

**Response to Comments**  
**Category I: Other**

Sub-category #	Comments Category
I.1	General
I.2	Order, Cover pages and Parts I-II – Facility Information and Findings
I.3	Order, Part V – Receiving Water Limitations
I.4	Order, Part VI – Standard Provisions
I.5	Order, Part XI.A - Enforcement
I.6	Attachment A – Definitions
I.7	Attachments B and C – Maps

The below table includes all significant comments on the tentative permit sections described above and the corresponding Fact Sheet sections.

#	Commenter(s)	Comment	Response
I.1.1	Nina Danza	<p>Within my career, science and public knowledge has shifted to recognizing stormwater to be a resource, not a waste. However, stormwater is still vastly underutilized as a groundwater recharge strategy. Water scarcity is an increasingly pressing problem in Southern California and stormwater must be a greater part of the solution particularly through groundwater recharge.</p> <p><u>Groundwater Recharge</u>. The water board and permittees claim no or almost no land use decision-making capacities, while impermeable development keeps being constructed year after year and accumulates</p>	<p><b>No change.</b> The Watershed Management Program is an alternative compliance pathway for Permittees that is based on a watershed-wide framework. Watershed Management Programs encourage Permittees to implement multi-benefit stormwater BMPs such as capture, storage, treatment, and infiltration of stormwater. Some of these BMPs may be nature-based solutions. Low impact development (LID) with design features such as cisterns and green infrastructure are also encouraged. Although the Water Board has no land use authority to solve jurisdictional issues, the Watershed Management Program encourages multi-jurisdictional coordination amongst Permittees and there are many</p>

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		<p>and accumulates over the watersheds. The result is deprived groundwater basins, degraded groundwater dependent ecosystems and extremely difficult and expensive reversal strategies. If this permit intends stormwater to be dealt with more on a watershed-wide basis then the Board needs to take a leadership role in solving jurisdictional hurdles and add strong permit conditions that require stormwater to be a source of groundwater recharge measures in a watershed. Such conditions need to increase, restore, and maintain permeable land area. They need to be measurable and enforceable, not simply a reference to external policy, and address the full range of infiltration potential, from small but widespread urbanization projects to national forest lands.</p>	<p>provisions in the Tentative Order addressing this (see, e.g., Tentative Order Part VIII.F and Part IX.B.) Part VIII.F.5 (Part VIII.F.4 in the revised Tentative Order) addresses stormwater runoff from new and redevelopment and provides alternative compliance provisions where a new or redevelopment project provides an opportunity to replenish groundwater supplies at an offsite location. Attachment H includes a watershed management program (WMP) Progress Form with streamlined and uniform reporting requirements to assist in tracking metrics to determine compliance with Watershed Management Programs.</p>
I.1.2	Nina Danza	<p>Stormwater is still rarely prioritized to support native fish. It is not sought for supporting native vegetation, which is critical for indigenous wildlife as well as for removing surface pollutants naturally. It is not integrated as a climate change solution by applying on a mass level to urban green areas which act as carbon emissions sink and cool ground temperatures.</p> <p><u>In Stream Flows.</u> Water in regional streams and rivers must be balanced for fish, people and farms. All southern California steelhead</p>	<p><b>No change.</b> While establishing requirements for minimum in-stream flows is outside the scope of this permit, the Water Boards are participating in both statewide and regional workgroups and projects regarding in-stream flows, including the California Environmental Flows Workgroup (see <a href="https://mywaterquality.ca.gov/monitoring_council/environmental_flows_workgroup/index.html">https://mywaterquality.ca.gov/monitoring_council/environmental_flows_workgroup/index.html</a>) and the Los Angeles River Flows Project (see <a href="https://www.waterboards.ca.gov/water_issues/programs/larflows.html">https://www.waterboards.ca.gov/water_issues/programs/larflows.html</a>). Some MS4</p>

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		<p>species are nearly extinct and this permit needs to incorporate requirements for minimum in-stream flows for native fish population. This topic can be solved only on a watershed basis, and a storm water permit is an appropriate time and vehicle to do so. Your office needs to step up and integrate storm water flow solutions for fish, people and farms into the regional permit.</p>	<p>Permittees, including Los Angeles County and the City of LA, are also involved in the Los River Flows Project. The Tentative Permit also includes hydromodification management requirements to prevent accelerated downstream erosion and protect stream habitat from new and re-development. (See Tentative Order, Part VIII.F.2.) Finally, the Tentative Order follows the guiding principles of the State and Los Angeles Water Boards' Climate Change Resolutions (Nos. 2017-0012 and No. R18-004, respectively) as well as Executive Order N-10-19 by contributing to an adaptive climate change and water resilience strategy. Through multi-benefit regional projects, stormwater and non-stormwater runoff can be captured, infiltrated, and used to mitigate periodic drought conditions, reduce flood hazards and erosion rates, and recharge depleted groundwater aquifers and other water supply sources, all while reducing pollutant loads, maintaining beneficial uses in receiving waters and improving community health. (See, Fact Sheet discussion at F-93-F-94.)</p>
I.1.3	Nina Danza	<p><u>Native Vegetation and Riparian Areas.</u> As noted above, this permit needs to require a larger volume of stormwater retention on urban projects in multi-use swales or basins with native vegetation. Vegetation is a climate change reduction solution, absorbs atmospheric carbon and native vegetation is</p>	<p><b>No change.</b> See response to comments I.1.1 and I.1.2. Permittees participating in a Watershed Management Program are required to target the retention of runoff from the 85<sup>th</sup> percentile 24-hour storm event. Due to the unique water quality issues, geographical characteristics, and geotechnical</p>

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		<p>vital to wildlife biodiversity. Past and current stormwater permits are too weak to achieve these benefits and only ‘encourages’ multi-benefits:</p> <p><i>“(5) encourage the use of green infrastructure and the adoption of low impact development principles; (6) encourage the use of multi-benefit regional projects that capture, infiltrate, and reuse storm water;” (p. 16)</i></p> <p>In addition, this permit needs to prioritize stormwater flows to areas of riparian vegetation at streams and rivers. Riparian habitat is exceedingly rare in the state yet is has one of the highest number of different species, both terrestrial and avian, of any type of habitat. Some species can survive nowhere else but riparian areas. A larger watershed perspective for preserving stormwater flows to riparian areas is necessary, and measurable, enforceable actions are needed in this permit.</p> <p>Finally, vegetation in both urban and riparian areas will naturally remove surface water contamination, effectively and inexpensively. However, the current permit simply ‘encourages’ the use of green solutions and there are insufficient conditions to require their use (see citation above).</p>	<p>situations of each watershed in the Los Angeles Region, the permit provides Permittees flexibility to implement stormwater BMPs as appropriate. Watershed Management Programs encourage the use of green solutions.</p>

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I.1.4	Dorrit Ragsine	<p>Stormwater pollution is the #1 source of contamination in the ocean and local rivers and lakes. I know. I participate in the FOLAR river clean up every year. Runoff threatens public health, economic health, and our environment. It causes flooding and other burdens that hurt many of our most impacted communities and are a waste of an invaluable resource that could be captured and treated to augment local water supplies. Yet, your regulatory efforts have largely failed to address this problem, and we want to reverse that trend with strong and equitable rules to protect public health and clean water.</p> <p>I am calling on The Regional Water Board to create protections that close those loopholes and protect public health and clean water with enforceable and transparent requirements.</p> <p>Now is the time and will help make Los Angeles more able to adapt to Climate Change.</p>	<p><b>No change.</b> Comment noted. See responses to comments. I.1.1 through I.1.3.</p>
I.1.5	Rutan & Tucker, LLP on behalf of City of Duarte	<p><b>The Regional Board Must Be Represented and Advised by Separate Staff and Legal Counsel than those that Drafted the Draft Permit.</b> As a matter of procedural due process, and in light of the erroneous and misleading conclusions and analyses discussed above, the Regional Board must and should be advised by independent counsel and staff at this time when</p>	<p><b>No change.</b> This argument has been rejected by the State Water Board in Order WQ 2020-0038, <i>In the Matter of Review of Approval of Watershed Management Programs and an Enhanced Watershed Management Program Submitted Pursuant to Los Angeles Regional Water Quality Control Board Order R4-2012-0075, SWRCB/OCC Files A-2386, A-2477 &amp; A-2508 (In re Approval of WMPs and EWMP)</i>,</p>

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		<p>considering the Draft Permit until its eventual adoption. In determining the propriety of the Draft Permit, the Regional Board is acting in its adjudicative capacity, and will be tasked to independently weigh the evidence and arguments made by Regional Board staff in support of the Draft Permit against those entities that may oppose the Draft Permit's terms. Unquestionably, the staff and counsel that drafted the Draft Permit are acting in a prosecutorial/investigatory role, and are advocating on behalf of their Draft Permit.</p> <p>The use of the same attorney and staff by both the decision-maker (i.e. the Board) and the Draft Permit's advocates is a violation of California Law, and has resulted in the issuance of writ of mandate against the Regional Board for doing the very same in connection with the adoption of Regional Board Order # R4-2006-0074 [footnote 2: According to the Writ of Mandate issued by the Los Angeles Superior Court overturning Regional Board Order # R4-2006-0074, should the Regional Board "choose to conduct any further hearing upon remand at such hearing the same person shall not act as both an advocate before the Los Angeles Regional Water Quality Control Board and an advisor to the Los Angeles Regional Water Quality Control Board . . . ." (Exhibit "1," Writ, p. 2.)]. The fact that the Regional Board is again</p>	<p>at pp. 143-147. Furthermore, staff and counsel who draft and advise the Board on the Tentative Order are acting in an advisory capacity, not in a prosecutorial or investigatory role, or as advocates. There is no violation of the Administrative Procedures Act (APA) and there is no need to separate functions in this case. The Los Angeles Water Board's reasoning is set forth below.</p> <p>A water board proceeding to adopt a permit, including an NPDES permit, waste discharge requirements, or a waiver of waste discharge requirements, is an adjudicative proceeding subject to the APA's administrative adjudication statutes in Government Code section 11400 et seq. (See Cal. Code Regs., tit. 23, § 648, subd. (b).) Section 11425.10, part of the "Administrative Adjudication Bill of Rights," provides that "[t]he adjudicative function shall be separated from the investigative, prosecutorial, and advocacy functions with the agency. . ." (Gov. Code, § 11425.10, subd. (a)(4). Subdivision (a)(4) references section 11425.30, which addresses disqualification of a presiding officer that has served as "investigator, prosecutor, or advocate" in the proceeding or its preadjudicative stage or is subject to "the authority, direction, or discretion" of a person who has served in such roles.) In accordance with this directive, the water boards separate</p>

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		<p>attempting to adopt a new permit, and in doing so, allowing the same counsel and staff to advocate for the Draft Permit and advise the Board itself in its consideration of the same, demonstrates a disregard for the dictates of due process [footnote 3: In <i>Nightlife Partners v. City of Beverly Hills</i> (2003) 108 Cal.App.4th 81, the Appellate Court found that Government Code sections 11425.10 and 11425.30 preclude a lawyer from both advocating on behalf of the staff of an administrative agency, and advising the decision-making body itself in the same administrative proceeding. There, the Court looked to the California Administrative Procedures Act (“APA”) as providing guidance on the elements the California Legislature believed were needed for conducting a fair administrative hearing. The Court concluded that one “of the basic tenets of the California APA, as well as the Model State Administrative Procedure Act, various state administrative procedure acts, and the federal Administrative Procedure Act is that, to promote both the appearance of fairness and the absence of even a probability of outside influence on administrative hearings, <b>the prosecutory and, to a lesser extent, investigatory, aspects of administrative matters must be adequately separated from the adjudicatory function.</b>” (<i>Id.</i> at 91; italics in original.) The Appellate Court thus</p>	<p>functions in all enforcement cases, assigning counsel and staff to prosecute the case, and separate counsel and staff to advise the board.</p> <p>In a permitting action, water board counsel has an advisory role, not an investigative, prosecutorial, or advocacy role. Permitting actions are not investigative in nature and there is no consideration of liability or penalties that would make the action prosecutorial in nature. Further, while both counsel and staff are expected to develop recommendations for their boards, the role of counsel and staff is not to act as an advocate for one particular position or party concerning the permitting action, but to advise the board as neutrals, with consideration of the legal, technical, and policy implications of all options before the board. In the case of counsel, such consideration and advice includes not just legal evaluation of the substantive options for permitting but also of procedural issues such as admissibility of the evidence, conduct of the hearing, and avoidance of board member conflicts. Indeed, attorneys advising the Los Angeles Water Board have an express grant of statutory authority to advise the presiding officer off the record on any issues in a non-prosecutorial adjudicative proceeding. (Gov. Code, § 11430.30.) Because counsel and staff are advisors to the board rather than</p>

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		<p>found that where “counsel ... performs as an <i>advocate</i> in a given case [he or she] is generally precluded from <i>advising a decision-making body</i> in the same case”, with the Court then finding that the “adjudicative function” must be separate from the “investigative, prosecutorial and advocacy functions within the agency.” (Id. at 92.).</p> <p>This agenda item concerns the adoption of a very lengthy, highly complex and hotly disputed NPDES permit that is being proposed by Board Staff over the objections of a number of the affected permittees. In that context, the Board should take steps to separate independent staff and counsel that can impartially advise the Board as to the merits of both the Draft Permit’s challengers’ and staff’s claims in support of the Draft Permit.</p>	<p>advocates for a particular position, the same counsel may advise staff in the course of development of the permit and the board in the adoption proceedings.</p> <p>The Los Angeles Water Board acknowledges that there may be some unique factual circumstances under which a permitting proceeding could violate due process or the APA because board counsel either acted or gave the appearance of acting as a prosecutor or advocate. Commenter points to a writ of mandate issued by the Los Angeles Superior Court in 2010, holding that a 2006 proceeding to incorporate provisions of the Santa Monica Bay Beaches TMDL into the 2001 Los Angeles MS4 Order was not fairly conducted because Los Angeles Water Board counsel had acted as an advocate for Board staff, directly examining Board staff witnesses, cross-examining witnesses called by permittees, objecting to questions asked by permittees, and making a closing argument on behalf of Board staff, while simultaneously advising the Board. (<i>County of Los Angeles v. State Water Resources Control Board</i> (Super. Ct., Los Angeles Co. (June 2, 2010, Minute Order) No. BS122724); see, also, Peremptory Writ of Mandate, issued July 23, 2010, <i>County of Los Angeles et al. v. State Water Resources Control Board et al.</i>, Superior Court of the State of California, County of Los</p>

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			<p>Angeles, Case No. BS122724 attached as Ex. 1 to Commenter's Letter.) To date, during the pendency of the Regional MS4 Permit and during the Los Angeles Regional Water Board meetings on this matter, this kind of advocacy has not occurred. The hearing on the Tentative Order will not follow the type of adversarial structure that led the Superior Court to hold that the 2006 proceedings on the TMDL violated the separation of functions doctrine. Finally, nothing in the conduct of the Los Angeles Water Board attorneys or staff to date could lead to the conclusion that any of them acted as advocates for a particular position or party. The Los Angeles Water Board's counsel and staff has acted and will continue to act in an advisory capacity to the Board on this matter. Put simply, there has been, and will not be, any evidence to show a violation of the APA in this regard. Indeed, Commenter has not cited to any evidence at all to support its argument.</p> <p>Finally, Commenter's citation to <i>Nightlife Partners v. City of Beverly Hills</i> (2003) 108 Cal.App.4th 81 (<i>Nightlife Partners</i>) is factually inapposite. <i>Nightlife Partners</i> involved a city attorney who served in conflicting functions in different phases of a proceeding about the plaintiff's application for a cabaret license. The attorney advocated to the decision maker (executive staff) that it should determine the</p>

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			<p>application was incomplete, and the decision maker rejected the application on that basis. (<i>Ibid.</i>, at pp. 84-85.) Then, the same attorney also served as the advisor to the hearing officer during the plaintiff's subsequent administrative appeal of that ruling. (<i>Id.</i>, at p. 85.) None of the attorneys advising the Los Angeles Water Board on the Tentative Order have been tasked with any sort of advocacy function here. Rather, they have been tasked with advising staff and the Executive Officer when the Executive Officer exercised the authority delegated by the Los Angeles Water Board; and they will be tasked with advising the Los Angeles Water Board when it reviews the Tentative Order developed by staff and the Executive Officer, and when it conducts the hearing and makes a decision on the Tentative Order. This decision is not an appeal, but rather it will be an original hearing to determine whether to adopt, adopt with modifications, or reject the Tentative Order. Finally, the attorneys advising the Los Angeles Water Board have the benefit of an express grant of statutory authority to advise the presiding officer off the record on any issues in a non-prosecutorial adjudicative proceeding. (Gov. Code, § 11430.30.) The city attorney in <i>Nightlife Partners</i> has no such specific authority.</p>

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I.1.6	Rutan & Tucker, LLP on behalf of City of Duarte	<p><b>The Board Must Rectify the Foregoing Errors Prior to Moving Forward with the New Permit.</b> Aside from the substantive issues discussed above, the majority of the issues raised in this letter target the Regional Board’s confusing refusal to comply with the procedural requirements necessary to adopt an MS4 permit in California. Duarte is frankly confused by the Regional Board’s repeated refusal to follow these simple procedural requirements, and points out that these are just the “low-hanging fruit” in regards to the other errors throughout the Draft Permit.</p> <p>That said, as the Regional Board is aware, the Cities of Duarte and Gardena, along with numerous other real parties in interest in the Duarte and Gardena Cases have recently secured a series of attorney fee awards totaling just under <u>\$3,000,000.00</u>, as a result of those entities prevailing on their claim that the Regional Board failed to comply with the requirements of CWC § 13241 in adopting the 2012 MS4 permit. In light of these awards, the Regional Board should be wary of continuing to avoid State law.</p> <p>Ultimately, Duarte (and it assumes the rest of the permittees) are not interested in continued conflict with the Regional Board and its staff, and would much rather funnel its efforts and limited resources into developing a permit that</p>	<p><b>No change.</b> The Tentative Order correctly considers and applies Water Code section 13241 factors. <i>See, City of Duarte v. State Wat. Res. Control Bd. (2021) 274 Cal.Rptr.3d 471, as modified on denial of reh'g (Feb. 19, 2021); review denied (Apr. 28, 2021) (City of Duarte).</i>) (Assuming <u>without</u> deciding that, if the 2012 Los Angeles County MS4 Permit contained provisions more stringent than federal law required, the Regional Board complied with its obligations to consider the Water Code section 13241 factors, including compliance costs, as a matter of law). Moreover, the award of attorney’s fees that Duarte references was made under California’s private attorney general law, Code of Civil Procedure section 1021.5, after the trial court entered judgment in the cities’ favor in the Duarte and Gardena cases. However, “an order awarding such fees ‘falls with a reversal of the judgment on which it is based.’ Citation.]” (<i>California Grocers Assn. v. Bank of America</i> (1994) 22 Cal.App.4th 205, 220.) The Court of Appeal has reversed the judgments in the Duarte and Gardena cases and directed the trial court to enter judgment in the Water Boards’ favor. Accordingly, the order awarding the municipalities their attorney’s fees must also be reversed.</p>

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		<p>is reasonable, and actually achievable from both a practical and technical perspective. Accordingly, Duarte hopes that the Regional Board will consider the comments raised herein, and direct Regional Board staff to reconsider the Draft Permit, and to work with the permittees to come up with a Draft Permit that actually works. As written, however, the Draft Permit cannot be adopted at this time.</p>	
I.1.7	Teresa Nguyen	<p>Stormwater pollution has been a long-term issue that still needs to be addressed and taken seriously. The pollution contains toxic chemicals and substances, such as metals, trash, and bacteria, which eventually flow into our rivers and oceans, affecting the ecosystems there. More specifically, I hope that the MS4 permit can simultaneously reduce water pollution and enhance local water supplies.</p> <p>...I believe that my voice can change our aquatic ecosystems for the better. I hope that one day, we won't have to rely so much on beach cleanups that do not solve the root problems of stormwater pollution. Rather, we should invest in a long-term solution that can diminish stormwater pollution. A stronger MS4 permit would do exactly that.</p>	<p><b>No change.</b> Comment noted. See also response to comments I.1.1 through I.1.4.</p>
I.1.8	Alana Basmajian	<p>I live extremely close to Ballona Creek, Ballona Wetlands, and the Marina and have grown up walking or biking alongside them either alone or with my friends and family.</p>	<p><b>No change.</b> The Los Angeles Water Board agrees with need for safe, clean water to support the beneficial uses of the region's waterbodies, including creeks, wetlands,</p>

