits through the use of “prototypes” or templates on a pollutant-by-pollutant basis. Unfortunately, our support for staff’s recommendations stops there.	Comment noted
10-3	Heal the Bay	03/04/2010	In addition to finishing several projects from the last Triennial Review cycle and providing basic support for other departments, staff essentially proposes two new projects: 1) Determine how bacteria water quality objectives should be applied in compliance determination based on more recent monitoring results and 2) Reconsider the application of REC-1 and REC-2 beneficial uses in specific instances, where appropriate. In general, we are extremely concerned that these staff recommendations for priority issues will move us backward in water quality protections instead of forward. These new priority issues appear to be largely discharger-driven for the purposes of weakening water quality protections. This begs the question as to why the Regional Board is prioritizing projects with their limited resources that do not help further its mission? Our concerns are described in further detail below	The purpose of these projects referenced by the commenter is to ensure the proper application of water quality standards and is consistent with the Regional Board’s mission. Protecting those using the regions’ waters for recreational activities is one of the top priorities of this Board. It is therefore necessary to evaluate the most reasonable and effective means of applying our multi-part bacterial objectives in order to achieve this goal. Such an application of the objectives will facilitate implementation of bacteria TMDLs which will ultimately result in improved water quality in the region.
10-4	Heal the Bay	03/04/2010	<b>A. Further developing the natural source exclusion approach</b> The Staff Report fails to expand on what is	The natural source exclusion is meant to apply where all

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			<p>meant by pursuing the natural source exclusion approach. In our experience, the discussion of “natural source exclusion” is used solely by dischargers who want to place the responsibility for a bacteria exceedance on birds, domestic pets, or some other wild animal. However, the critical fact that always seems to be missed is that anthropogenic influences are typically the reason for attracting the birds or other animals to the location, especially in an urbanized area such as Los Angeles County. For instance jetties, open trash cans, picnic tables and playground equipment attract large bird populations, and sometimes feral cat populations. Thus, this is not a “natural source” but is in fact a source created by humans.</p>	<p>anthropogenic sources of bacteria (including domestic pets) have been controlled. Further developing this approach will involve consideration of the factors to be taken into account in making a determination of the eligibility for such exclusion. This could include distinguishing between those sources created or exacerbated by humans and those naturally occurring.</p>
10-5	Heal the Bay	03/04/2010	<p>Also it is important to note that the presence of “natural” sources of bacteria at a beach does not negate the presence of human specific bacteria or human health risk. Many animal pathogens are known to pose human health risks including strains of E. coli – part of the fecal coliform group. In order to conduct such a study to parse out the source contribution, it would involve significant time and money. Each beach would need to be investigated for an extended period of time, undergo genetic source tracking for a variety of sources, and continuously undergo reassessment.</p>	<p>In developing applicable bacteriological criteria, EPA does not distinguish between human versus non-human sources of bacteria, and neither has the Regional Board in setting bacteria objectives, in recognition of the health risk that may be posed from both human and non-human sources of bacteria. The natural sources exclusion approach is not intended to make this distinction with regard to public health. Its purpose is to provide flexibility in the implementation of bacteria objectives in order to avoid holding the regulated community responsible for water quality exceedances resulting from</p>

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10-6	Heal the Bay	03/04/2010	A series of methods (qPCR, PFGE, etc.) would need to be performed, in order to reach an agreed upon confidence percentage, attributing most contamination to natural sources. This approach provides no definitive way to exclude the possibility of intermittent human bacterial contamination, thus weakening public health protection. Further, natural sources do not necessarily equate to a decrease in public health risk. New research has shown that avian pathogenic E. coli belongs to the same highly pathogenic clonal group as human E. coli strains (Moulin-Schouleur et al., 2007). In 2011, USEPA plans to hold an Experts Scientific Workshop on what future science might improve understanding of potential human health risks from exposure to fecal contamination from avian wildlife and wildlife in coastal recreational waters. Thus for these many reasons, the Regional Board should not prioritize a Natural Source Exclusion approach during this Triennial Review cycle.	uncontrollable natural sources. See response to Comment No. 10-5
10-7	Heal the Bay	03/04/2010	<b>B. Removing fecal coliform objectives for freshwaters</b> Again, the Staff Report provides limited information on what staff plans to evaluate on this topic, so it is difficult to evaluate. Is staff recommending exploring a different indicator? Specifically enterococcus? Is staff looking at rapid methods? Regardless, we recommend that staff devote resources to other items, as USEPA will have criteria developed in 2012.	Staff intends to remove the fecal coliform bacteria objective as applied to freshwater to eliminate redundancy. The Basin Plan contains a freshwater objective for E. coli based on EPA's recommendations that it is a better indicator of public health risk in freshwater than the more general fecal coliform indicator.  Removal of this objective is not