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		<p>They are where I go when I need some peace, need to destress, and are basically the stepping stones of my childhood. Unfortunately, I have more and more often felt the opposite of my original benefits as stress, anxiety, and fear overwhelm me when I see the trash and murky water which are found in abundance in all three. I have also spent a handful of my weekends volunteering to clean up the trash marring the beauty of my local nature. Considering these locations have had such an impact in my life, I want to use my voice to further protect them and all that they do for my community.</p> <p>In order to do this, I want to encourage a MS4 Permit that is multi-beneficial and actionable. Wetlands are one of the most biologically diverse ecosystems in the world, therefore making it extremely vital that the water that feeds into ballona wetlands is clean and safe to support life there. Also, of course, it is extremely vital that the water emptying out into the ocean must be clean and safe to protect ocean life and the diverse and extensive ecosystem that oceans support.</p> <p>With that said, I understand that it sounds much easier than it is to execute. In order to be actionable, strict regulation must be a top priority in order to carry out the proposed goals. It is simply pointless to make a plan</p>	<p>harbors, and the ocean. The Regional MS4 Permit requires Permittees to take actions to control discharges of stormwater and urban runoff to support restoring impaired waterbodies such as Ballona Creek and, ultimately, to ensure that these discharges do not cause or contribute to exceedances of the water quality objectives set to protect the various beneficial uses, including those related to aquatic life protection and public health protection. The Tentative Permit includes specific compliance requirements, including deadlines, to achieve this overall purpose. The Tentative Permit also supports Permittees' implementation of multi-benefit stormwater projects that not only address water quality but also provide other community benefits such as improving local water resiliency and creating or enhancing green space in our urban areas. See also response to comments I.1.1 through I.1.4.</p>

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		<p>that can't even be enforced and effectively carried out. In order to be multi-beneficial, by focusing primarily on stormwater, that can successfully eliminate many other issues such as dirty wetlands, marinas, or beaches. By simply predominantly focusing on one thing, the benefits are reaped tremendously in a multitude of areas. In short, being actionable and multi-beneficial are necessary components of the MS4 Permit if we want one that will make a noticeable impact.</p>	
I.1.9	Ty Kushi	<p>Santa Monica has been my home for my entire life. The beach is a part of this home. I have an indescribable connection to the beach. There is nothing which can compare to the time I spend in the ocean. There is no feeling as refreshing as swimming in the cool water. There is no sight like the setting sun from a surfboard. Oftentimes, there is no place I'd rather be than in the ocean. Because of this, there is no feeling more nauseating than the realization that our ocean is simply not clean. It pains me to know that after it rains the water is so dirty that it is unsafe to swim.</p> <p>You have the chance to reduce the pollution caused by stormwater. It is in your power to help thousands like me by helping to ensure that we all have a cleaner and safer ocean. It is possible to reduce pollution, we simply</p>	<p><b>No change.</b> See response to comment I.1.8.</p>

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		<p>need a strong and comprehensive MS4 permit to make this happen.</p> <p>...I hope that my testimony can let you know that there are thousands of people, and very many young people just like me, who love our beaches and oceans. We care about a safe and clean environment. And while we cannot present statistics on how looking after the ocean may lessen our business's profits, we can seek to remind you of the enjoyment that a clean ocean can bring to countless citizens. Please act on our behalf.</p>	
I.1.10	Shai Grossamn	<p>I was born and raised in Santa Monica and for as long I can remember my weekends and summers have been spent at the beach running or walking alongside the waterline, or spending time in the water with my friends and family. The beach has been an outlet for me, a friend that I know will always be there for me, a place I can go to clear my head, or explore and the stepping stones of my childhood are starting to rot away. It is a shame because there is no feeling more sickening than seeing how unsafe and unhealthy our ocean has become as a direct result of the actions of our people.</p> <p>This MS4 permit is an opportunity for us to evoke change, I am encouraging that this MS4 permit is multi-beneficial and actionable, strict regulations must be a top priority in</p>	<b>No change.</b> See response to comment I.1.8.

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		<p>order to fulfill this goal. We need to primarily focus on stormwater in order to protect our wetlands, marinas, and beaches, because those waters directly feed into our watersheds making them unsafe for all human and marine life. This water must be safe and clean in order to protect the expansive marine ecosystem that Santa Monica and Los Angeles are home to. It is possible to reduce pollution, we simply need a strong and comprehensive MS4 permit to make this happen.</p> <p>...I understand that these things are easier said than done, but I hope that my testimony can let you know that there are thousands of people, and very many young people just like me, who want to maintain and protect our bay. This MS4 permit is an opportunity to cut down on the pollutants feeding into our waterways and help restore the ecosystem that Santa Monica has been building and maintaining for past decades. The safety and cleanliness of our bay is one of the top concerns of the people of Santa Monica and a multi-beneficial, actionable, comprehensive, and strict MS4 permit is the key to making a noticeable impact.</p>	
I.1.11	Kate Javerbaum	In times like the ones 2020 has thrown at us, it's nice to know that there's always one place that makes me feel good: the beach. Whether it's with friends like in the good old days, or	<b>No change.</b> See response to comment I.1.8.

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		<p>more recently, on a walk by myself, the beach fills me with a sense of calm. But every single time I go, it feels like the sanctity of the beach is more and more disrupted. Something needs to change. It starts with an improved MS4 permit.</p> <p>Stormwater is the leading source of pollution right now, so if we want to ensure clean water for everyone, we have to reduce stormwater pollution, and a strong MS4 Permit will help us get there!</p>	
I.1.12	Ellenor Brandt	<p>The Santa Monica beach is practically my second home, I am always there. Going to the beach is one of my favorite activities. Swimming out to the lifeguard boat with my friends and surfing at sunset are only a few examples of how much the beach means to me. Keeping our beaches unpolluted and clean is so important to me for these reasons. I want to be able to continue to make memories at the beach for years to come. In order for this to happen we need a strict and actionable MS4 permit.</p> <p>Stormwater is the leading source of pollution and to ensure clean water we need to regulate what large companies and corporations are polluting into our water. In order to reduce stormwater pollution we need a strong MS4 permit.</p>	<b>No change.</b> Comment noted. See response to comment I.1.16.

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		<p>With the current MS4 permit there is still a lot of pollution that is being let through. So we need to ensure that all of Los Angeles water will be clean and stormwater pollution will be reduced. The permit should be easily understandable by permittees, decision makers, and of course the public. We need to set goals through the MS4 permit that are measurable and multi-beneficial.</p> <p>...We need a permit that is measurable, actionable, and reinvests in frontline communities.</p>	
I.1.13	Ann Dorsey	<p>I am submitting these comments because water is a precious limited resource. Los Angeles needs to end its dependence on imported water as much as possible and use local water sources efficiently and sustainably. What is done with stormwater is critical to reaching these goals. In order to maximize water availability and reduce the need for costly treatment, stormwater must be kept free from pollution. This MS4 Permit can help to make that happen.</p> <p>I ask that the permit be written with requirements that are clear so they are easily understood and can be enforced by regulatory agencies. The permit also needs to have well defined measurable goals and firm deadlines. Additionally, it should ensure stormwater</p>	<p><b>No change.</b> Comment noted. See also response to comments. I.1.1-I.1.4 and I.1.16. In addition, changes were made to monitoring and reporting forms to make it easier for the public to track Permittees' progress, for example, in completing WMP milestone projects and to easily decipher important data. See, e.g., Attachment H.</p>

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		<p>pollution is minimized and local water supplies are maximized.</p> <p>...The ability of Los Angeles to rely on local water supplies to meet its needs requires the sustainable use of local water which depends on stormwater pollution being minimized. The MS4 permit is an opportunity to ensure this happens by having clear enforceable rules and setting quantifiable goals with strict deadlines.</p>	
I.1.14	Brittany Rivas	<p>I am writing to request that the Los Angeles Regional Water Quality Control Board approve an MS4 Permit that follows the S.M.M.A.R.T. guidelines that have been proposed by Water community organizations and other allies.</p> <p>As a queer indigenous woman that has been living part-time at my partner's house in South East LA (90255) and as an employee in LA, I am a stakeholder to LA County. Being a part of this community has shed light on how much corporate greed and industry gets to dominate frontline communities, pumping it full of chemicals and toxins that have taken a toll on community members.</p> <p>Being exposed to toxic tours with Communities for a Better Environment I was better able to understand how so many of these large businesses get away without</p>	<p><b>No change.</b> The Los Angeles Water Board is committed to developing and implementing policies that advance racial equity, and to ensuring that all communities have access to safe, clean water that meets or exceeds water quality objectives. A number of provisions in the Tentative Order address stormwater capture, including requirements for new and re-development and provisions that allow for participation in a Watershed Management Program, which incentivizes stormwater capture as a means of improving water quality and achieving other community benefits such as increased water resiliency and enhanced green space in our urban areas. (Tentative Order, Part VIII.F and Part IX.) Also see response to comments I.1.16 - I.1.18.</p>

#	Commenter(s)	Comment	Response
		<p>having proper rain water capture and hazardous waste runoff without regulation, ultimately allowing so many toxins into our waterways. Exide was polluting for 30 years, shut down and was supposed to do soil remediation but they claimed bankruptcy to avoid clean up- this is one prime example of intergenerational environmental racism that has impacted livelihoods and water ways. So I personally believe all cities and unincorporated areas of LA County need to have safe, clean, accessible water for all communities not just the ones with money. Water is life. So I among so many other stakeholders and community members deserve the SMMART guidelines to be adopted in its entirety.</p>	
I.1.15	Caty Wagner, Don Weiden, and Sierra Club Angeles Chapter 2 <sup>nd</sup> Letter	<p>I am writing to request that the Los Angeles Regional Water Quality Control Board approve an MS4 Permit that can be enforceable, measurable and open to scrutiny by the public.</p> <p>Stormwater is the leading source of pollution right now. If we want to ensure clean water for everyone, we have to reduce stormwater pollution, and a strong MS4 Permit will help us get there. The new MS4 Permit should have:</p> <ul style="list-style-type: none"> <li>• clear requirements that are easily understood by permittees, decision makers, and the public</li> </ul>	<b>No change.</b> Comment noted. See also response to comments I.1.8, I.1.13 and I.1.16.

#	Commenter(s)	Comment	Response
		<ul style="list-style-type: none"> <li>• quantifiable final goals with clear milestones and strict deadlines...</li> <li>• a focus on nature-based solutions and include greening of communities</li> </ul>	
I.1.16	Mithsy Hernandez on behalf of various NGOs	<p><b>SMMART WATER, NOT STORMWATER</b> Our regulatory agencies must act <b>NOW</b> to address the #1 source of toxic pollution to our rivers, creeks and coastal waters, and to protect the health of our communities and environment through a SMMART MS4 permit that is:</p> <p><b>STRAIGHTFORWARD</b>- Has clear requirements that are easily understood by permittees, decision-makers and the public</p> <p><b>MEASURABLE</b>- Sets quantifiable final goals with clear milestones and strict deadlines</p> <p><b>MULTI-BENEFIT</b>- Prioritizes nature-based stormwater solutions that simultaneously reduce water pollution, enhance local water supplies and green local communities</p>	<p><b>No change.</b> It is the intent of the Board to issue a permit that effectively achieves the goals listed in the comment. See also response to comments I.1.8 and I.1.13.</p>
I.1.17	Mithsy Hernandez on behalf of various NGOs	<p><b>SMMART WATER, NOT STORMWATER SPECIFIC * MEASURABLE * MULTI-BENEFIT * REINVESTING IN COMMUNITIES * TRANSPARENT</b></p> <p><b>CLEAN WATER AND HEALTHY ECOSYSTEMS FOR ALL RESIDENTS OF THE LOS ANGELES REGION:</b></p>	<p><b>No change.</b> It is the intent of the Board to issue a permit that effectively achieves the goals listed in the comment. See also, response to comments I.1.8, I.1.13, D.1.4 and D.3.74; and Attachment H.</p>

#	Commenter(s)	Comment	Response
		<p><b>MUNICIPAL STORMWATER PERMIT GUIDING PRINCIPLES</b></p> <p><b>WHEREAS:</b>  The people of Los Angeles have a fundamental right to enjoy rivers, creeks, lakes, and coastal waters that are safe, healthy, and clean.</p> <p>The vast majority of Los Angeles County's rivers, creeks, and coastal waters are severely polluted, as evidenced by the State Water Resources Control Board's listing 208 waterbodies in the Los Angeles Region as impaired, and by the 2019 Water Report Card released by UCLA assigning a grade of 'D/Incomplete' for Los Angeles County's surface waters.</p> <p>Urban runoff through the municipal separate storm sewer system (MS4), including both dry-weather runoff and stormwater runoff, is the leading source of impairment to the Los Angeles region's inland and coastal waters. It is estimated that nearly 100 million gallons of polluted runoff fouls our waterways every day; this total can increase to 5 billion gallons or more during a storm event. This 'urban slobber' carries pesticides and herbicides from our homes; oils and grease from our roads; heavy metals and other toxins from Los Angeles' businesses; and trash, bacteria, and</p>	

#	Commenter(s)	Comment	Response
		<p>other contaminants from local communities, all of which flows untreated into our rivers, creeks, lakes, and ocean.</p> <p>Epidemiological studies have concluded that urban runoff – which often contains harmful amounts of bacteria and pathogens – damages human health, with a 2006 UCLA study finding between 627,000 and 1.5 million cases of beach-related gastroenteritis annually in Los Angeles and Orange Counties. Residual contaminants like PCBs and DDT can lead to longer-term chronic human health impacts either from direct contact or, more likely, through bioaccumulation in fish that are then eaten.</p> <p>Dry-weather runoff and stormwater runoff pose a serious economic threat to the region as a result of reduced recreation owing to beach notices and river closures, the cost of cleaning up our contaminated waterways, and the cost associated with negative health impacts (estimated conservatively at \$21M-\$51M annually for LA and Orange County beaches, with some studies pegging the total as high as \$414M annually for the two counties).</p> <p>Dry-weather runoff and stormwater runoff have disastrous local and global effects on the health of our aquatic ecosystems.</p>	

#	Commenter(s)	Comment	Response
		<p>Contaminated runoff can have both immediate and long-term impacts on river and sea life, and even relatively low concentrations of contaminants can have a negative cumulative impact on ecological health. Such impacts are getting worse as a host of emerging contaminants (pharmaceuticals, personal care products, PFAS - often referred to as 'forever chemicals', etc.) are increasingly found in our waters and marine life.</p> <p>...Historically under-resourced frontline communities are disproportionately burdened by urban runoff and water pollution. Many of our most contaminated waterways (e.g., the LA River, Compton Creek, Dominguez Channel, and Los Cerritos Channel) flow primarily through heavily urbanized and industrialized frontline communities that often lack green space, which could help infiltrate and treat runoff. Additionally, low-income communities and communities of color are most likely to be subsistence anglers and thus are disproportionately harmed by the contaminants accumulating in fish due to runoff pollution.</p> <p>The current stormwater infrastructure in the Los Angeles area is outdated and wastes 100 billion gallons of water annually as stormwater flows through the storm drain system and out</p>	

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		<p>to the ocean without being treated, used, or stored for future use.</p> <p>Our current regulatory management of dry-weather runoff and stormwater runoff has proven ineffective, despite the fact that it has been more than 70 years since the first federal clean water law was passed (Federal Water Pollution Control Act of 1948), more than 50 years since the passage of California's Porter-Cologne Water Quality Control Act (1969), nearly 50 years since the passage of the federal Clean Water Act (1972), and 30 years since the adoption of the first permit for Los Angeles County that specifically regulated stormwater pollution (1990).</p> <p>The lack of accountability and transparency in the 2012 Los Angeles County MS4 Permit (the current local Stormwater Permit), stemming from the lack of measurable goals and lack of clear reporting and enforceability, has not changed this course of noncompliance. In fact, the vast majority of watershed groups progressed less than 10% towards final water quality requirements during the 2012 permit term. These watershed groups continue to be woefully behind schedule to meet Clean Water Act standards.</p>	

#	Commenter(s)	Comment	Response
		<p>Voters throughout Los Angeles County demonstrated their commitment to address dry-weather runoff and stormwater runoff by passing Measure W (the Safe, Clean Water Program or SCWP) in 2018 with nearly 70% of the vote. Starting in 2020, the SCWP will provide approximately \$280 million per year for multi-benefit stormwater projects in perpetuity.</p> <p>The Los Angeles Regional Water Quality Control Board has reissued a draft MS4 permit for the region, which is expected to be adopted in final form in late 2020 or early 2021. The draft permit largely mirrors the 2012 permit, including its lack of clear goals, lack of clear reporting standards, and lack of enforceability.</p> <p>With the long-term and significant negative impacts of urban runoff on the health of our waterways, our economy, and our communities (particularly frontline communities); with agencies' business-as-usual regulatory approach having failed to address this chronic source of pollution for decades; and with cities now having more resources than ever to tackle this leading source of water pollution; NOW is the time to take a more comprehensive, transparent, and enforceable approach to regulate dry-weather runoff and stormwater runoff.</p>	

#	Commenter(s)	Comment	Response
I.1.18	Mithsy Hernandez on behalf of various NGOs	<p><b>THEREFORE, BE IT RESOLVED THAT THE UNDERSIGNED URGE THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD TO ADOPT AN MS4 PERMIT FOR THE LOS ANGELES REGION THAT:</b></p> <p>Prioritizes above all other considerations improving water quality across the Los Angeles region and protecting the health of all the region's residents, as well as their fundamental right to clean water and healthy ecosystems as a matter of environmental justice.</p> <p>Has clear and straightforward requirements so that the objectives of the permit are simple and transparent for the benefit of the permittees, the regulatory agency, and all stakeholders including non-governmental organizations, community-based organizations, and members of the public.</p> <p>Sets measurable short-term and final goals with strict deadlines to ensure that all stakeholders know what has been completed, what still needs to be completed, and by when those actions must be completed.</p> <p>... Prioritizes and incorporates vegetated nature-based solutions to capture, clean, and reuse the 100 billion gallons of stormwater that currently flows through our storm drain</p>	<p><b>No change.</b> It is the intent of the Board to issue a permit that effectively achieves the goals listed in the comment. See also response to comments I.1.8, I.1.13, I.1.14, D.1.4 and D.3.74; and Attachment H.</p>

#	Commenter(s)	Comment	Response
		<p>system each year to achieve multiple social, environmental, and ecosystem benefits, including reduced water pollution, increased local water supply, improved wildlife habitat and biodiversity, mitigation of the urban heat island effect, increased carbon sequestration, improved air quality, reduced flooding, and much more.</p>	
I.1.19	Tom Williams	<p>I am writing to request that the Los Angeles Regional Water Quality Control Board approve an MS4 Permit that is enforceable/enforced, quantitative, traceable/online-page by and reported quarterly to the public. Sources to the waterways must be identified and monitored, especially as to city/county streets and state freeways and properties. Diversions (LIDs, Bioswales, etc.) must also be identified so as to ascertain their assistance in diverted waters for improved groundwater and reduced discharges to waterways.</p> <p>Stormwater has been and is the leading source of pollution right now (I did a Bakersfield street washing project for EPA in 1970s which led to removing Pb from gasoline, it was really bad stuff). If we want to ensure clean water for our environments and everyone, we have to reduce the total stormwater runoff and its pollutants, and a strong MS4 Permit will help us get there. The new MS4 Permit must include:</p>	<p><b>No change.</b> Comment noted. See also response to comments I.1.8, I.1.13, I.1.16, I.1.17 and I.1.18.</p>

#	Commenter(s)	Comment	Response
		<ul style="list-style-type: none"> <li>• Clear quantitative/numerical requirements that are easily understood by permittees, decision makers, and the public</li> <li>• Set quantifiable annual and final goals with clear milestones and strict deadlines...</li> <li>• Focus on nature-based solutions (greening irrigation and infiltrating bioswales) and include clearing of the waterways and greening of communities</li> </ul>	
I.1.20	Aminah Grant	<p>I am writing to request that the Los Angeles Regional Water Quality Control Board include clear and enforceable requirements for the renewed MS4 permit that hold permittees accountable and ensures the health of humans and marine environments.</p> <p>Throughout my academic career, I have been able to learn about and experience the effects of drought in southern California and Cape Town in South Africa. These experiences have showed me how vital water is in our everyday lives. Having access to water, especially clean water, is a luxury in many places including parts of the United States, but California has recognized that access to clean water is a human right. Furthermore, the Earth's marine environments are being devastated by all kinds of pollution from oil spills to stormwater runoff. These ecosystems are worth protecting not only because they benefit human and the planet but also</p>	<p><b>No change.</b> Comment noted. See, also, response to comments I.1.2, I.1.8, and I.1.16-I.1.18.</p>

#	Commenter(s)	Comment	Response
		<p>because they deserve the same autonomy human society has.</p> <p>Given the uncertainties of climate change and the heavy demand for water in a place as big as Los Angeles County, we must invest in efficient and innovative water management systems that prioritize access to clean water as well as the health and protection of marine environments.</p> <p>Stormwater is the leading source of pollution in Los Angeles right now. If we want to ensure clean water for everyone, we have to reduce stormwater pollution, and a strong MS4 Permit will help us get there. All humans have a fundamental right to a clean and healthy environment, and it is the Board's job to ensure our fundamental rights are protected; therefore, permittees must be held accountable for achieving the water quality objectives under the federal Clean Water Act. To achieve these goals, this renewed MS4 permit must include clear and straightforward goals, requirements, and deadlines that are enforceable and transparent to everyone, especially the public.</p>	
I.1.21	Audrey Kono	I am writing to request that the Los Angeles Regional Water Quality Control Board approve an MS4 Permit that is multi-benefit and reinvests back into frontline communities...	<b>No change.</b> Comment noted. See also response to comments I.1.2, I.1.8, and I.1.16-I.1.18.

#	Commenter(s)	Comment	Response
		<p>Water is becoming harder to access as we continue to face the devastating impacts of climate change. Only less than 1% of the world's water is fresh and accessible to us, so it is vital that we do all we can to reduce stormwater pollution and make sure everyone has access to clean water. Each of us uses water in our daily activities—we all need it to survive. Water is amazing because it truly connects us all. This has become increasingly clear to me throughout my years of education, from elementary school to now in college as I earn my minor in Environmental Studies. I have learned about and become more aware that the health of the environment is intertwined with our own health, whether one lives right along the coast or further inland. And during the years that I have lived in LA County, I have come to care deeply for our communities' health. I also care deeply for the natural environment, and I do not want stormwater pollution from human activity to harm the plants and animals that live in the ocean. Just like humans, they have intrinsic value and should be able to lead healthy lives and have a clean home.</p> <p>Stormwater is the leading source of pollution right now. If we want to ensure clean water for everyone, we have to reduce stormwater pollution, and a strong MS4 Permit will help us</p>	

#	Commenter(s)	Comment	Response
		<p>get there. The new MS4 Permit should prioritize nature-based solutions that reduce water pollution, enhance local water supplies, and green local communities at the same time.</p>	
I.1.22	Isabella Langa	<p>I am writing to request that the Los Angeles Regional Water Quality Control Board approve an MS4 Permit that is clear in all meanings of the word, with well-defined and enforceable deadlines as well as transparency to the public about actions being taken to combat stormwater pollution.</p> <p>Living in a coastal city means that the beach is an everyday part of my life. Running along the shore every morning, the beautiful view is interrupted by storm drains that seem to constantly be leaking polluted water into our oceans. When I go to the King Harbor Marina, the water is so contaminated that the sheen of a film is visible on its surface. By the Tim Kelly Beach jetty, the waves carry long streams of pollutants out to sea that are visible from the sand. It is clear as day that we are not doing enough to keep our coastlines clean.</p> <p>Stormwater is the leading source of pollution right now. If we want to ensure clean water for everyone, we have to reduce stormwater pollution, and a strong MS4 Permit will help us get there.</p>	<p><b>No change.</b> See response to comment I.1.8.</p>

#	Commenter(s)	Comment	Response
I.1.23	Heather Leigh Curtis	<p>I am writing to request that the Los Angeles Regional Water Quality Control Board approve an MS4 Permit that is strong enough to <u>ensure recreational access to freshwater in Los Angeles for women and discriminated groups.</u></p> <p>When I joined the whitewater paddling club at my university in Los Angeles, I felt very fortunate to have this hobby with such a high economic barrier to entry be subsidized. After training, I was given unlimited access to free freshwater kayaks, paddles, lifejackets, helmets, and skirts. All that was left to do was practice! I heard Hansen Dam was a great place to kayak and arranged for kayak transport with a friend. When we arrived, the area was closed to recreation because the water quality was so dangerous. Next, we tried Lake Balboa and were turned away again. Having grown up swimming in lakes and rivers in Texas and never experienced water quality closures, I was shocked and confused. What we quickly learned was that, due to water quality issues, the only place we could use these free club materials in Los Angeles County was the swimming pool of a more experienced kayaker associated with the club, whom we later found to be a renowned sexual predator of young women. What at first felt like a dream come true quickly became a trauma and a lesson in</p>	<p><b>No change.</b> Comment noted. See also response to comments I.1.8 and I.1.14. Nature based control measures and solutions to water quality problems are encouraged in the Tentative Order. (See, e.g., Part IX.B.5.b.)</p>

#	Commenter(s)	Comment	Response
		<p>barriers to inclusivity. <u>I now associate cleaning up our water ways with more than the removal pollution, I associate it with providing safety and independence to female athletes and other discriminated groups in the outdoors.</u></p> <p>Poor water quality has been a persistent frustration interfering with my outdoor activities in Los Angeles, and with stormwater being the leading source of pollution, the solution has to be a strong MS4 permit.</p> <p>Now is the time to move forward with nature-based, sustainable solutions. For the foreseeable future, outdoor recreation is one of the safer activities that Angelinos can partake in due to the public health risks created by COVID-19. The smaller budgets during this crisis provides the opportunity to show Angelinos how resilient and creative we can be when addressing multiple benefits to public health. Please be a part of making the next MS4 Permit actionable and transparent to ensure that access to safety and clean water is available to everyone rather than just a select few.</p>	
I.1.24	Alexander Santiago	I am writing to request that the Los Angeles regional Quality Control Board approve the MS4 Permit. I believe it should have clear requirements so that everyone can easily understand it. Along with this it should set quantifiable goals with clear milestones and	<b>No change.</b> See response to comment I.1.8.

#	Commenter(s)	Comment	Response
		<p>strict deadlines. It should prioritize nature-based stormwater solutions that simultaneously reduce water pollution, enhance local water supplies, and green local communities.</p> <p>... Since I moved to Santa Monica I loved going to the beach and hanging out with friends and family. I have had many good memories there, but without a strong MS4 permit the beach could get ruined and take away that opportunity. When it rains the water and sand become dirty and full of trash. This strips away the beauty of the beach and also endangers sea life who live in those waters.</p> <p>Stormwater is the leading source of pollution right now, so if we want to ensure clean water for everyone, we have to reduce stormwater pollution, and a strong MS4 Permit will help us get there!</p> <p>... We should help one another to reduce the trash that flows into our beaches.</p>	
I.1.25	Sierra Club Angeles Chapter	<p>I urge the Los Angeles Regional Water Quality Control Board to approve an MS4 Permit that is straightforward, transparent, measurable and actionable.</p> <p>Stormwater is currently the leading source of pollution, with recent studies showing that tire dust and microplastics in our water and waterways have lasting and detrimental effects on humans and aquatic species. New</p>	<p><b>No change.</b> Comment noted. See also response to comments I.1.1, I.1.8, I.1.23 and I.1.26.</p>

#	Commenter(s)	Comment	Response
		<p>studies have found 6PPD the substance in tires to prolong their life, when combined with smog and ozone, breaks down into many lethal chemicals including 6PPD-quinone that then washes into local waterways and makes its way down to the ocean and back into our food chain.</p> <p>The biological health of urban areas is not a factor in most design or policy decisions, but the impact of these (non)decisions can be significant. With increasing recommendations to manage stormwater runoff on-site, we have to hold ecology and function side by side in our development plans by enacting a strong MS4 permit to reduce pollution.</p> <p>Nature based solutions should be the first priority, sources to waterways must be identified and monitored, especially city and county streets, state freeways and properties. Diversions, LIDs, bioswales, rain gardens must also be identified for improved groundwater and reduced discharges to waterways. In dense and heavily developed areas, where space is at a premium, green roofs and suspended pavement systems provide great ways to manage the rate, volume, and quality of stormwater runoff in a variety of site applications. In this way we can achieve multi benefits with a strong enforceable permit.</p>	

#	Commenter(s)	Comment	Response
I.1.26	The Nature Conservancy	<p>The Nature Conservancy is committed to utilizing nature-based solutions to meet water quality objectives and to promote healthy ecosystems across the region, and we support many of the strong water quality mandates outlined in the MS4 permit. We recommend prioritizing vegetated nature-based solutions wherever it is within the Regional Board’s purview and encouraging vegetated nature-based solutions where permittees have a menu of options for compliance. Drawing from examples in other cities and regions, market-based strategies, such as post-construction stormwater markets, water quality markets, and direct incentives, can be adopted to accelerate and incentivize nature-based stormwater projects, especially ones on private property that are often more cost-effective. For example, the Conservancy’s stormwater projects in Washington DC are approximately 30% of the cost of public right-of-way projects. Off-site mitigation within the watershed provides opportunities to meet additional environmental objectives and transfer stormwater management capacity to where it is most effective and/or needed. Permittees should leverage multiple funding sources to implement multi-benefit projects and solve the many challenges cities/municipalities are facing from climate change such as flooding, urban heat island effect, biodiversity loss, fire,</p>	<p><b>Change made.</b> The Tentative Order emphasizes nature-based solutions, particularly in the Planning and Land Development provisions and Watershed Management Program provisions. For additional clarity, the Board has added a definition of green infrastructure to Attachment A. Regarding market-based strategies, there is nothing in the Order that precludes Permittees from employing such strategies when appropriate and beneficial. The Board has added a discussion of public-private partnerships as a mechanism for funding projects to comply with the permit requirements. See revised Tentative Fact Sheet, Part XIII.D.2.d. Finally, the Board has added more information about other funding sources such as Proposition 68 that can be leveraged to fund stormwater projects that improve water quality and achieve other community and environmental benefits. See revised Tentative Fact Sheet, Part XIII.D.3.f. See also response to comment I.1.23 and Fact Sheet at Part XIII.D.</p>

#	Commenter(s)	Comment	Response
		<p>and sea-level rise. In particular, vegetated nature-based solutions provide the most co-benefits and minimize other costs associated with healthcare, climate, and disaster response. With the passage of the Safe Clean Water Program in Los Angeles County, permittees across the county have access to this funding source to comply with the MS4 permit, while also enhancing water supply, utilizing nature-based solutions, and prioritizing community investments. For both Los Angeles and Ventura counties, state bond measures such as Proposition 68 and Proposition 1 incentivize nature-based projects that invest in communities. Water quality compliance should not be viewed or tackled in a silo as a separate cost for cities and municipalities, but rather, as a challenge that should be addressed along with climate impacts, homelessness, park development and access, energy use, air quality, transportation, public health, and green jobs.</p>	
I.1.27	Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper	<p>The people of Los Angeles have a fundamental right to enjoy rivers, creeks, lakes, and coastal waters that are safe, healthy, and clean. However, the vast majority of Los Angeles County's rivers, creeks, and coastal waters are severely polluted, and urban runoff through the MS4 including both dry-weather runoff and stormwater runoff, is the leading cause of impairment to the Los Angeles region's inland and coastal waters.</p>	<p><b>No change.</b> It is the intent of the Board to issue a permit that effectively addresses the concerns listed in the comment. See also response to comment I.1.8.</p>

#	Commenter(s)	Comment	Response
		<p>Our current regulatory management of dry-weather runoff and stormwater runoff has proven ineffective, largely due to the lack of accountability, transparency, and enforcement.</p> <p>... Stormwater discharge is currently the leading source of pollution in our waterways, especially here in the heavily urbanized LA Basin, and the Los Angeles Regional MS4 Permit is the only regulatory tool to address this pollution. The Los Angeles Regional Water Quality Control Board must adopt an MS4 Permit for the Los Angeles Region that prioritizes improving water quality across the Los Angeles region and protecting the health of all the region's residents, as well as their fundamental right to clean water and healthy ecosystems as a matter of environmental justice.</p>	
I.1.28	SGVCOG 2 <sup>nd</sup> Letter	<p><b>Timing of Permit Adoption and State Board Order Implications:</b>  Concurrent with the Permit reissuance effort, it is important to consider the related State Water Resources Control Board (State Water Board) Tentative Order (<i>State of California State Water Resources Control Board Tentative Order WQ 2020-XXXX In the Matter of Review of Approval of Watershed Management Programs and an Enhanced Watershed Management Program Submitted Pursuant to Los Angeles Regional Water</i></p>	<p><b>Change made.</b> Based on the expiration dates of the current 3 MS4 Permits, the 2010 Ventura County MS4 Permit is overdue for permit renewal by 6 years, the 2012 Los Angeles County MS4 Permit by 4 years, and the 2014 City of Long Beach MS4 Permit by 2 years. The adoption of the Regional MS4 Permit per the current schedule ensures that Permittees are subject to the most updated federal and state regulations in a timely manner.</p>

#	Commenter(s)	Comment	Response
		<p><i>Quality Control Board Order R4-2012-0175</i>) reviewing the LARWQCB's approval of various Watershed Management Programs (WMPs) and Enhanced WMPs (EWMPs) (State Water Board Order). The initial Order was released on December 6, 2019 and was revised based on comments received through early April and redistributed on September 4, 2020. This Order addresses specific requirements of the Permit that are important to consider as part of the Permit review. While some of the key issues identified by the State Water Board have already been integrated into the Tentative Permit, the State Water Board Order has not been finalized and further revisions of the Tentative Permit may be incorporated by the LARWQCB to comply with the State Water Board Order. The details of the State Water Board Order, which impact the Permit provisions and analyses Permittees will be required to complete, will not be finalized until its adoption.</p> <p>Given the potential impacts of the State Water Board Order on the Permit and additional requirements for the Permittees implementing a WMP or EWMP, <b>it is assumed that the State Water Board Order will be finalized prior to the adoption of a new Permit.</b> This sequence is necessary to ensure the Permit would not have to be further revised to comply with the State Water Board Order, as well as</p>	<p>With regards to the revised TMDL Basin Plan Amendments adopted by the Los Angeles Water Board on March 11, 2021, which extend final compliance dates of select TMDLs, language has been added to Attachment O of the Tentative Order accordingly to incorporate the revised final compliance deadlines. See also response to comment G.1.</p> <p>With respect to State Board WQ Order No. 2020-0038, which is now final, the Tentative Order has been revised in accordance therewith as discussed in response to comment F.26. See response to comments F.65 and F.66 with respect to the June 30, 2021 deadline to submit an updated reasonable assurance analysis (RAA) and updated WMP.</p> <p><i>The City of Duarte v. State Water Resources Control Board, et al.</i> (Case # 30-2016-00833722) court case has been resolved at the Court of Appeal on January 28, 2021. See, <i>City of Duarte</i>, 274 Cal.Rptr.3d 471, <i>supra</i>, (Assuming <u>without</u> deciding that, if the 2012 Los Angeles County MS4 Permit contained provisions more stringent than federal law required, the Regional Board complied with its obligations to consider the Water Code section 13241 factors, including compliance costs, as a matter of law). The</p>

#	Commenter(s)	Comment	Response
		<p>to prevent a duplication of effort by the Permittees to address the new Permit and the State Water Board Order. <b>For the same reason, the new Permit should also delay adoption as needed to ensure the proposed Basin Plan Amendment(s) that will modify TMDL final deadlines can be included as the revised dates in the new Permit. In addition, sufficient time (recommend at least 6 months) will be needed once the new Permit is formally adopted to allow the Permittees to incorporate the required updates through the Reasonable Assurance Analysis (RAA) revisions. Depending on the timing of the State Water Board Order adoption and subsequent Permit adoption this may require extending the current deadline of June 30, 2021 for completion of the revised RAAs.</b> This extension is necessary to prevent an unnecessary and costly duplication of effort to ensure the appropriate analyses are included in the revised RAAs to satisfy regulatory requirements. The SGVCOG encourages the LARWQCB to support the sequence of events and the recommended time extension, as any other order or insufficient time between these regulatory adoptions and the required RAA revisions may result in inefficiencies and the need to go back and redo one of these efforts. The timing outlined above is to ensure the most</p>	<p>Tentative Fact Sheet has been revised accordingly. See also responses to comments H.1.1, H.1.2.a, and H.1.2.d and H.1.2.e.</p>

#	Commenter(s)	Comment	Response
		<p>appropriate policy is set in place and thorough, informative analyses, that fully satisfy the current tentative regulatory orders, are completed through the upcoming RAA revisions. The Permittees are already planning for the RAA revisions which are significant investments, ranging around \$75,000 to \$350,000 each. If the State Water Board Order and resulting additions to the Permit require additional analyses as part of the RAA revisions, this will potentially double the cost and further emphasizes the importance of having sufficient time from Permit adoption to conduct the technical updates and additions.</p> <p>Furthermore, the Regional and State Boards' appeal of the decision in favor of the City of Duarte in the matter of <i>City of Duarte v. State Water Resources Control Board, et al.</i> (Case # 30-2016-00833722) is still pending, with oral arguments having been conducted before the Court of Appeal on November 19, 2020. The findings and analysis associated with that final decision will further impact the Tentative Permit.</p>	
I.1.29	ULAR Group	<p><b>Timing of Permit Adoption and State Board Order Implications:</b> <i>As noted above, it is important to consider the related State Board Order which has significant implications on the Tentative Permit and the ULAR EWMP and CIMP.</i></p>	<p><b>Change made.</b> See response to comment I.1.28.</p>

#	Commenter(s)	Comment	Response
		<p>While some of the key issues identified by the State Water Board have already been integrated into the Tentative Permit, the State Board Order has not been finalized and further revisions of the Tentative Permit may be incorporated by the LARWQCB to comply with the State Board Order. The details of the State Board Order, which impact the Permit provisions and analyses the ULAR Group will be required to complete, will not be finalized until its adoption.</p> <p>Given the potential impacts of the State Board Order on the Permit and additional requirements for the EWMP, <b>it is assumed that the State Board Order will be finalized prior to the adoption of a new Permit.</b> This sequence is necessary to ensure the Permit would not have to be further revised to comply with the State Board Order, as well as to prevent a duplication of effort by the ULAR Group to address the new Permit and the State Board Order. For the same reason, <b>the new Permit should also delay adoption as needed to ensure the proposed Basin Plan Amendment(s) that will modify TMDL final deadlines can be included as the revised dates in the new Permit. In addition, sufficient time (at least 6 months) will be needed once the new Permit is formally adopted to allow the ULAR Group to</b></p>	

#	Commenter(s)	Comment	Response
		<p><b>incorporate the required updates through the Reasonable Assurance Analysis (RAA) revisions. Depending on the timing of the State Board Order adoption, and subsequent Permit adoption, this may require extending the current deadline of June 30, 2021 for completion of the revised RAA.</b> This extension is necessary to prevent an unnecessary and costly duplication of effort to ensure the appropriate analyses are included in the revised RAA for the ULAR EWMP to satisfy regulatory requirements. <b>The ULAR Group encourages the LARWQCB to support the sequence of events and the recommended time extension, as any other order or insufficient time between these regulatory adoptions and the required RAA revisions may result in inefficiencies and the need to go back and redo one of these efforts.</b> The timing outlined above is to ensure the most appropriate policy is set in place, and thorough, informative analyses, that fully satisfy the current tentative regulatory orders, are completed through the upcoming RAA revisions. The ULAR Group is already planning for the RAA revisions which represents a significant investment. If the State Board Order and resulting additions to the Permit require additional analyses as part of the RAA revisions, this will potentially double the cost and further emphasizes the</p>	