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				resource intensive and will remove redundancy from affected Regional Board permits and current and future bacteria TMDLs. There is no justification for putting this action off until 2012.
10-8	Heal the Bay	03/04/2010	<p><b>C. Evaluating alternatives for using the single sample and geometric mean objectives</b></p> <p>Single sample and the geometric mean objectives provide the regulatory agency with different, yet equally important, information regarding beach water quality. Single sample objectives are used to show an acute health risk and provide information for more recent water quality for a particular beach. The geometric mean is very useful in understanding water quality over time, as well as identifying problematic beaches. A <i>rolling</i> 30-day geometric mean, rather than a calendar month average, allows for tracking and investigation of changes in recent water quality. From a compliance perspective, it is extremely important that a 30-day geometric mean be calculated and compared to objectives on a weekly basis so poor water quality trends can be addressed in a timely manner. Exceedances should not be disregarded simply because we turn over the month in our calendars. Further, an annual or seasonally-based geometric mean calculation for compliance purposes is completely unjustified, as it deemphasizes any acute negative change in water quality. Thus we urge the Regional Board to maintain the current single-sample and rolling 30-day geometric mean standards as provided in all bacteria TMDLs</p>	Comment noted. This suggestion will be taken into consideration in evaluating alternatives for using the single sample and geometric mean objectives.
10-9	Heal the Bay	03/04/2010	<b>III. Staff Recommendation: Reconsider the application</b>	The purpose of the referenced

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			<p><b>of REC-1 and REC-2 beneficial uses in specific instances, where appropriate.</b>            There often appears to be a “one-way street” in beneficial use protections in the Los Angeles Region. We have seen dischargers jumping at opportunities to complete a UAA or a WER study. Yet we never see these studies completed for the purposes of increasing protection. Instead we see water quality standards gradually whittled down. This staff recommendation appears to be maintaining this trend.</p>	<p>project is to reconsider the REC-1 and REC-2 uses in certain waterbodies and not necessarily to remove them. Current and past uses and conditions of the waterbodies will be considered along with future plans to use the waters. Stakeholders and interested parties will be provided with opportunities to submit data and information for consideration and to be involved in the review process for any modifications to designated beneficial uses.</p>
10-10	Heal the Bay	03/04/2010	<p>The Staff Report states:             “...the appropriateness of assigning the water contact recreation (REC-1) use to engineered channels is frequently being challenged by numerous public flood control agencies. Concerns have also been expressed regarding the potential for such beneficial use designations to encourage recreational activities in areas that are unsafe. Where requested by stakeholders, staff may re-evaluate, where appropriate, recreational beneficial uses for engineered channels with conditions that may not be conducive to fully supporting their REC-1 designation.”            Staff Report at 15.             Staff’s proposed approach is inappropriate for several reasons. First many decision-makers and NGOs in the Los Angeles Region have placed focus on restoration</p>	<p>See response to Comment No. 10-9</p>

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			<p>efforts that may include elements that will positively affect recreational uses. For instance, the \$3 Billion Los Angeles River Revitalization Master Plan adopted by the City of Los Angeles in 2007 specifically envisions increased use of the River, including boating and other forms recreating. Of note in the summer of 2008, a group of kayakers navigated the entire 52-mile length of the LA River. While this activity is not widespread at this point in time, the 2008 LA River kayaking trip demonstrates the value of the River as a recreational resource.</p> <p>Further, the definition of REC-1 includes the activity of wading. Wading is very relevant to waterbodies in the LA Region such as Ballona Creek because the flows are usually quite low and conducive to wading, and because children, who are particularly susceptible to waterborne illnesses, enjoy wading. In the urban neighborhoods that Ballona Creek runs through, there are few recreational parks and other activities available for children. Ballona Creek is therefore an appealing place to recreate despite the fact that access is limited.</p>	
10-11	Heal the Bay	03/04/2010	<p>Finally, the issue of evaluating “safety” is not part of the Regional Board’s charge. The Regional Board’s mission is “to preserve and enhance water quality in the Los Angeles Region for the benefit of present and future generations.” Many waterbodies become “unsafe” for recreators during certain periods – even those that have no engineered channels.</p>	<p>The intent of the project is to apply the water quality objectives appropriately based on use of the water body, which may be affected by other conditions of the water body, not to evaluate public safety.</p>
10-12	Heal the Bay	03/04/2010	<p>Just because there may be some obstacles (i.e. fencing) or conditions deemed unsafe by some does not mean that the</p>	<p>Comment noted. See response to Comment No. 10-11</p>

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			Regional Board can ignore its mission. REC-1/REC-2 Beneficial uses should be maintained to ensure that public health is not compromised and high water quality is maintained. Weakening water quality standards is not a logical outgrowth of the discharger not meeting standards. Thus, we urge the Regional Board to not prioritize this issue area for the Triennial Review.	
10-13	Heal the Bay	03/04/2010	Although we strongly object to Regional Board efforts to delist recreation waters due to regulated community pressure, if the Board moves forward with this action it should be limited to narrow geographic delistings in concrete-lined areas with no public access and for the sole purpose of providing in-stream treatment for impairing pollutants.	Comment noted. Regional Board staff will consider this input when identifying the scope of the project. However, as previously stated, the intent of this project is to re-evaluate the appropriateness of the beneficial use, and only modify or remove it where justified based on the UAA.
10-14	Heal the Bay	03/04/2010	<b>IV. Conclusion</b> In sum, we are disappointed that the recommended priority projects primarily focus on mechanisms to weaken water quality protections. Staff's limited resources should not be directed to such projects. Rather we suggest focusing on issues described in our previous comments and supporting other agencies (i.e. State Board and USEPA) in efforts such as developing biocriteria, nutrient criteria and toxicity numeric water quality objectives.	See response to Comment No. 10-3