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		importance of having sufficient time from Permit adoption to conduct the technical updates and additions.	
I.1.30	RWG Law on behalf of various Permittees	<p><b>The Regional Board Should Defer Adoption of the Tentative Permit Until the Court of Appeal Determines Whether the Permit’s Numeric Effluent Limits Exceed the Requirements of Federal Law.</b></p> <p>Similar to its predecessor, the Tentative Permit incorporates WQBELs expressed as numeric effluent limits and receiving water limits established under TMDLs that are incorporated into the Permit. As acknowledged in the Fact Sheet, the Regional Board must consider economic impacts and other factors outlined in Water Code Section 13241 when the Permit’s requirements exceed the MEP standard under federal Clean Water Act. [footnote] 11 According to the California Supreme Court: “When . . . whether to make the pollutant restrictions in a wastewater discharge permit <i>more stringent</i> than federal law requires, California law allows the board to take into account economic factors, including the wastewater discharger’s cost of compliance.” [footnote] 12 [footnote 11]: <i>City of Burbank v. State Water Resources Control Board</i>, 35 Cal.4th 613, 618 (2005). [footnote 12]: <i>Id.</i> (emphasis in original).</p>	<p><b>Change made.</b> See response to comments I.1.28 and F.22 (clarifying the federal Clean Water Act (CWA) standards).</p>

#	Commenter(s)	Comment	Response
		<p>The Tentative Permit's Fact Sheet asserts that "each of the requirements in the Order are not more stringent than what federal law requires for the control of MS4 discharges of pollutants in the Los Angeles Region."  [footnote] 13 The theory underlying this assertion is that each such requirement is necessary for the Permit to meet the MEP standard and the non-stormwater discharge prohibition set forth in Section 402(p)(3)(B) of the Clean Water Act. [footnote] 14 However, this is the same statute and standard discussed above, which does not require the Regional Board to mandate strict compliance with water quality standards, including numeric effluent limits.  [footnote 13]: Tentative Permit, Fact Sheet Part XIII, pg. F-274.  [footnote 14]: <i>Id.</i></p> <p>The Orange County Superior Court has previously held that the 2012 Permit's inclusion of numeric effluent limits, as an exercise of the Regional Board's discretion, exceeds the requirements of federal law and requires a consideration of that Permit's cost of compliance. [footnote] 15 This question is now on appeal before the Fourth District Court of Appeal. The Regional Board should defer adoption of the Tentative Permit until this question is resolved by the Court of Appeal. The Regional Board and all stakeholders will</p>	

#	Commenter(s)	Comment	Response
		<p>benefit from a judicial determination of the regulatory framework under which the Tentative Permit must be evaluated.</p> <p>[footnote 15]: <i>City of Gardena v. State Water Resources Control Board, et al</i>, Case # 30-2016-00833722-CU-WM-CJC and <i>City of Duarte v. State Water Resources Control Board</i>, Case # 30-2016-00833614-CU-WM-CJC.</p>	
I.1.31	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	<p><b>Consistency Across Permits:</b> We recommend eliminating redundancy or contradictions across permits and ensure requirements for Phase I, Phase II, Industrial General Permit, Agricultural Order, etc., encourage collaboration across responsible parties. Water quality impairments are due to a number of influences which is why a watershed-wide approach is valuable to coordinate on the most cost-effective solutions. However, the MS4 Permit should only contain requirements within the Permittees control and while collaboration is encouraged, compliance should not be reliant on it. Permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators. As currently drafted, the Tentative Permit purports to make the Phase I MS4 Permittees liable for the actions of other discharges, which is unlawful. In addition, RAAs should be given flexibility to quantify Phase I MS4</p>	<p><b>No change.</b> The Tentative Order was written to effectively regulate MS4 discharges in the Los Angeles region and the Watershed Management Program provisions effectively allow collaboration with non-MS4 Permittees and others. See also response to comments G.36 and G.39, and Tentative Order, Part X.D.1, regarding the comment on joint responsibility and liability.</p>

#	Commenter(s)	Comment	Response
		<p><b>responsibilities (e.g., load reductions) in order to encourage compliance as well as promote shared responsibility with other Permittees.</b></p>	
I.1.32	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	<p><b><i>Clear Language:</i></b> Tentative Permit language in places allows for multiple interpretations, in some cases out of line with the original intent. Specific comments are provided in Table A-1 where this has been identified. Overall, recommend including additional clarity while maintaining flexibility to allow for scientific advancements and better information/data regarding protection of beneficial uses and MS4 responsibilities in the future.</p>	<p><b>Change made.</b> See response to comments on Discharge Prohibitions, Stormwater Management Program Minimum Control Measures, Watershed Management Programs, etc. for specific responses and information on where changes were made.</p>
I.1.33	TECS Environmental	<p>Ms. Purdy's intense desire to adopt the tentative permit, even if it contains requirements that are not authorized under state and federal law, suggests that she could persuade the board to adopt the tentative by the end of the year -- even if the Gardena/Duarte litigation, which is under appeal, is not resolved by then. Some permittees are worried that if the tentative is adopted before the appeal is decided, thereby replacing the 2012 permit, the basis for the litigation will go away. This is because the issues tied to the 2012 permit will no longer be valid. This clearly would be dirty pool and could raise a possible contempt of court issue.</p>	<p><b>No change.</b> See response to comment I.1.28.</p>

#	Commenter(s)	Comment	Response
		<p>Should the final tentative permit be proposed for board adoption, without the revisions necessary to comply with federal and state law, permittees could appeal to USEPA Region IX, which has reminded the California water boards in 2016 that the SWMP/iterative process must be in all MS4 Permits. Permittees would urge USEPA Region IX, through their congressional representatives, to “step-in” and use its “permit objection authority” to make sure that the SWMP/iterative process is included in the next permit.</p> <p><b>Conclusions.</b> I am deeply concerned that as EO, Ms. Purdy’s knowledge of federal and state regulations, as they pertain to MS4 Permits, lacks sufficient depth. A great deal of public funds have already been spent on E/WMPs that are based on incorrect readings of applicable regulations. I am astounded that the board’s legal counsel have supported Ms. Purdy’s incorrect readings, suggesting that their knowledge of the regulations is insufficient as well.</p> <p>Several of the defective provisions of the permits are the subject of litigation now pending under appellate court. My concern is that Ms. Purdy <u>will not</u> make the needed revisions and will persuade the board to adopt the tentative permit, without them, before the</p>	

#	Commenter(s)	Comment	Response
		<p>end of the year -- even if the 2012 permit litigation is still under appeal. Ms. Purdy, with the support legal counsel, could try to make the case that the litigation associated with the 2012 permit goes away because the new permit replaces it, thereby rendering it invalid. In this event, permittees would be forced to file another administrative petition and, if it fails, petition the superior court. Such an action would be unfair and unethical and would ignore the Orange County Superior Court's ruling, which could spark a contempt of court battle. It would also ignore the economic impact of the permit on municipalities and the impact of the pandemic on their revenue streams.</p> <p>However, the board should be aware of the caveat contained in USEPA, Region IX's 2016 letter from Alexis Strauss, Regional Administrator, to Felicia Marcus, State Board Chair. Ms. Strauss reminded the State Board that all water boards must include in their MS4 Permits SWMPs governed by an iterative process. She subtly warned that <u>USEPA retains and stands ready to use its oversight authority to provide technical support, comments and, if appropriate based on the circumstances, exercise its permit objection authority.</u> [footnote 7:] Letter Alexis Strauss, Regional Administrator, USEPA Region IX, to</p>	

#	Commenter(s)	Comment	Response
		<p>Felicia Marcus, Chair, State Water Resources Control Board, September 13, 2016, page 3.</p> <p>More than likely several permittees will ask their congressional representatives to intervene by asking USEPA Region IX to exercise its permit objection authority.</p> <p>In closing, I hope that the board views the information presented herein as enlightening and urges Mr. [sic] Purdy to make the necessary revisions to tentative permit and corrections to the existing permit. I am at your disposal for any questions or concerns you may have.</p>	
I.1.34	TECS Environmental 2 <sup>nd</sup> Letter	<p>SWMPs Not E/WMPs Are Federally Authorized MS4 Permit Requirements</p> <p>The current and tentative permit (“permits”) replace the Stormwater Management Program (SWMP) with E/WMPs. If a Permittee does not voluntarily participate in a EWMP or WMP, it is subject to “baseline” requirements (viz., the SWMP’s minimum control measures), it will be in violation if an exceedance of a TMDL is detected at the outfall or receiving water. There is nothing in the federal stormwater regulations that require E/WMPs, which require strict compliance with TMDLs. As mentioned elsewhere, strict compliance is a requirement for dischargers that are subject to Clean Water Act 301. As it has been the case for the last two decades,</p>	<p><b>No change.</b> The Watershed Management Program provisions do not replace requirements to implement a Stormwater Management Program (SWMP). See Tentative Order, Part IX.B.6.a, which requires that a WMP incorporate the SWMP as a required element. Further, as explained in response to comment H.1.2.a, the inclusion of numeric water quality based effluent limitations and receiving water limitations derived from TMDLs in the Tentative Order is not discretionary in this case, and they are required under the CWA. See also response to comment F.2, F.11, and F.22.</p>

#	Commenter(s)	Comment	Response
		<p>MS4 Permits are not subject to CWA 301, but instead to CWA 402(p)(3)(B)(ii). This act requires the reduction of pollutants to the maximum extent practicable (MEP), which is implemented by 40 CFR §122.26(d)(2)(iv). This regulation requires the implementation of a SWMP. In fact, both permits, under Part V.A require the implementation of a SWMP (also referred to as a Stormwater Quality Management Program) to meet receiving water limitations (includes water quality standards and TMDLs). The SWMP is also governed by an iterative process which is required by federal regulations and State Board Water Quality Orders (99-05 and 2001-15).</p> <p>All other water boards in the state, including the State Water Resources Control Board, require compliance with the SWMP/iterative process. Further, the regional board should be aware of the caveat contained in USEPA, Region IX's 2016 letter from Alexis Strauss, Regional Administrator, to Felicia Marcus, State Board Chair. Ms. Strauss reminded the State Board that all water boards must include in their MS4 Permits SWMPs governed by an iterative process. She subtly warned that USEPA retains and stands ready to use its oversight authority to provide <i>technical support, comments and, if appropriate based</i></p>	

#	Commenter(s)	Comment	Response
		<p><u>on the circumstances, exercise its permit objection authority.</u> [footnote] 1  [Footnote 1]: Letter Alexis Strauss, Regional Administrator, USEPA Region IX, to Felicia Marcus, Chair, State Water Resources Control Board, September 13, 2016, page 3. 12/6/2020</p> <p><b>Recommendation:</b> (1) remove from the tentative permit E/WMPs as TMDL compliance determinants; and (2) make clear that Part V.A of the permit requires the implementation of a SWMP, governed by the iterative process.</p>	
I.1.35	Rutan & Tucker, LLP on behalf of City of Duarte 2 <sup>nd</sup> Letter	<p>Unfortunately, as drafted, the Tentative Permit has a variety of legal deficiencies that must be addressed prior to the Tentative Permit being adopted. Most notably, the Tentative Permit neither considers nor conforms to the legal findings and holdings in Duarte’s challenge to the 2012 MS4 Permit – <i>City of Duarte v. State Water Resources Control Board, et al.</i> (Super. Ct. Orange County, 2019, # 30-2016-00833614-CU-WM-CJC). The City of Gardena was also instrumental in this effort.</p> <p>The rulings in these cases confirmed that federal law does not require numeric effluent limits, and that the Regional Board erred in failing to justify both the achievability and costs of imposing such standards. Further, the existing rulings also affirm longstanding</p>	<b>No change.</b> See response to comments I.1.28, H.1.1, H.1.2, and H.1.2.a; G.36 and G.39.

#	Commenter(s)	Comment	Response
		<p>authority regarding restrictions on the Regional Board's authority that resonate equally for the Tentative Permit, and we believe must be followed. In particular, the Tentative Permit must recognize and proceed with the following key legal points:</p> <ol style="list-style-type: none"> <li>1. The Tentative Permit's Inclusion of the Numeric Effluent Limitations is Not Required by Federal Law;</li> <li>2. The NELs Cannot Be Adopted in Accordance with State Law; and</li> <li>3. The Joint and Several Liability Provisions of the Permit are Unlawful.</li> </ol> <p>Under California law, the Regional Board's authority is limited by the California Legislature through the various requirements of the California Water Code and the California Code of Civil Procedure. Duarte is not interested in serial challenges to the Regional Board's refusal to follow the law, and hopes that the Regional Board will recognize its obligation to reasonably exercise its discretion when imposing terms under its authority appointed to it by California law. Duarte therefore encourages the Regional Board to work with permittees on permit terms that are reasonably achievable from both a financial and technical perspective, and not just unilaterally impose terms that are impossible to achieve.</p>	

#	Commenter(s)	Comment	Response
		<p>... <b>Concluding Remarks.</b>            Duarte hopes that the Regional Board and its staff will amend the Permit, and work with permittees to develop permit terms that are reasonably achievable from both a technical and financial perspective.</p>	
I.1.36	Rutan & Tucker, LLP on behalf of City of Duarte 2 <sup>nd</sup> Letter	<p><b>The Regional Board Should Table Consideration of the Tentative Permit until Resolution of the Water Boards' Appeal</b>            In addition to the foregoing substantive issues with the Permit, the Regional Board should not adopt the Tentative Permit until after the Water Boards' appeal of the <i>Duarte Case</i> is finally resolved. With oral argument having been held on November 19, 2020, the Court of Appeal must issue a decision by February 2020 [sic], and likely well before then. The decisions made therein, will have an immediate and direct impact on numerous conclusions reached in the Tentative Permit's Fact Sheet, as every provision discussing the NEL-Related Provisions would be impacted by the final decision. Accordingly, the Regional Board should not consider the Tentative Permit until its appeal has been resolved.</p>	<p><b>No change.</b> See response to comments I.1.28, H.1.1, H.1.2, and H.1.2.a.</p>
I.1.37	City of Port Hueneme, City of Simi Valley, City of Ventura, City	<p>As the Program has expressed in several presentations to the Los Angeles Region Board and in discussions with its staff throughout the permit renewal process, the</p>	<p><b>Change made.</b> The Los Angeles Water Board supports these goals as well for Ventura County Permittees, and has designed a Tentative Order that accounts for Ventura County-specific conditions, allows Ventura</p>

#	Commenter(s)	Comment	Response
	of Thousand Oaks, County of Ventura, and VCSQMP	<p>County supports these three primary goals for the next permit for Ventura County permittees:</p> <ol style="list-style-type: none"> <li>1. Permit that is right for Ventura County,</li> <li>2. Permit that builds on the work that has already been done, and</li> <li>3. Permit that incentivizes multi-benefit projects and allows the Permittees to build support for obtaining funding to implement the projects.</li> </ol>	<p>County Permittees to capitalize on work they have already done, and incentivizes multi-benefit projects through the development and implementation of WMPs. Notably, the 2010 Ventura County MS4 Permit did not include WMPs as an alternative compliance pathway. Rather, the prior permit only included the separate compliance pathways for receiving water limitations in the receiving water limitation provisions and water quality based effluent limitations based on TMDL WLAs in the TMDL provisions. It did not provide the opportunity to comply with permit provisions in a watershed-based integrated manner through WMPs. Ventura County Permittees proposed inclusion of the Watershed Management Program for their next permit in their permit reapplication package (a.k.a. ROWD), stating that “[t]he Program supports the inclusion of a watershed management approach within the next Ventura County MS4 Permit, similar to the Watershed Management Programs (WMP) outlined in Part VI.C of the 2012 Los Angeles County NPDES Permit (LA Permit).”<sup>1</sup> Therefore, this proposed approach was included for Ventura County Permittees in the Regional MS4 Permit. (See also response to comment C.1.7.; Fact Sheet, Parts I.D, II.B, II.C, II.F, II.G; and VI.H; and</p>

<sup>1</sup> Ventura Countywide Stormwater Quality Management Program. Report of Waste Discharge. January 2015.

#	Commenter(s)	Comment	Response
			<p>Revised Tentative Order, Part IX.A.4, subparts f and j in particular.)</p> <p>In addition, the Los Angeles Water Board made many changes to the Tentative Order to specifically accommodate requests from Ventura County Permittees. See, e.g., responses to comments F.2, F.8, F.51, F.60, G.4, G.19, and G.20.</p>
I.1.38	VCSQMP	<p><b>Ventura County is Uniquely Different From Los Angeles County And Thus A Separate Permit Should Be Maintained</b></p> <p>The Program continues to express its concerns that the Draft Regional Permit is based primarily on the Los Angeles Regional Water Quality Control Board's (LA Water Board) experiences with Los Angeles County MS4 permittees and does not fairly or properly consider that Ventura County and the MS4 system in Ventura County is widely different from Los Angeles County. Whereas Los Angeles County is mostly covered by an urban landscape, Ventura County and its urban areas are interspersed with open spaces and agricultural lands. Thus, many sources of discharges into the Ventura County MS4 system may in fact not be from urban areas but from non-urban areas.</p> <p>Throughout the Draft Regional Permit, Ventura County Permittees are being required to comply with provisions that tier off of the</p>	<p><b>Change made.</b> See response to comment I.1.37. As set forth in the Fact Sheet, the Los Angeles Water Board retains the discretion to determine whether to issue permits for discharges from MS4s on a system or jurisdiction-wide basis. (CWA § 402(p)(3)(B)(i); 40 CFR § 122.26 subd. ((a)(1)(v), (a)(3)(ii), and (a)(3)(iv).) (Fact Sheet, Part I.D.) The Los Angeles Water Board finds that issuing one permit for all MS4 Permittees on a region-wide basis results in improved consistency and uniformity in Phase I MS4 permit requirements, where warranted, while providing Permittees the flexibility to tailor their implementation through watershed management programs in consideration of socio-economic, land use, and geographic characteristics.</p> <p>In making its decision, the Los Angeles Water Board considered the location of discharges and the nature of the receiving waters (see 40 CFR § 122.26(b)(4)(iii) and (b)(7)(iii)). For</p>

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		<p>existing Los Angeles County MS4 permit with no regard to their practical application to Ventura County. Further, the Draft Fact Sheet often refers to the Los Angeles MS4 permit for justification rather than looking to the Ventura County MS4 permit. For example, the Draft Fact Sheet includes rationale for the Technology Based Effluent Limitations by referring exclusively to the Los Angeles MS4 permit. (Draft Fact Sheet, p. 116.) Specifically, the Draft Fact Sheet states that “successive permits for the same MS4 must become more refined and detailed and require greater levels of specificity over time in defining what constitutes MEP, based on experience under the previous permit.” (Draft Fact Sheet, p. 116.) Then, the Draft Fact Sheet goes on to describe the history of the Los Angeles County MS4 permit and its provisions. Nowhere in this discussion is the Ventura County MS4 permit mentioned or discussed. (Draft Fact Sheet, p. 116.) In other words, the Draft Regional Permit fails to comply with the referenced U.S. EPA guidance for Ventura County Permittees because it does not consider MEP under the previous Ventura County MS4 permit but forces Ventura County Permittees into the Los Angeles County MS4 model.</p> <p>While the Ventura County Permittees appreciate the Los Angeles Water Board’s</p>	<p>example, while the MS4s in Los Angeles and Ventura County do not interconnect, they do discharge to some shared receiving waters (e.g., Malibu Creek, Santa Monica Bay, Santa Clara River). The City of Thousand Oaks (within Ventura County) and the City of Agoura Hills (within Los Angeles County) both discharge to Malibu Creek. Likewise, the cities of Ventura (within Ventura County) and Santa Clarita (within Los Angeles County) both discharge to Santa Clara River. The same is true within Ventura County where for example, the City of Ojai and the City of Ventura both discharge to receiving waters in the Ventura River Watershed. Having one permit for MS4 discharges to the same receiving waters across Los Angeles and Ventura Counties allows to the Board to address water quality in a consistent manner. Finally, the inclusion of a watershed framework is further bolstered by the requirement to implement 45 largely watershed-based TMDLs in the Tentative Order. Some of the TMDLs apply to both Los Angeles County and Ventura County Permittees for the reasons discussed above and in the Fact Sheet. These TMDLs also address multiple watersheds and the jurisdictional areas of multiple Permittees. Having separate permits makes implementation of the TMDLs more cumbersome.</p>

#	Commenter(s)	Comment	Response
		<p>desire to have one permit for all MS4s in the region, the stark differences between Ventura County and Los Angeles County in land use as well as history of the MS4 permits weigh heavily in favor of maintaining a two permit approach for the Los Angeles Region. The reasons for maintaining a two permit approach, included but are not limited to the following: 1) unlike the Los Angeles County MS4 permit, the Ventura County MS4 permit has not been the subject of ongoing litigation [the current permit was petitioned to the State Water Resources Control Board in 2009, but the issues were subsequently resolved and resulted in the existing 2010 Ventura County permit]; 2) the Ventura County Permittees have worked diligently to successfully implement their stormwater permit program and can show actual water quality improvements from their efforts and through best management practice (BMP) based approaches to implementing total maximum daily loads (TMDLs); 3) fiscal resources available to the Ventura County Program are significantly less as compared to the Los Angeles County programs [Ventura County's Benefit Assessment provides for approximately \$3.1 million annually as compared to Los Angeles County's recently adopted Measure W, which provides approximately \$300 million annually]; and, 4) the Los Angeles MS4 permittees were given</p>	<p>Regarding differences in land use, while there are differences, these differences do not necessitate a different permit or permitting approach. In addition to examples in Los Angeles County of urban pockets interspersed with more rural and/or agricultural land use, the Salinas MS4 Permit, adopted by the Central Coast Regional Water Board, is similar to the Tentative Permit in terms of the incorporation of TMDLs. The City of Salinas is similar to Ventura County, where there are agricultural areas next to and in between urban areas, and where both land uses contribute to impairments in receiving waters. The permit requires the City of Salinas to meet numeric water quality based effluent limitations (WQBELs) at the end of TMDL compliance schedules as does the Tentative Permit. Prior to the TMDL compliance deadline, the City of Salinas can demonstrate compliance through the implementation of a Pollution Load Reduction Plan. This is very much like the Watershed Management Program approach in the 2012 Los Angeles County MS4 Permit, the 2014 City of Long Beach Permit, and the Tentative Regional MS4 Permit. The Salinas MS4 permit further demonstrates that a numeric effluent limit approach is feasible and appropriate for Ventura County.</p>

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		<p>more time to prepare watershed management plans and were deemed in compliance with receiving water limits and/or TMDLs during plan development than is being provided to Ventura County permittees.</p> <p>Considering these stark differences between Ventura County and Los Angeles County, the Los Angeles Water Board needs to reconsider its Regional Permit approach and maintain a separate MS4 permit for Ventura County.</p>	<p>Regarding the comment that there are stark differences in the history of the MS4 permits, this is not the case. All three MS4 permits have followed similar trajectories from their initial issuance in the 1990s. Further, comparing the 2010 Ventura County MS4 Permit (2010 Permit) with the Tentative Regional Permit shows that the requirements are, in general, very similar with the added flexibility to develop a Watershed Management Program as a means of achieving compliance with receiving water limitations and water quality based effluent limitations. Part 1 of the 2010 Permit contains prohibitions on non-stormwater discharges similar to those in Part III of the Tentative Order. Part 2 of the 2010 Permit contains the Receiving Water Limitation provisions consistent with those in Part V of the Tentative Order. Parts 3 and 4 of the 2010 Permit include requirements related to stormwater management programs and the individual “minimum control measures” consistent with those in Part VIII of the Tentative Order. Parts 3 and 5 of the 2010 Permit contain TMDL requirements, including numeric WLAs, which are water quality based effluent limitations, similar to the TMDL requirements in Part IV.B of the Tentative Order.</p>

#	Commenter(s)	Comment	Response
			<p>Finally, the four reasons provided do not support the need for a separate permit for Ventura County. Litigation of past permits is not relevant to whether there is a single permit, and as noted, there have been administrative challenges to the Ventura County MS4 Permit, including the 2009 petition as well as test claims before the Commission on State Mandates that are very similar to test claims filed on the Los Angeles County MS4 Permit. Diligent implementation of permit requirements is also not a reason to maintain separate permits. The Tentative Permit allows Permittees even greater flexibility to work diligently in partnership with each other and other entities through Watershed Management Programs. Regarding fiscal resources, the Board recognizes that Ventura County Permittees do not have a level of dedicated funding like Los Angeles County Permittees have through the Safe, Clean Water Program. However, note that Los Angeles County Permittees also did not have this level of funding when the 2012 Los Angeles County MS4 Permit was adopted. Measure W was passed 6 years after adoption of the 2012 Los Angeles County MS4 Permit, which incorporated 33 TMDLs as numeric water quality based effluent limitations for the first time. Additionally, since 2012, the Legislature has enacted two pieces of legislation (Assembly</p>

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			<p>Bill 2403 (2014) and Senate Bill 231 (2017)) confirming fee authority without the need for voter approval. In the case of Ventura County, TMDL provisions have already been in the permit for over a decade, since 2009.</p> <p>Regarding the time to develop WMPs, the 18-month timeframe proposed in the Tentative Permit is the same as that provided to Los Angeles County MS4 Permittees. Additional time was only provided to Permittees who fully implemented one structural BMP or suite of BMPs at a scale that provided meaningful water quality improvement within each watershed and adopted LID ordinances and Green Street policies addressing greater than 50% of each watershed area during the development of their program. As for deeming Permittees in compliance with receiving water limitations while developing a WMP, the Board has considered this request and revised the Tentative Permit to include this provision. See response to comment G.19.</p> <p>In summary, there is sufficient flexibility within the Tentative Order to allow Permittees to tailor their actions to address applicable water quality issues within their respective watershed(s). Watershed Management Program provisions allow Ventura County Permittees as well as Los Angeles County Permittees the ability to tailor effective</p>

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			<p>measures to abate MS4 pollutants based on their unique watershed characteristics.</p> <p>With respect to the discussion of technology based effluent limitations and the “maximum extent practicable” (MEP) standard in the Fact Sheet, it is equally applicable to Ventura County and Los Angeles County Permittees. To explain, the MEP is the applicable federal technology-based standard that MS4 owners and operators must attain to comply, in part, with their NPDES permits. 40 CFR section 122.26(d)(2)(iv) further details the MEP standard, which requires that MS4 owners and operators implement comprehensive pollutant control measures in a stormwater management program including management practices, control techniques and system, design and engineering methods. Permit requirements to implement the MEP standard are generally referred to, collectively, as minimum control measures or MCMs. That said, in the Fact Sheet, certain changes and additions were made to address Ventura County concerns. (See response to comment C.2.1.)</p>
I.1.39	VCSQMP	<p>The Draft Fact Sheet Mischaracterizes Applicable Law and Uses Applies Faulty Rationalizations and Justifications for Many Provisions in the Draft Regional Permit The Draft Fact Sheet and its many legal justifications grossly mischaracterize</p>	<p><b>No change.</b> See response to comments C.1.6, C.1.7, and C.1.8; and H.1.1 and H.1.2.a.</p>

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		<p>applicable federal law under the Clean Water Act (CWA), its implementing regulations, case law, guidance and interpretations of such laws within precedential State Water Resources Control Board (State Water Board) orders. This is particularly egregious with respect to the inclusion of water quality standards provisions within the Draft Regional Permit such as numeric water quality based effluent limitations and TMDL wasteload allocations (WLAs). These improper legal justifications are peppered throughout the Draft Fact Sheet and too numerous to address individually. Instead, we address here the improper central themes contained throughout the Draft Fact Sheet.</p>	
I.1.40	VCSQMP	<p><b>Conclusion</b>  The Program continues to express serious concerns with the Draft Regional Permit and the justifications provided in the Draft Fact Sheet. As proposed, the Draft Regional Permit fails to address the unique nature of Ventura County may make it difficult for Ventura County permittees to demonstrate compliance with certain TMDLs (e.g., wet weather bacteria). The Draft Regional Permit needs to either be fundamentally revised as it applies to Ventura County permittees, or a separate MS4 permit for Ventura County needs to be developed and put forward.</p>	<p><b>No change.</b> See response to comment I.1.38. The Board understands the concerns of VCSQMP about demonstrating compliance with certain TMDLs such as those to address bacteria impairments during wet weather. However, these concerns are not unique to Ventura County. See, also, response to comments G.10 and G.16.</p>

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I.1.41	Santa Ana Region MS4 Permittees	The Santa Ana Region MS4 Permittees have a long history of collaboration on successful watershed wide programs to address critical water quality issues, improve recreational waterbodies and preserve valuable water resources. That experience has highlighted the need for flexible permit requirements that support the wide range of management strategies needed to address the complex challenges involved with successful watershed management. Adding flexibility, where feasible, avoids one-size-fits all directives and allows local solutions to be developed that most effectively utilize resources to improve water quality.	<b>No change.</b> The Tentative Order provides flexibility to MS4 Permittees in the Los Angeles Region to customize management strategies on a watershed basis, considering differences in land use, geography, and water quality among other factors to achieve permit requirements. See response to comment C.1.15, and the discussion in the Fact Sheet Part II.B regarding the Middle Santa Ana River Watershed Management Area.
I.1.42	TECS Environmental 2 <sup>nd</sup> Letter	The tentative MS4 Permit, like the current one, is too long, as Shahram Kharaghani, Stormwater Program Manager for the City of Los Angeles has noted. Finding specific requirements in the tentative permit is difficult and contains extraneous information that only distracts and confuses from understanding many permit compliance requirements. The 775-page long permit needs to be limited to essential requirements and should be in keeping with the length of permits adopted by other regional boards in the state.	<b>Change made.</b> Board staff have reorganized the Tentative Regional Permit as compared to the previous MS4 permits and made further organizational refinements to the revised Tentative Regional MS4 Permit to facilitate Permittees' and stakeholders' ease of reference and understanding of permit requirements. Note however that this is one of the largest and most complex MS4 permits in the country, covering 99 Permittees and implementing 45 TMDLs. Taken in its entirety, the Tentative Order and its attachments, including the Fact Sheet, are very lengthy. Note, however, that the Fact Sheet (Attachment F), which provides the legal, technical and policy rationale for the permit

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			requirements, is about half of the overall length.
I.1.43	TECS Environmental 2 <sup>nd</sup> Letter	The tentative and current MS4 Permit (“permits”) contain extraneous requirements that are not based on either state or federal regulations which drive-up the cost of compliance.	<b>No change.</b> Comment noted. See responses to comments H.1.1 and H.1.2.a.
I.1.44	BizFed	The Board should direct staff to publicly summarize and respond to comments. This would benefit all given the complexity of the Tentative Order. This could also help the Board members better understand the issues and impacts before the Board acts. With the current restrictions on meetings and communications the Board should take extraordinary steps to bring clarity to all the issues and impacts before acting.	<b>No change.</b> The Board will release the responses to all written comments received to Permittees and other stakeholders prior to the hearing on the Regional MS4 Permit. Additionally, the Board members will each receive a copy of all written comments and responses to comments.
I.1.45	BizFed	BizFed urges the Board to amend the Order to direct regulated entities to as soon as practicable meet feasible science based TMDLs by the most effective means available while prioritizing Measure W funds to this purpose as expressly authorized in the LA County approved Program Elements.	<b>No change.</b> Comment noted. See also responses to comments C.1.5, C.1.30, F.12, F.22, and G.16.
I.1.46	City of Santa Clarita	<b><u>New Requirements with No Direct Water Quality Improvement Benefit</u></b> Overall, the City requests that any new requirements be documented in the Fact Sheet as a proven, direct benefit to water quality for priority pollutants or be removed from the draft Permit. The Fact Sheet did not address the reasoning for many of these new	<b>No change.</b> Most of the requirements cited are not new changes. Some of those requirements were listed in a table in the 2012 Los Angeles County MS4 Permit; e.g., construction inspection frequencies but the requirements have been listed elsewhere in the Tentative Order and the level of effort is identical. The mapping of 18” storm drains

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		<p>requirements. The following new requirements do not seem to have any direct water quality benefit.</p> <ul style="list-style-type: none"> <li>• Mapping 18-inch storm drains requires a substantial GIS effort with costs and time with no direct water quality reason why the drainage areas are requested</li> <li>• Mapping HUCs and drainage areas require expensive engineering studies for each area</li> <li>• Additional inspections of construction sites and other facilities that already receive substantial inspections take valuable staff resources from adaptive management investigations which has a better chance of improving water quality</li> </ul> <p>There are many new requirements have little correlation to the goal of improving water quality are excessive and expensive. There are already struggles to afford the costs related to compliance through source reduction, and capital costs for treatment and infiltration facilities.</p>	<p>only applies to drainage areas that are primarily industrial and according are considered major outfalls by Federal regulations. The inventory and watershed area descriptions are consistent with those established in 40 CFR § 122.26 for system information required for initial Phase I MS4 Permits, and while GIS is recommended, it is not required.</p> <p>With respect to these Permittees' construction inspections, there are no new requirements; indeed, some of the requirements from prior permits have been removed. (See Fact Sheet, Part IX.E.) Additionally, federal regulations at 40 CFR section 122.26(d)(2)(iv)(D) require a description of a program to implement and maintain structural and non-structural BMPs to reduce pollutants in stormwater runoff from construction sites to the MS4. Clearly there are benefits to water quality from construction site inspections, as explained in full in the Fact Sheet (Part IX.E.)</p>
I.1.47	City of Santa Clarita	<p><b><u>Innovation and Outcome Based Requirements with Reasonable Timelines</u></b>  The City of Santa Clarita has been an early adopter of many stormwater innovations, open space preservation efforts, and integrated water management programs. We respectfully request that the draft Permit evolve to a process of innovation and</p>	<p><b>No change.</b> The Tentative Permit supports innovation and emphasizes water quality-outcome based requirements, notably requirements to achieve receiving water limitations and water quality based effluent limitations. These water quality limits are necessary to ensure that MS4 discharges are controlled such that water quality is protected</p>

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		<p>outcome-based requirements. Within these parameters must be a timeline that takes into consideration the capabilities of the human populations of our cities to adopt behavior change. Also, requirements need to incorporate the realities of construction permitting and schedules for any treatment project required (as has been presented the Regional Board on multiple occasions during the past two years).</p> <p>The size of the draft Permit makes it an unworkable document to comply with. While Regional Board staff has put substantial time and effort into developing the draft Permit, and under many legal processes outside Regional Board staff control, the underpinning reason for the permit is getting lost in massive levels of details. Expansion of the of permit to a more regional and watershed specific permit gives us an opportunity to truly review what is being asked and to reflect on whether or not these massive details and requirement really serve water quality in today's environment. In the City's view, many of the new requirements do not and represent motion but not action.</p>	<p>and restored. See also response to comment I.1.42.</p>
I.1.48	Lisa Naslund Consulting	<p>Consider a more holistic approach to the requirements. While understanding the concern of the Water Board is to protect and ensure clean storm water, other environmental and compliance factors can sometimes affect the feasibility of meeting the</p>	<p><b>No change.</b> The Tentative Order supports a holistic approach to controlling urban runoff and stormwater discharges through the Watershed Management Program provisions, which provide Permittees with the opportunity to implement multi-benefit projects that</p>

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		<p>MS4 requirements. For example, encouraging a project to address additional environmental concerns is also an important public benefit. Environmental factors such as urban heat effect and soil conservation are serious concerns and should be incorporated into the requirements where possible. Biomimicry and sustainable BMPs should also be encouraged.</p> <p>Additionally, Green Building Standards and the State's Model Water Efficiency Landscape Ordinance require both indoor and outdoor water efficiency for projects. Both of these, make rainwater harvest less feasible due to reduced water usage. In the majority of cases, projects miss the opportunity to capture ANY stormwater, since they typically opt for biofiltration where both infiltration and rainwater harvest is infeasible. The following is proposed:</p> <p>Rather than requiring a drawdown time of 96 hours, retain the storm water not only for use during the storm season (when possible), but also extend usage beyond the rainy season (if necessary) to be able to fully benefit from the harvested storm water. Increase the required volume if necessary to ensure the required total capture from the storm season.</p>	<p>improve water quality while also achieving other community and environmental benefits. See Part IX.A.4 of the Tentative Order.</p> <p>The Tentative Order does not limit rainwater harvesting to a drawdown time of 96 hours in response to past conversations with Permittees who found it too limiting. In earlier permits it was included due to vector control concerns but conversations with the Vector Control District revealed appropriate solutions were available.</p>
I.1.49	Los Angeles County and	The County and District fully supported the Los Angeles Regional Water Quality Control	<b>No change.</b> Comment noted. The Tentative Order builds upon and supports Permittees'

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	LACFCD 2 <sup>nd</sup> Letter	<p>Board's (Regional Board) adoption of the 2012 Los Angeles County (2012) MS4 Permit and defended the 2012 MS4 Permit in administrative proceedings and in civil court because of the importance of water quality and the permit's inclusion of a paradigm shift toward embracing stormwater as a resource. Since adoption of the 2012 MS4 Permit, the County and District have spent over \$800 million on MS4 Permit compliance efforts as documented in our past annual reports, which includes almost \$100 million spent this past year alone on multi-benefit projects. To that end, while the 2012 MS4 Permit's Watershed Management Programs (WMPs) and Enhanced Watershed Management Programs (EWMPs) have had an enormous positive impact on the region's water quality and supply, there is still more work to be done. The new MS4 Permit should continue to build upon the successes of the 2012 MS4 Permit and the unprecedented collaboration and extensive investments by all the Permittees.</p>	<p>continued efforts under the 2012 Los Angeles County MS4 Permit, 2014 City of Long Beach MS4 Permit, and 2010 Ventura County MS4 Permit.</p>
I.1.50	City of Los Angeles	<p>Fact Sheet, Part III. Over the past decade, the United States Environmental Protection Agency (USEPA) has worked to develop and encourage the utilization of integrated planning approaches to municipal stormwater and wastewater management. USEPA provided initial direction and committed to working with States and communities in the early 2010s to implement and utilize</p>	<p><b>Change made.</b> See response to comment F-9 and Fact Sheet at Part X.B.</p>

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		<p>integrated planning approaches as described in USEPA’s October 27, 2011 memorandum “<i>Achieving Water Quality Through Municipal Stormwater and Wastewater Plans</i>” and in its June 5, 2012 memorandum “<i>Integrated Municipal Stormwater and Wastewater Planning Approach Framework</i>.” The integrated planning concepts were incorporated into the Clean Water Act (CWA) in January 2019 with the signing into law of House Resolution 7279 (H.R. 7279). Congress passed H.R. 7279, now Public Law 115-436, to provide clear statutory authority for Integrated Plans (IPs) and address concerns about the long-term stability and legal basis of the approach.</p> <p>Integrated planning can assist municipalities in determining their critical paths to achieving the human health and water quality objectives of the CWA by identifying efficiencies in implementing the sometimes overlapping and competing requirements that arise from distinct stormwater and wastewater programs, including how best to make capital investments. Integrated planning can also facilitate the use of sustainable and comprehensive solutions, including green infrastructure, that protect human health, improve water quality, manage stormwater as a resource, and support other economic benefits and quality of life attributes that</p>	

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		<p>enhance the vitality of communities. The integrated planning approach does not remove obligations to comply with the CWA, but rather recognizes the flexibilities in the CWA for the appropriate sequencing of work.</p> <p>LASAN recognizes that the Watershed Management Programs alone are a paradigm shift in the management of stormwater. However, as this shift continues to be implemented, LASAN requests that the Tentative Order Proposal be revised to acknowledge the new CWA authority that would allow Permittees to take the evolution one step further via the development and implementation of an IP. LASAN requests the following or similar language be included in the Fact Sheet:</p> <p>“In January 2019, House Resolution 7279 (H.R. 7279), was signed into law thereby amending the CWA to allow municipalities to develop a plan that integrates stormwater and wastewater management through an integrated planning process. Integrated planning can assist municipalities in determining their critical paths to achieving the human health and water quality objectives of the CWA by identifying efficiencies in implementing the sometimes overlapping and competing requirements that arise from distinct stormwater and wastewater programs,</p>	

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		<p>including how best to make capital investments. Integrated planning can also facilitate the use of sustainable and comprehensive solutions, including green infrastructure, that protect human health, improve water quality, manage stormwater as a resource, and support other economic benefits and quality of life attributes that enhance the vitality of communities. The integrated planning approach does not remove obligations to comply with the CWA, but rather recognizes the flexibilities in the CWA for the appropriate sequencing of work. NPDES permits that incorporate integrated plans (IPs) may integrate all requirements under the CWA addressed in the plan. The Los Angeles Water Board encourages municipalities to identify opportunities to increase the efficiency of their clean water programs to protect and improve water quality. If a Permittee develops an IP, they may submit it to the Los Angeles Water Board for approval and consideration for incorporation of the IP into the Order.”</p>	
I.2.1	<p>City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills,</p>	<p>Page 1. Table 1. Discharger Information. "Available through the Stormwater Multiple Application and Report Tracking System (SMARTS) at <a href="https://smarts.waterboards.ca.gov/smarts/faces/SwSmartslogin.xhtml">https://smarts.waterboards.ca.gov/smarts/faces/SwSmartslogin.xhtml</a>"</p>	<p><b>No change.</b> At this time, reporting is not required via SMARTS. If it becomes a requirement in the future, instructions will be provided at that time.</p>

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	and Aleshire & Wynder, LLP	If this portal will be used to report items such as the individual reporting form, monitoring data, etc., then there should be a section added to the MRP attachment that addresses what is to be reported and when via SMARTS. There should also be the ability to delegate multiple users to upload agency files, such as a data submitter.	
I.2.2	City of La Cañada Flintridge	Page 4. "La Canada Flintridge (4 19M1000123)"  Add ñ to Canada throughout document	<b>Change made.</b>
I.2.3	City of La Cañada Flintridge	Page 4. "1327 Foothill Boulevard, La Cañada Flintridge, CA 91011"  New Address: One Civic Center Dr., La Cañada Flintridge, CA 91011	<b>Change made.</b>
I.2.4	City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills, and Aleshire & Wynder, LLP	Page 7. Table 4. Administrative Information. "This Order shall become effective on: <SO calendar days after Adoption Date>"  Recommend to have the Permit effective date as the start of the FY (July 1). This would facilitate appropriate budgeting by the City and is consistent with the annual reporting cycle.	<b>No change.</b> At this time, it is not known when the permit will be adopted and as such an effective date of the start of the fiscal year may or may not be appropriate.
I.2.5	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	Table 4; Page 7. Consider setting the effective date as July 1, 2021 (rather than 50 days from adoption date) to align with the Reporting Period.	<b>No change.</b> See response to comment I.2.4.

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I.2.6	LLAR Group, LSGR Group, and City of Long Beach	<p><u>Table 4. Page 7</u>  The effective date for this Permit and all subsequent Permits should be July 1st for two reasons:</p> <ul style="list-style-type: none"> <li>• July 1st will coincide with the Annual Reporting cycles.</li> <li>• The majority of Permittees have fiscal years beginning on July 1<sup>st</sup>.</li> </ul>	<b>No change.</b> See response to comment I.2.4.
I.2.7	LCC Group	<p>The LCC Watershed Group recommends that the new Permit's effective date be specified as July 1, 2021, rather than established as "SO days after adoption date." This would better allow Permittees to plan for and program the activities required by the Permit. It would also correspond with the programming year.</p>	<b>No change.</b> See response to comment I.2.4.
I.2.8	PVP Group	<p>The effective date for this permit on Page 7, Table 4 is currently undetermined; however, the effective date should be July 1 to coincide with the annual reporting cycle.</p>	<b>No change.</b> See response to comment I.2.4.
I.2.9	VCSQMP	<p>Attachment F Part II.E. Page F-29. The discussion of pollutants of concern for Ventura County on pages F-29 and F-30 creates an erroneous impression of the condition of Ventura County waterbodies that is not consistent with the water quality summary presented in the tables later in the Fact Sheet. Grouping monitoring from different permits and studies together mischaracterizes discharges and constituents of concern in Ventura County. For example, several of identified pollutants of concern listed on page F-29 (e.g. PAHs and most of the cited metals)</p>	<p><b>Change made.</b> The initial discussion in Part II.E of the Fact Sheet describes the pollutant concerns discovered throughout the entire jurisdiction of the Los Angeles Regional Water Board. The pollutants of concern specific to Ventura County were discovered from monitoring reports/annual reports submitted by Ventura County MS4 permittees and accordingly are appropriately described in the Fact Sheet. See Ventura County-specific discussion of pollutants of concern in Part II.E and Tables F-4 through F-17, which summarize monitoring data by watershed.</p>

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		<p>have not been identified as concerns in Ventura County. The discussion of pollutants of concern should be separated by County and ideally by watershed. Particularly in Ventura County, the constituents of concern vary by watershed and the discussion in this section creates an impression of much more significant water quality issues throughout Ventura County than are actually present, as evidenced by the tables later in the Fact Sheet.</p> <p>Provide separate discussions of constituents of concern for Ventura and Los Angeles County and note that not all constituents of concern are present in every watershed. Separate out the discussion of the ROWD by watershed and either just use the ROWD or the Annual Reports to summarize the information as using both is duplicative.</p>	<p>The Board does not find it redundant to rely on both the VCSQMP's ROWD and Annual Reports as sources of information to identify pollutants of concern in Ventura County; however, the language has been clarified.</p>
I.2.10	Los Angeles County and LACFCD 2 <sup>nd</sup> letter	<p>Attachment F/Page F-29. It appears that a literature reference to "Receiving water impacts studies" is missing. In addition, using a 1999 study (Haile et al., 1999) to describe the current stormwater and non-stormwater quality is inappropriate. The County and LACFCD request that the Regional Board incorporate more up-to-date stormwater science and research to reflect the current conditions of stormwater and non-stormwater quality.</p>	<p><b>No change.</b> The Haile et al. (1999) reference is a key reference regarding adverse health impacts as it summarizes the findings of a local epidemiological study conducted in the Los Angeles Region that examined the relationship between levels of fecal indicator bacteria in beach water quality and rates of illness. Review of recent monitoring data collected by MS4 Permittees still indicates that there continue to be concentrations of pollutants that exceed water quality standards in storm drains flowing to the ocean and other</p>

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			receiving waters. See, LARWQCB (2020), “MS4 Monitoring Data Review.”
I.2.11	Los Angeles County and LACFCD 2 <sup>nd</sup> letter	Attachment F/ Part II.E.1.a and b/ Tables F-4 and F-5/ Pg. F-31 and F-33. The California Toxics Rule (CTR) criteria for copper, lead, and zinc are based on the dissolved fraction of the metal and should be used to assess attainment of water quality standards. The use of total metals criteria and data to assess watershed conditions misrepresents the level of exceedances. For example, in the Los Angeles River Watershed, there are zero exceedances of the dissolved lead criteria at the mass emissions station as compared to the 11-25% exceedance rate stated in Table F-4. Additionally, solely using the mass emissions data through 2017 to characterize a watershed when additional data for the watershed (and in some cases the same waterbody) are available is misleading. For example, in the Ballona Creek watershed, dissolved lead exceeds during wet weather less than 1.3% when considering data collected in the watershed between 2009 and 2019. Given there is a significant amount of dissolved data collected in the watersheds presented in Tables F-4 and F-5, those data should be used to appropriately characterize exceedances. The County and LACFCD request that the Regional Board update Tables F-4 and F-5 to reflect conditions based on dissolved copper, lead, and zinc given that	<b>No change.</b> As noted in Tables F-4 and F-5, comparisons are made to either TMDL targets, where such targets exist, or Basin Plan objectives. TMDL targets for metals exist in the Los Angeles River and Ballona Creek watersheds. U.S. EPA’s NPDES regulations require that limits for metals in permits be stated as the total recoverable concentration (dissolved + particulate form) in most cases (see 40 CFR 122.45(c)). This is because if effluent limits were expressed in the dissolved form only, additional particulate metal could dissolve in the receiving water, causing an exceedance of the CTR objectives for metals. Because TMDL targets are the basis for waste load allocations that will be incorporated into NDPEs permits, the targets in the Ballona Creek and Los Angeles River Metals TMDLs are expressed as the total recoverable concentration of the metal; e.g., total recoverable lead. In developing TMDLs for metals, U.S. EPA and the Los Angeles Water Board recognized the potential for transformation between total recoverable metals and the dissolved metals fraction. This is accounted for by using a conversion factor. Conversion factors are used to convert the dissolved metal water quality objectives to TMDL targets and waste load allocations expressed as total recoverable metals. Where

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		<p>the CTR criteria for those metals are based on the dissolved fraction. Additionally, the Regional Board should provide the datasets and calculations used to create the tables.</p>	<p>possible, the Los Angeles Water Board used site-specific conversion factors, including in the Los Angeles River and Ballona Creek watersheds (for wet-weather targets and stormwater waste load allocations with the exception of lead in Ballona Creek where the default CTR conversion factor was used due to the limited data available). Targets and waste load allocations are expressed as the total recoverable concentration because the partitioning between dissolved and particulate phases of total recoverable metals is dynamic and highly dependent upon the conditions observed during the period of sampling, and the largest fraction of total recoverable metals in stormwater is associated with particles.</p> <p>As to the data period examined, it was appropriate to examine the data that were generally collected during the 5-year permit terms of the MS4 permits. Further, it is necessary to select an endpoint for the analysis. This analysis was done in preparation for the three Board workshops in 2018 on water quality conditions relative to MS4 discharges and, thus, using data through 2017 was appropriate. The data used in the analysis is that collected by the MS4 Permittees under their Monitoring and Reporting Programs.</p>

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I.2.12	Los Angeles County and LACFCD 2 <sup>nd</sup> letter	Attachment F/ Part II.E.1.a and b/ Tables F-4 and F-5/ Pg. F-31 and F-33. There appear to be inconsistencies in the information detailed in the Regional Board's July 2020 MS4 Monitoring Data Review Report (Report) and the results reported in Tables F-4 and F-5. For example, Table F-4 indicates that the Upper Santa Clara River exceeds total lead in 1-10% of samples during wet weather, while the Report indicates no exceedance of total lead in the same time period. Similarly, Table F-5, indicates that the San Gabriel River exceeds nitrate+nitrite in 11-25% of samples during dry weather, while the Report indicates no exceedance of nitrate+nitrite in the same time period. The County and LACFCD request that the Regional Board review and update Tables F-4 and F-5 as appropriate for consistency with the Report.	<b>No change.</b> The time period for analysis in Tables F-4 and F-5 is 2009-2017, while the time period in the July 2020 MS4 Monitoring Data Review Report, Section 3 (Regionwide Trends) is generally Fall 2012 to Spring 2017 for the mass emissions stations in Los Angeles County. Also, note that the July 2020 Report, Section 3 (Regionwide Trends) uses the CTR objectives based on a fixed hardness value to compare data across watersheds in the region. In contrast, the Tentative Fact Sheet monitoring data tables present site-specific data analyses.
I.2.13	VCSQMP	Attachment F Part II.E. Page F-32. Table F-4 lists total copper and total zinc exceedances for Santa Clara River (Lower). Total zinc and copper results can be much higher than dissolved but it is the dissolved portion that is bioavailable and therefore of concern for aquatic organisms. The hardness-based CTR objective for these metals is for the dissolved fraction. While the CTR uses a conversion factor to determine the dissolved objective from a calculated total objective, it is the dissolved portion that is bioavailable and so should be considered when determining	<b>No change.</b> See response to comment I.2.11. Also note that the Tentative Order allows Permittees to demonstrate compliance with the applicable receiving water limitation for the specific pollutant in the receiving water(s) at, or downstream of, the Permittees' compliance point(s). See Revised Tentative Order, Part X.B.2.a.ii. For the lower Santa Clara River, where there is no TMDL for metals, the applicable receiving water limitations are the dissolved metals objectives in the CTR.

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		<p>compliance with the CTR objective. The Regional Board is comparing the total fraction to the objective without the CF but the total amount is not bioavailable. There were no VC exceedances based on the dissolved fraction.</p> <p>Compare dissolved fraction concentrations to the dissolved objectives, per the CTR.</p>	
I.2.14	City of Santa Clarita	Page F 34 Table F6 and Page F36 Table F8. Upper Santa Clara River has three receiving water monitoring locations, one for each reach. The Mass Emissions station is one, but there are two additional sites. The stations are not reflected in the table.	<p><b>No change.</b> Comment noted. Table F-6 and F-8 of the Fact Sheet summarize Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL monitoring at receiving water locations. This TMDL applies to both Los Angeles and Ventura County Permittees and therefore reflects the Upper and Lower Santa Clara River watersheds. Table F-6 column 3 and Table F-8 column 4 list the number of receiving water monitoring locations. Out of the 4 monitoring locations listed, three are in Upper Santa Clara River within Los Angeles County and one mass emission station is within Lower Santa Clara River in Ventura County.</p>
I.2.15	City of Santa Clarita	Page F37 Table F9. The Santa Clara River has the same number of outfalls previously reported, unsure why there is an * without explanation	<p><b>Change made.</b> Revised Table F-9 to replace * with number of outfalls monitored during dry weather.</p>
I.2.16	VCSQMP	Attachment F Part II.E. Page F-38. "Copper and zinc exceedances were observed at receiving water stations when monitoring results were compared to CTR acute criteria for both total metals and dissolved metals."	<p><b>Change made.</b> The language was revised to indicate that exceedances were not observed at all receiving water stations. See also response to comments I.2.11 and I.2.13.</p>

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		<p>VC Permittee monitoring at RW stations for dissolved copper and zinc did not exceed the dissolved metals criteria. Exceedances of dissolved copper and zinc criteria at outfalls only occurred when site hardness was used for calculating the objective, as the receiving water hardness (and therefore dissolved criteria) is typically much higher than site hardness.</p> <p>Compare dissolved fraction concentrations to the dissolved objectives, per the CTR.</p>	
I.2.17	Los Angeles County and LACFCD 2 <sup>nd</sup> letter	<p>Attachment F/ Part II.E.3.a and b/ Tables F-10 and F-12/ Pg. F-39 and F-41. In reviewing the analysis contained in Tables F-10 and F-12, it appears the Regional Board did not consider a significant amount of data collected in several of the watersheds. For example, in reviewing the available wet weather copper data for the identified time period, close to 200 dissolved copper data are available as compared to the 94 indicated in Table F-10. Similarly, over 700 dissolved copper data are available during dry weather as compared to the 255 indicated in Table F-12. When conducting these types of summary analyses, the Regional Board should consider all data that are readily available. The County and LACFCD request that the Regional Board update Tables F-10 and F-12 to reflect the readily available data. Additionally, the</p>	<p><b>No change.</b> Board staff considered all available data for the specified time period submitted by the MS4 Permittees as part of their Monitoring and Reporting Programs under their respective MS4 permits. Much of the data, including all the mass emissions stations data, are available on the Los Angeles Water Board's website. <a href="https://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/#4">Storm Water - Municipal Permits   Los Angeles Regional Water Quality Control Board (ca.gov); https://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/#4</a></p>

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		Regional Board should provide the datasets and calculations used to create the tables.	
I.2.18	Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper 2 <sup>nd</sup> Letter	<p><b>The Safe Harbor Provisions of the Tentative MS4 Permit Violate the Anti-Degradation Requirements of the Clean Water Act and Porter-Cologne</b></p> <p>The federal anti-degradation policy (which is actually a regulatory prohibition with full force of law) completely prohibits further degradation of impaired waters (i.e., waters that do not meet water quality standards). (40 C.F.R. § 131.12(a)(1).) The anti-degradation policy also prohibits actions that degrade high-quality waters (i.e., waters that meet or exceed water quality standards) except under specific circumstances. (40 C.F.R. § 131.12(a)(2)(ii).) The federal policy is incorporated into Porter-Cologne and is directly enforceable under state law as well. (See Cal. Water Code § 13372(a).) California also has its own anti-degradation policy that includes additional requirements. In 1968, the State Water Quality Control Board (“State Board”) adopted Resolution # 68-16, <i>Statement of Policy with Respect to Maintaining High Quality of Waters in California</i>. (SB-AR-14338 to -14351.)</p> <p>Together, the federal and state anti-degradation requirements mandate that high water quality be maintained, unless degradation is justified based on specific</p>	<p><b>No change.</b> The so-called safe harbor provisions, which are a reference to the alternative demonstration of compliance with interim WQBELs and receiving water limitations for WMP participants (Order, Part X.B.b), or “deemed in compliance” provisions, do not violate federal or state laws and regulations. There are several reasons for this, which are summarized below and explained at length in the revised antidegradation policy analysis section in the Fact Sheet, Part III.H.</p> <p>Most of the receiving waters in the Region are not meeting water quality objectives for multiple pollutants associated with MS4 discharges, and therefore they are not high quality. However, with respect to the waterbodies within the Region that may be high quality waters with regard to some pollutants, the Los Angeles Water Board has done an extensive analysis and found that any degradation that might occur as a result of the deemed in compliance provisions is necessary to accommodate important economic or social development in the area and is consistent with the maximum benefit to the people of the state. For example, coupling the WMP framework with deemed compliance incentivizes collaboration to</p>

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		<p>findings. And in no case may impaired waters be further degraded.</p> <p>Receiving water sampling data demonstrates that MS4 discharges authorized by the 2012 MS4 Permit are degrading both impaired and high-quality receiving waters. For example, in February of 2020, NRDC and LA Waterkeeper completed a statistical analysis of receiving water data in Ballona Creek, Dominguez Channel, the Los Angeles River, Malibu Creek, and the San Gabriel River. The Report found: (1) statistically significant increases in heavy metal concentrations in wet conditions from 2000-2018; (2) the majority of assessments reveal no change in analyte concentration over time in both study periods, 2000-2018 and 2012-2018; and (3) the proportion of E. coli exceedances for 4 of the 5 water bodies in wet conditions was greater than 50% for 2012-2018. (See <i>Los Angeles County Municipal Separate Storm Sewer Systems (MS4). Time Series Analysis, 2000-2018</i> (Sean Mueller, Feb 23, 2020) (“Mueller Report”) (Exhibit A), at p. 2.) This study confirms that rather than improving receiving water quality since its adoption over eight years ago, the 2012 MS4 Permit has authorized either continued existing levels of degradation, or accelerated degradation, in both high-quality and impaired waters during both wet and dry weather. (<i>Id.</i> at 17-48.)</p>	<p>implement the most cost-effective controls, and provides important socioeconomic benefits such as creation of new jobs, increased local water supplies, beautified streets, plazas, and parking areas, and facilities that support habitat and recreation, while allowing the local governments to maintain important public services. This alternative therefore has the greatest chance of success, within the shortest time frame, while furthering the goal of maintaining and achieving water quality standards. Additional reasons why any degradation that might occur is consistent with the antidegradation policies is set forth in Part III.H of the Fact Sheet. (See, detailed explanation at Part III.H.2.)</p> <p>With regard to water bodies that are not meeting water quality objectives, the federal antidegradation policy does not “completely prohibit further degradation,” as commenters assert. The federal antidegradation policy cannot be read to negate other applicable law. Applicable law does not require immediate restoration of a water body to water quality objectives nor does it require immediate cessation of discharges that may be causing ongoing degradation in a water body. To the contrary, the potential, limited, and temporary lowering of water quality below the objectives is authorized by 40 CFR § 122.47, and by Water Code section 13263(c), which</p>

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		<p>The Tentative MS4 Permit confirms the conclusions of the Mueller Report. The Fact Sheet includes a summary of sampling data collected during the 2012 MS4 Permit term and 2010 Ventura MS4 Permit term, both in receiving waters and at end of pipe MS4 discharges. (Fact Sheet, pp. F-31-47.) The Tentative MS4 Permit documents consistent exceedances of Water Quality Standards and TMDL Waste Load Allocations for metals, bacteria, nutrients, and salt in impaired and unimpaired waters during both wet and dry weather. (<i>Id.</i>)</p> <p>Because the Safe Harbor provisions authorize discharges causing degradation of impaired and high-quality receiving waters while WMPs are developed and implemented for an indefinite period, the Tentative MS4 Permit violates the anti-degradation requirements of the Clean Water Act and Porter-Cologne.</p>	<p>authorizes the Los Angeles Water Board to include a time schedule for achieving water quality objectives in waste discharge requirements. Similarly, where a TMDL has been established, Water Code section 13242 states that the TMDL implementation plan, as incorporated into the water quality control plan, shall include a time schedule for actions to be taken. When issuing waste discharge requirements, Water Code section 13263 requires regional boards to implement any relevant water quality control plans that have been adopted. Certainly, water quality objectives must be ultimately achieved; but the law, as cited above, recognizes and allows for the fact that it can take time to restore or achieve the objectives. This position is further supported by <i>Defenders of Wildlife v. Browner</i> (9th Cir. 1999) 191 F.3d 1159, which held that requiring immediate compliance with receiving water limitations or compliance with water quality based effluent limitations in an MS4 permit is at the discretion of the permitting agency.</p> <p>Thus, with regard to waterbodies that are not high quality, the antidegradation policies do not require immediate compliance with water quality objectives. The antidegradation policies also do not require socioeconomic findings justifying any continued degradation of such waterbodies that may occur while the</p>

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			<p>Permittees implement requirements in accordance with a compliance schedule. Even if such findings were required, however, the temporary further lowering of water quality is justified for the same reasons articulated in the revised antidegradation analysis, Part III.H. of the Fact Sheet. Any such degradation is for a finite period of time defined by the compliance schedule specified in the Order. The RAA that WMP participants must perform should ensure that water quality objectives will be achieved by the end of the compliance period.</p> <p>To the extent that the quality of some currently high quality waters may temporarily degrade below water quality objectives while Permittees plan for, develop, and implement appropriate controls in accordance with the WMP compliance schedules in the Order and some historically high quality waters (i.e. water bodies that are not currently high quality, but are categorized as high quality because of a historic baseline) may temporarily continue to stagnate or degrade below water quality objectives during the same period, the Los Angeles Water Board finds, to the extent it is required to make findings, that such degradation is justified for the same social and economic reasons articulated in the Fact Sheet, Part III.H.2, "High quality water bodies."</p>

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			<p>Additionally, it is important to note that the deemed in compliance provisions do not create a framework where there is a deemed in compliance pathway for all receiving water limitations. Rather, the WMPs provide alternative compliance pathways only for particular waterbody-pollutant combinations: Those addressed by TMDLs (highest priority); those that are listed on the Clean Water Act Section 303(d) List and for which MS4 discharges may be causing or contributing to the impairment (high priority); or for which there are insufficient data to indicate water quality impairment in the receiving water according to the State's Listing Policy, but which exceed applicable receiving water limitations contained in this Order and for which MS4 discharges may be causing or contributing to the exceedance within the last five years (medium priority). (See, Order, Part IX.A.4; IX.B.1-3.) These waterbodies are generally not high quality waters to begin with, and certainly, they are not high quality with respect to the pollutants at issue.</p> <p>Finally, the Board does not agree with commenters' factual assertion that degradation is accelerating (implying that water bodies not currently meeting water quality objectives are continuing to degrade further). With respect to the statistical</p>

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			<p>analysis of water quality data referred to herein, the Los Angeles Water Board has reviewed the Mueller report and it appears that many of the assumptions and interpretations of data – and the resulting conclusions – are incorrect. First, with respect to the alleged statistically significant increases in heavy metal concentrations in wet conditions from 2000-2018, the Mueller report uses data with a high number of non-detected values, which skews the simple linear regression and resulting conclusions. In addition, the report uses CTR chronic criteria as a point of comparison for wet weather dissolved metals results, while the Los Angeles Water Board TMDL wet weather targets are almost exclusively based on acute criteria and total metals concentrations. These are just two examples of problems with the metals analysis in the Mueller report.</p> <p>With respect to the assertion that there is no change in analyte concentration over time for the majority of assessments, this is a simplification of the Mueller report’s conclusions. The report found no trends, non-significant positive trends, non-significant negative trends, significant positive trends, and significant negative trends for the analytes. It should be noted that trendlines are not always appropriate for this type of data, particularly if a dataset contains a lot of non-</p>

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			<p>detected values that are heavily weighted toward one part of the timeline and occasional outliers, as is the case for many of the analytes in this dataset.</p> <p>With respect to the assertion that the proportion of E. coli exceedances for 4 of the 5 water bodies in wet conditions was greater than 50% for 2012-2018, the Board’s analysis in Part II.E of the Fact Sheet draws similar conclusions, although for a different study period (2012-2017).</p> <p>The Los Angeles Water Board’s analysis of the same data analyzed in the Mueller Report (obtained from Los Angeles County annual reports) was presented at two Board workshops in May 2018 and July 2018 and is included in Part II.E of the Fact Sheet. As the data make clear, while impaired waters are still largely impaired, they are generally not getting worse.</p>
I.2.19	Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper 2 <sup>nd</sup> Letter	<p><b>The Tentative MS4 Permit’s Anti-Degradation Analysis is Inadequate</b></p> <p>Resolution # 68-16 provides that existing high-quality waters must be maintained unless the state can show that “any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water, and will not result in water quality less</p>	<p><b>Change made.</b> In response to this comment, and in response to the recent decision in the case <i>Natural Res. Defense Council, Inc. (NRDC) v. State Wat. Res. Control Bd. (SWRCB) et al.</i>, Los Angeles County Superior Court Case No. BS156962 (Beckloff, J.) (March 29, 2021), the Los Angeles Water Board has drafted a revised antidegradation analysis to address the Court’s ruling that the</p>

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		<p>than that prescribed in the policies.” The policy also requires the “best practicable treatment or control of the discharge necessary” to assure the highest-water quality “consistent with maximum benefit to the people of the State.”</p> <p>In 1990, the State Board issued Administrative Procedures Update (APU) 90-004, <i>Antidegradation Policy Implementation for NPDES Permitting</i> (July 2, 1990) (“APU 90-004”), which provides guidance for implementing both Resolution # 68-16 and the federal antidegradation policy. APU 90-004 clarifies that the RWQCB should conduct an anti-degradation analysis “when issuing, reissuing, amending, or revising an NPDES permit,” and that the analysis must be done on a pollutant-by-pollutant basis. It also clarifies that state antidegradation policy completely prohibits any degradation in waters that do not meet water quality standards. Finally, APU 90-004 identifies specific findings that must be made before degradation of high-quality waters can be allowed.</p> <p>The Fact Sheet next asserts that no anti-degradation analysis is required for the Tentative MS4 Permit, either because the degradation permitted under the 2012 MS4 Permit is the new baseline, and degradation</p>	<p>Los Angeles Water Board and the State Water Board failed to support their findings that any degradation of high quality waters was consistent with the maximum benefit to the people of the State. See Fact Sheet, Part III.H. However, it should be noted that, in accordance with that same decision, and the preceding decision issued by the Court of Appeal (<i>NRDC v. SWRCB et al.</i>, (2018) 2018 WL 6735201, *6 (unpub.)), a simple antidegradation analysis was held sufficient under the circumstances, and in that regard, the antidegradation analysis remains unchanged.</p> <p>All of Petitioners’ comments cited here are addressed in the revised antidegradation analysis, with the exception of the contention that since 2012, the twelve EWMP Groups in Los Angeles County have only achieved 9% of the total required stormwater volume reduction necessary to prevent degradation, and that this is evidence that the safe harbor provisions have resulted in stagnation, and continued degradation of both impaired and high-quality waters. This contention is misleading at best, and wrong at worst. The progress of the EWMP Groups in Los Angeles County must be evaluated in the context of the development of the EWMPs. In 2012, when the Los Angeles County MS4 Permit was issued, permittees had 30 months to</p>

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		<p>will not be worse than that baseline, or because changes to the Ventura 2012 MS4 Permit are not anticipated to degrade water quality beyond that permitted under the 2010 permit. (Fact Sheet at F-66.) Yet the degradation “baseline” can be reset only if the Safe Harbor provisions included in the 2012 MS4 Permit were legal—which they were not. And unlike the Tentative MS4 Permit, the 2010 Ventura MS4 Permit prohibited discharges that cause or contribute to exceedances of Water Quality Standards. The Safe Harbor provisions in the Tentative MS4 Permit authorize degradation in Ventura receiving waters while WMPs are developed and implemented—degradation that was previously prohibited. The Safe Harbor provisions of the Tentative MS4 Permit trigger the anti-degradation analysis requirement.</p> <p>Next, the Tentative MS4 Permit asserts even if an anti-degradation analysis is required, APU 90-004 does not apply, and the Tentative MS4 Permit need not include a water body-by-water body or parameter-by-parameter anti-degradation review, or at most it should be a “simple” anti-degradation analysis. (Fact Sheet at pp. F-66-67.) The Tentative MS4 Permit argues that data for the more detailed analysis is not available, or that such analysis would be too difficult, or that any reduction in water quality will be “temporally limited” and/or</p>	<p>develop their EWMPs and submit them to the Los Angeles Water Board for review. Then, the EWMPs had to be approved by the Board; and the projects had to go through the public bidding process prior to the time that construction began. In short, since 2012 was the first time that EWMPs had been a sanctioned, alternative compliance pathway for permittees, time was needed to ramp up and prepare for construction of projects. The construction of projects identified in EWMPs began in the last few years. Viewed in this context, the 9% completion rate is not an indicator of poor performance or continued degradation. Rather, it is evidence that – as permittees have testified – projects take anywhere from 5-7 years to bid out and complete, and that time was necessary to develop the EWMPs. Moreover, this completion rate needs to be considered in light of the interim and final compliance deadlines in the 2012 Permit, which are based on TMDL implementation schedules. In the next several years, the Los Angeles Water Board expects the Los Angeles County Permittees to ramp up their EWMP projects and that completion rates will increase dramatically because the initial planning, funding and bidding years are over.</p>

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		<p>“minor.” Yet there is no debate that the Tentative MS4 Permit is an NPDES permit, and APU 90-004 by its own terms applies to all NPDES permits. Further, ample data exists to evaluate all water bodies impacted on a parameter-by-parameter basis. The Fact Sheet conducts a partial evaluation of receiving waters and MS4 discharges, using data collected under the 2012 MS4 Permit. (Fact Sheet at pp. F-31-47.) The Fact Sheet lists many additional data sets available for review. (Fact Sheet at pp. F.68-69, fn 25.) And substantial additional data relating to Water Quality Standards development, Section 303(d) listing, and TMDL development are within the Regional Board files. While the Tentative MS4 Permit is correct that comprehensive data extending back to 1968 is not available, the RWQCB must conduct as comprehensive an analysis as possible with the substantial datasets available. Further, as discussed above and confirmed in the Tentative MS4 Permit, the documented impact of MS4 discharges on receiving waters is not minor, and has continued for years since the 2012 MS4 Permit was issued, and would continue for at least 5 years into the future. Degradation orders of magnitude greater than standards, extending over a decade, is neither short nor inconsequential. Finally, haven [sic] chosen to issue a permit with Safe Harbor provisions</p>	

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		<p>that allow degradation of receiving waters, the RWQCB cannot complain that the analysis required for relaxing permit limits is too difficult. The Tentative MS4 Permit must either conduct the required analysis or eliminate the Safe Harbor provisions that authorize degradation of receiving waters.</p> <p>Based on the abbreviated anti-degradation analysis, the Tentative MS4 Permit makes Findings relating to impaired waters and high-quality waters. (Fact Sheet at pp. F-68-74.) Without identifying which waters are impaired for which pollutants discharged under the Tentative MS4 Permit, the Fact Sheet asserts that because the Tentative MS4 Permit requires compliance with Water Quality Standards, no further degradation will occur. (Fact Sheet at p. F-69.) The Findings ignore the impact of the Safe Harbor provisions—provisions that ensure further degradation of impaired receiving waters will continue. And the Findings that no degradation of impaired waters are authorized are further contradicted by the admission on the following page that high quality waters are degraded by MS4 discharges. (Fact Sheet pp. F-70.) The tentative MS4 Permit acknowledges that pollutant concentrations in MS4 discharges to impaired waters are indistinguishable from discharges to high-quality waters, demonstrating ongoing degradation of already</p>	

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		<p>impaired waters. Finally, because the Tentative MS4 Permit declines to conduct the required water body-by-water body and parameter-by-parameter antidegradation analysis, the RWQCB is unable to distinguish between impaired receiving waters or Areas of Special Biological Significance, where continued degradation is prohibited; and high-quality waters, where degradation is allowed in limited circumstances. (APU-90-004 at p. 4.) Because the Safe Harbor provisions authorize discharges that will continue to degrade already impaired waters, the Tentative MS4 Permit violates the anti-degradation requirements of State and Federal law.</p> <p>The Tentative MS4 Permit's Findings as to high-quality waters are equally flawed. To reach the conclusion that degradation of high-quality waters by MS4 discharges are "to the maximum benefit of the people of the state," the Fact Sheet posits a series of false choices as "practicable alternatives" to prevent degradation of high-quality waters. (Fact Sheet at pp. F-70-71.) In doing so, the Tentative MS4 Permit misstates the question to be answered, and fails to either evaluate the required factors or to make the required findings. As demonstrated by all available data, and acknowledged in the Tentative MS4 Permit, municipal stormwater discharges have</p>	

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		<p>caused and contributed to degradation of area receiving waters and continue to do so. (See Exhibit A; Fact Sheet at pp. 31-47.) The anti-degradation analysis for high quality waters must examine whether permit terms insulating permittees from enforcement for discharges causing degradation—as the Safe Harbor provisions in the Tentative MS4 Permit do—is offset by the maximum benefit to the people of the state. (APU-90-004 at p. 4.) The Fact Sheet provides no analysis of the “[e]conomic and social costs, tangible and intangible, of the proposed discharge compared to the benefits.” (APU-90-004 at p. 5.) Instead, the Fact Sheet asserts, without evidence or analysis, that the Safe Harbor provisions are of maximum benefit to the people “because permittees have stated that they would not be willing to make the investment in the long-term controls required by the WMPs without assurance they would not be subject to enforcement actions” and “because the WMP framework incentivizes collaboration to implement the most cost-effective controls.” (Fact Sheet at pp. F-72-73.) This circular logic fails to meet the requirements of State and Federal law for the anti-degradation analysis. Perhaps more fundamentally, it is wrong. Over the 8 years since the 2012 MS4 Permit first provided Safe Harbor provisions, the twelve EWMP Groups have only achieved 9% of the total required stormwater volume</p>	

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		<p>reduction necessary to prevent degradation. (Exhibit B at p. 10) On this schedule, compliance with TMDLs and Water Quality Standards may be achieved, on average, by 2082 and in some watersheds not until 3663 (Malibu Creek). (Id.) Thus, rather than incentivizing implementation of WMP projects, the Safe Harbor provisions have resulted in stagnation, and continued degradation of both impaired and high-quality waters.</p> <p>The Tentative MS4 Permit proposes to continue the Safe Harbor provisions of the 2012 MS4 Permit, and thereby to authorize continued degradation of both impaired and high-quality waters. Both because degradation of impaired waters is prohibited, and because the antidegradation analysis is inadequate, the Tentative MS4 Permit is inconsistent with the requirements of the Clean Water Act and Porter-Cologne.</p>	
I.2.20	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	<p>Att.F. Part III.K; Page F-93. If Permittees were to consider climate change offsets in modeling or with BMPs, this would require changes to the WMPs through Adaptive Management. When would this be required by if included in the Permit? This would require Permittees to incur additional costs for analysis and modeling. Has the LARWQCB/SWB conducted a cost-benefit analysis to determine feasibility of considering climate change offsets?</p>	<p><b>No change.</b> The Fact Sheet states, “while not a requirement, ... permittees should consider climate change offsets.” This is not a requirement. Nonetheless, climate changes could effectively be handled by incorporating the most recent rainfall data, including projections, when the RAAs are redone. The ongoing use of the most recent rainfall data and resulting BMP capacity can be appropriately handled within the existing Adaptive Management framework. There is</p>

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			no requirement to conduct a cost-benefit analysis in this regard.
I.3.1	Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper 2 <sup>nd</sup> Letter	<p><b>Receiving Water Limitation V.C. Is a Failure and is Inconsistent With the Scheme of the Permit</b></p> <p>Receiving Water Limitation Section V.C of the Tentative MS4 Permit is a direct carry over from the 2012 MS4 Permit, which itself was carried over from the 2001 MS4 Permit. Section V.C sets out an iterative process using a Receiving Waters Limitations Compliance Report. (Tentative MS4 Permit at p. 36.) The Report is triggered by a determination by a permittee or the RWQCB that discharges from the MS4 are causing or contributing to violations of water quality standards. (<i>Id.</i>)</p> <p>During the life of the 2001 MS4 Permit (2001-2012), despite mass emission station sampling demonstrating that discharges from the MS4 were causing and contributing to exceedances, no permittees filed reports pursuant to Section V.C, unless subject to citizen enforcement (Malibu and Los Angeles County), or pursuant to a Section 13267 Order issued by the RWQCB. Since issuance of the 2012 MS4 Permit, again despite data demonstrating exceedances causing violations of Water Quality Standards, and development of WMPs and EWMPs designed to address those exceedances, no reports</p>	<p><b>No change.</b> The receiving water limitations provisions in the Order are carried over from the previous permits and are based on precedential State Water Board WQ Orders 98-01 and 99-05. This language continues to be relevant to Permittees not participating in a WMP or for which the Permittee’s WMP does not address the particular receiving water limitation.</p> <p>Furthermore, the tentative permit addresses the relationship between the WMP and the Receiving Water Limitations Compliance Report in Part IX.B.9.c.iv of the Revised Tentative Order where it states the following: “Incorporation of the requirements and implementation schedule in subpart B.8 above into an approved WMP fulfills the requirements in Part V.C.1 of this Order to prepare an Receiving Water Limitations Compliance Report.” Also, Attachment E, Part XIV.C provides additional clarification stating the following: <b>Watershed Management Program Exemption.</b> Per Part IX.B.9.c.iv of the Revised Tentative Order, implementation of actions to address water quality priorities in a Watershed Management Program related to addressing exceedances of receiving water limitations in Part V (Receiving Water Limitations) of the Order which is not</p>

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		<p>pursuant to Section V.C were submitted. Therefore, as a means of achieving compliance with Receiving Water Limitations, Section V.C is a failure.</p> <p>Further, data have been collected and reported in Annual Reports pursuant to the 2012 MS4 Permit to allow permittees and the RWQCB to determine immediately which permittees—in effect all permittees—are causing or contributing to exceedances of water quality standards. The Tentative MS4 Permit confirms that exceedances are occurring now. (See e.g. Fact Sheet at pp. 31-47.) Modifications to a permittee’s stormwater management program and monitoring to achieve compliance must be undertaken immediately, not after a future determination. Additionally, the relationship between WMPs and the V.C reports is unaddressed by the Tentative MS4 Permit.</p> <p>Because the Section V.C report has failed to produce any improvement in water quality, and because it is inconsistent with the overall scheme of the Tentative MS4 Permit, the Environmental Groups recommend that Section V.C be removed.</p>	<p>otherwise addressed by TMDLs in Part IV of the Order and Attachments K through S, fulfills the requirements in Part V.C of the Order to prepare a Receiving Water Limitations Compliance Report.”</p> <p>In summary, Permittees participating in a WMP are exempt from submitting a separate Receiving Water Limitations Compliance Report. Permittees not participating in a WMP are required to submit the Receiving Water Limitations Compliance Report. The adaptive management process for Permittees implementing an approved WMP mimics the requirements in Part V.C. Therefore, the reporting requirements in Part V.C are unnecessary for Permittees implementing a WMP. See, Tentative Order Part IX.E.3.</p>
I.4.1	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	Part VI.C; Page 38. Please clarify how the Regional Board will ensure that information collected in the Annual Reports will be utilized to complete fiscal analysis as required by the	<b>No change.</b> The State Auditor’s report required the State Water Board to develop statewide guidance for local jurisdictions on methods for tracking the cost of stormwater

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		<p>State Auditors. Will specific instructions be provided in the Annual Report to prevent any discrepancies between Permittees when financial data is provided. Please consider rewording or expanding on this requirement. It can be interpreted that permittees must enumerate and describe all funds necessary to meet all requirements for implementation for the future year. There will undoubtedly be occasions when all funding sources anticipated for the upcoming year simply do not meet what is estimated for full implementation.</p>	<p>management. This obligation has been fulfilled. The statewide guidance is available on the State Water Board’s website (<a href="https://www.waterboards.ca.gov/water_issue_s/programs/stormwater/storms/docs/ms4costreportguide.pdf">https://www.waterboards.ca.gov/water_issue_s/programs/stormwater/storms/docs/ms4costreportguide.pdf</a>). Attachment H, Annual Report Forms were developed based on the State Water Board’s guidance and contain instructions for Permittees to report the results of their fiscal analysis. The intent in providing a standard form is to minimize reporting discrepancies between different Permittees. Note that the requirement to describe the funds proposed to meet the necessary expenditures is based on the federal requirement at 40 CFR section 122.26(d)(2)(vi).</p>
I.4.2	City of Santa Clarita	<p><b><u>Fiscal Resources Reporting</u></b>  The new fiscal resources reporting requirements are fairly expansive, but not really helpful in providing data that determines the value of what is being required.</p> <ul style="list-style-type: none"> <li>• The City is concerned about the intent of the requirements without explaining the water quality benefits or financial information needs</li> <li>• There seems to be multiple categories with no explanation or definition of what they mean and little correlation to how these categories relate to improving water quality</li> <li>• Any requests for more refined financial information should be well defined and</li> </ul>	<p><b>No change.</b> Cost reporting requirements in this permit were developed based on the State Auditor’s Report. See response to comment I.4.1. Furthermore, cost data will be considered as necessary in future permit iterations. The benefits of requiring detailed cost reporting are not designed to directly correlate with a specific water quality outcome but rather inform the Board about the costs of permit requirements and therefore aid the Board’s decision making in the future to help Permittees manage these compliance costs.</p>

#	Commenter(s)	Comment	Response
		<p>directly connected to an expected metric or specific water quality outcome</p> <ul style="list-style-type: none"> <li>Incorporating a process for post permit refinement of financial reporting would be the more reasonable idea, and would provide thoughtful time to develop a meaningful fiscal resource reporting section</li> </ul> <p>It is critically important that any refined financial data collection be connected to specific water quality improvement results</p> <p>Page 38. Section C1.2. Fiscal requirements should be directly related to water quality improvements. The approach of requiring more information without considering why it is helpful in meeting water quality should be considered and the data request revised.</p>	
I.4.3	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	Part VI.G.4.b; Page 40. Requiring more frequent monitoring or reporting may not be considered a minor modification if it has significant implications to a Permittees cost of compliance and therefore likely impact a Permittees ability to comply with other requirements of the Permit.	<b>No change.</b> This permit language comes directly from 40 CFR section 122.63. Note that the provision states that the procedures in 40 CFR section 122.63 must be followed, which include obtaining the consent of the permittee.
I.5.1	Teresa Nguyen	I also suggest that the permit reinvest back into frontline communities to ensure fines for non-compliance be directed to projects in impacted communities.	<b>No change.</b> While this is outside the scope of the Board's action on the Tentative Permit, the Board already has a program in place through its Enforcement Program that does what the commenter is suggesting. Currently, fines for non-compliance go to the State

#	Commenter(s)	Comment	Response
			<p>Water Pollution Cleanup and Abatement Account, or other fund or account as authorized by statute. These funds are then directed to cleanup and abatement in communities impacted by pollution. In some circumstances, Permittees have the option to satisfy a portion of a monetary fine by funding water quality improvement projects known as Supplemental Environmental Projects (SEPs). The Los Angeles Water Board has a pre-approved SEP list of projects to benefit disadvantaged communities and works with the Rose Foundation to actively encourage dischargers subject to enforcement actions to participate in a SEP. See <a href="https://www.rosefoundation.org/project-summaries">Rose Foundation Project Summaries (ca.gov)</a>.</p>
I.5.2	Ty Kushi	<p>In order for our oceans to be safe, the permit must be enforced. It is unfortunate, but those who choose to disregard the health of the environment and other people must be fined. It only makes sense that these fines should be reinvested into the most vulnerable communities. This permit is an opportunity to help those who have been pushed to the side.</p>	<p><b>No change.</b> See response to comment I.5.1.</p>
I.5.3	Shai Grossamn	<p>In order for our oceans to be safe, the permit must be enforced. It is unfortunate, but those who bring the quality and life of our wetlands, marinas and oceans must be held accountable, fines must be given. It only makes sense that these fines should be reinvested into the most vulnerable communities to better their quality of life and</p>	<p><b>No change.</b> See response to comment I.5.1. Further, the overarching objective of the Tentative Permit is to protect and restore the water quality of our waterbodies, including wetlands, marinas, and oceans.</p>

#	Commenter(s)	Comment	Response
		further protect our bay. This permit is an opportunity to help protect and maintain one of the key characteristics of Santa Monica and Los Angeles.	
I.5.4	Kate Javerbaum and Alexander Santiago	In order to make progress in reducing stormwater pollution, cities and counties must be held accountable. The MS4 permit must be measurable and actionable. Without clear goals and enforcement, it is difficult to track progress and force compliance. An effective MS4 permit should benefit everyone -- including communities that, due to racist and discriminatory policies, have been overlooked. Fines for non-compliance should be directed and reinvested into community-led projects that directly benefit impacted communities....We need a permit that is measurable, actionable, and reinvests in frontline communities.	<p><b>Change made.</b> The Tentative Order requires all Permittees to meet water quality standards to protect public health and the environment, thereby benefitting all persons within the Region. The Los Angeles Water Board is committed to developing and implementing policies and programs to advance racial equity and environmental justice so that race can no longer be used to predict life outcomes, and outcomes for all groups are improved. Also see response to comment I.5.1. Finally, the reporting requirements in the Tentative Order have been revised to ensure that the Tentative Order is measurable and actionable. (See, Attachment H.)</p> <p>The following finding has been added to Part III.M of the Fact Sheet:</p> <p>In accordance with the Water Boards' Racial Equity Initiative, formally launched on August 18, 2020, the Order requires all Permittees to meet water quality standards to protect public health and the environment, thereby benefitting all persons and communities within the Region. The Los Angeles Water Board is committed to developing and implementing policies and programs to advance racial</p>

#	Commenter(s)	Comment	Response
			equity and environmental justice so that race can no longer be used to predict life outcomes, and outcomes for all groups are improved.
I.5.5	Ellenor Brandt	As well as reinvesting back into frontline communities to ensure fines for non-compliance return to projects in impacted communities.	<b>No change.</b> See responses to comments I.5.1 and I.5.4.
I.5.6	Ann Dorsey	Fines should be tracked so the funds are used to help those communities impacted by non-compliance.	<b>No change.</b> See responses to comments I.5.1 and I.5.4
I.5.7	Caty Wagner and Don Weiden	Ensures that fines for noncompliance be directed to projects in impacted communities	<b>No change.</b> See responses to comments I.5.1 and I.5.4
I.5.8	Sierra Club Angeles Chapter 2 <sup>nd</sup> Letter	Enforcement fines for noncompliance and the money collected should be directed to projects in impacted communities	<b>No change.</b> See responses to comments I.5.1 and I.5.4
I.5.9	Tom Williams	Assure enforcement and appropriate fines for noncompliance to be directed to specific projects and agencies in impacted communities	<b>No change.</b> See responses to comments I.5.1 and I.5.4
I.5.10	Audrey Kono	In addition, fines for non-compliance should be directed to projects in impacted communities. This permit should work to promote equity in our communities.  ...The money from non-compliance fines should be invested into projects that support frontline communities, as their health and overall wellbeing are the most impacted by stormwater pollution. It is so important that we	<b>No change.</b> See response to comments I.5.1 and I.5.4.

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		make sure we care for <i>everyone</i> , that we protect clean water for <i>all</i> .	
I.5.11	Isabella Langa	<p>Furthermore, the current MS4 permit is poorly enforced. Nearly all areas included in the permit have only invested in a small fraction of the infrastructure that they promised us 30 years ago to help decrease stormwater pollution and they have consistently failed to meet deadlines. If we want to protect our environment, this simply will not do. Deadlines on the new permit need to be strictly enforced, and cities should come up with detailed, achievable plans on how to renovate their storm drain systems. Noncompliance should be punished with fines that are reinvested in the communities that are most affected by this problem. This issue is of the utmost importance, just as sewage pollution was before it; but we have managed to decrease our sewage pollution through investing in treatment infrastructure. Why has action of equal urgency not been taken against stormwater pollution? This, too, is a fixable issue, and the new MS4 Permit should reflect a serious effort to improve. I would like to grow up with pride in my city because I know that it cares about the environment and by extension the health of my generation.</p>	<p><b>No change.</b> See response to comments I.5.1 and I.5.4.</p>

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I.5.12	Alexander Santiago	It should also be clearly enforceable by regulatory agencies, and by the public. It should ensure that fines for non-compliance are directed to projects in impacted communities.	<b>No change.</b> See response to comments I.5.1 and I.5.4.
I.5.13	Mithsy Hernandez on behalf of various NGOs	<p><b>ACTIONABLE-</b> Is clearly enforceable by regulatory agencies and the public alike</p> <p><b>REINVESTING BACK INTO FRONTLINE COMMUNITIES-</b> Ensures that fines for non-compliance be directed to projects in impacted communities</p>	<b>No change.</b> See response to comments I.5.1 and I.5.4.
I.5.14	Mithsy Hernandez on behalf of various NGOs	<p>Is clearly enforceable by the Los Angeles Regional Water Quality Control Board, and by third party groups (including non-governmental organizations and community-based organizations), to drive meaningful action towards achieving water quality objectives by holding permittees accountable to their requirements under the federal Clean Water Act to reduce stormwater pollution.</p> <p>Requires that fines/penalties for non-compliance with the permit be reinvested back into impacted communities through Supplemental Environmental Projects or similar mechanisms managed by local non-governmental organizations and community-based organizations to the maximum extent possible.</p>	<b>No change.</b> See response to comments I.5.1 and I.5.4.

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I.5.15	Sierra Club Angeles Chapter	Fines for non-compliance should be re-directed to affected communities, particularly for the greening of communities of color, which typically lack green space.	<b>No change.</b> See response to comments I.5.1 and I.5.4.
I.5.16	Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper	In 2018, Heal the Bay conducted a pilot project based on Integrated Monitoring Program (IMP) and Coordinated IMP (CIMP) data aiming to convey regulatory water quality monitoring data in an engaging and user-friendly way to the general public. This pilot project focused on the LA River Watershed, to show proof of concept. We chose the LA River Watershed because the LA River is currently the subject of much attention, with recreational opportunities such as kayaking and fishing, and proposed restoration plans throughout. We obtained the most recent year of IMP and CIMP water quality data from the Los Angeles Regional Water Quality Control Board at the time of analysis (May 2018). The data spanned two reporting periods from July 1, 2016 to June 30, 2017. Many sites had enough data to assess water quality; however, some did not. When only one or two sampling events are required in a calendar year, regional scale assessment and/or long-term assessment of water quality becomes difficult. There has historically been an additional issue of missing data; several sites were not sampled the required number of times. When only one sample event is required, but none occur, long-term	<b>No change.</b> Comment noted.

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		<p>assessment of water quality at that monitoring location becomes impossible. And by removing an entire monitoring location from regional assessment, regional scale water quality assessment is also impacted. <b>We recommend that the Regional Board play a more active role in enforcing water quality monitoring requirements.</b></p>	
I.5.17	<p>Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper</p>	<p><i>Failure to conduct a required monitoring event must be sufficiently justified and documented.</i> It is important that samples are taken on schedule as required by the permit, unless there are safety concerns, or sampling was otherwise not possible. If a permittee is unable to monitor at a site because of safety concerns or monitoring is not otherwise possible (for access reasons, for example), then this must be stated by the permittee and sufficient documentation provided to the Regional Board.</p> <p>We understand that skipping a sampling event without reasonable justification is usually determined as a monitoring violation, and request that clarifying language be added to the permit. If a sampling event is missed without reasonable justification, we lose data which is necessary to understand the potential impacts on local water quality. More importantly, missing that sampling event can allow a potential water quality exceedance to go undetected, and therefore unresolved,</p>	<p><b>Change made.</b> Part XIV.B.2.c.vii of Attachment E was revised to require Permittees to submit information about missed sampling events and their justification in their Monitoring Reports.</p> <p>No change was made with regards to enforcement language. Explicit permit language for enforcing monitoring and reporting requirements is unnecessary because the Board can enforce on monitoring and reporting requirements pursuant to CWC sections 13385 and 13383.</p>

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		<p>prolonging the negative impacts of the water quality exceedance. For this reason, the Tentative Permit must clarify that the failure to monitor at a specific site is an enforceable violation, and appropriate enforcement action must be taken as soon as possible in the event of such a monitoring violation.</p> <p>Permittees may be given the opportunity to sufficiently justify the failure to monitor in order to avoid mandatory minimum penalties. This justification must including a reasonable justification and supporting time-stamped photograph (demonstrating, for example, unsafe sampling conditions, no discharge, etc.) for any missing monitoring data, and a description of the duration of these conditions.</p>	
I.6.1	City of Los Angeles	Attachment A, Page A-1. Definition for “Authorized Discharge” appears to be redundant. LASAN requests that this definition be revised for clarity.	<b>Change made.</b> The definition was revised to remove the redundancy.
I.6.2	Contech Engineered Solutions, LLC	<p><b>Section: Appendix A – Definitions</b></p> <p>“Biofiltration</p> <p>A Low Impact Development (LID) BMP that reduces storm water pollutant discharges by intercepting rainfall on vegetative canopy, and through incidental infiltration and/or evapotranspiration, and filtration. Planning level analyses described in the Ventura County Technical Guidance Manual (TGM) estimate that biofiltration of 1.5 times the storm water quality design volume (SWQDv)</p>	<b>No change.</b> The definition is appropriate as currently written.

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		<p>provides approximately equivalent or greater reductions in pollutant loading when compared to bioretention or infiltration of the SWQDv.2 Incidental infiltration is an important factor in achieving the required pollutant load reduction. Therefore, the term “biofiltration” as used in the Order is defined to include only systems designed to facilitate incidental infiltration or achieve the equivalent pollutant reduction as biofiltration BMPs with an underdrain. Biofiltration BMPs include bioretention systems with an underdrain and bioswales.”</p> <p>Revise the biofiltration definition to exclude filter strips and swales.</p> <p>This biofiltration definition is too expansive and should be amended to eliminate swales, filter strips and other treatment systems that do not filter stormwater through plants and soil. Swales and filter strips are not allowed as biofiltration practices in the current Los Angeles MS4 Permit which describes biofiltration in Attachment H. The Ventura Technical Guidance Manual (TGM) does include swales and strips as biofiltration BMPs. It describes vegetated swales in the “Bio-3: Vegetated Swale” section as follows:</p> <p>“Vegetated swales are open, shallow channels with low-lying vegetation covering</p>	

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		<p>the side slopes and bottom that collect and slowly convey runoff to downstream discharge points. Vegetated swales provide pollutant removal through settling and filtration in the vegetation (usually grasses) lining the channels”</p> <p>It describes filter strips in the “Bio-4: Vegetated Filter Strip” section as follows:</p> <p>“Filter strips are vegetated areas designed to treat sheet flow runoff from adjacent impervious surfaces or intensive landscaped areas such as golf courses. Filter strips decrease runoff velocity, filter out total suspended solids and associated pollutants, and provide some infiltration into underlying soils.”</p> <p>Essentially, both of these systems are designed to convey stormwater as shallow sheet flow to take advantage of the settling within the vegetative layer that occurs at low flow velocities. This is fundamentally different than filtering water through at least 18 inches of engineered soil media as is required in Attachment H of the current Los Angeles MS4 permit and is required in fact sheets “BIO-1: Bioretention with Underdrain”, “BIO-2: Planter Box” and “BIO-5: Proprietary Biotreatment” in the Ventura TGM.</p>	

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		<p>Furthermore, the 1.5x sizing factor for biofiltration BMPs that is derived in Appendix D4 of the Ventura TGM references water quality performance of the Filterra® Bioretention System and other bioretention systems with underdrains as being indicative of the class of BMPs. Swales and strips typically do not come close to this level of performance. The most thorough and current reference for the performance of treatment BMPs is the recently released summary report by the International Stormwater BMP Database. This <u>report</u> finds that grass strips (also called vegetated buffers or buffer strips) and grass swales (also called bioswales, or vegetated swales) are among the worst performing post-construction BMPs for TSS, nutrients and fecal indicator bacteria.</p> <p>Their performance for removal of common metals was mixed and included some instances of export of dissolved metals. The notion that swales and strips can overcome their poor concentration reduction performance by providing significant volume reduction is contradicted by the fact that the proposed permit only allows biofiltration on sites with reliable long term infiltration rates below 0.3"/hr.</p> <p>Since the biofiltration definition in Appendix A is the only definition given for biofiltration in</p>	

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		<p>the permit, swales and strips cannot be allowed as part of that definition. To do so would be to significantly weaken the standard for biofiltration for Los Angeles permittees. It would also allow Ventura permittees to violate the directive to reduce the discharge of pollutants of concern to the Maximum Extent Practicable by using swales and strips when there are other better performing and technically feasible options available like bioretention with underdrains, planter boxes, proprietary high rate biofiltration and media filters.</p>	
I.6.3	VCSQMP	<p>Attachment A Page A-4. The definition of "construction activity" in the tentative permit does not clarify that agricultural-related operations are not subject to the MS4 permit requirements. It is requested that language be added to the definition to clarify that agricultural operations that are not subject to the Construction General Permit are also not subject to the MS4 permit requirements.</p> <p>It is requested that the underlined text be added to the definition of a construction activity: "Construction activity includes any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety, <u>disturbances</u></p>	<p><b>No change.</b> The definition is appropriate and clear as currently written. NPDES permits do not regulate non-point sources such as agricultural stormwater runoff. (See definition of point source at 40 CFR section 122.2, and list of exclusions at 40 CFR section 122.3.) These are separately permitted in the Los Angeles Region under the Conditional Waiver of Waste Discharge Requirements for Irrigated Agricultural Lands.</p>

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		<p><u>to land surfaces solely related to agricultural operations such as disking, harrowing, terracing and leveling, and soil preparation</u>, or routine maintenance activities required to maintain the integrity of structures by performing minor repair and restoration work, maintain the original line and grade, hydraulic capacity, or original purposes of the facility. See “Routine Maintenance” definition for further explanation. Where clearing, grading or excavating of underlying soil takes place during a repaving operation, the Statewide General Construction Permit coverage is required if more than one acre is disturbed or the activities are part of a larger plan.</p>	
I.6.4	City of Los Angeles	<p>Attachment A, Page A-6. The definition for “Environmentally Sensitive Areas” has been removed. LASAN requests that “Environmentally Sensitive Areas” be defined.</p>	<p><b>No change.</b> The term “Environmentally Sensitive Areas” is no longer referenced in the Tentative Order.</p>
I.6.5	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	<p>Att. A - Illicit Discharge; Page A-9. Recommend clarifying definition to answer the question: Does an illicit discharge include a discharge of pollutants in storm water that has not been reduced to the maximum extent practicable?</p>	<p><b>No change.</b> The definition is appropriate and clear as currently written. The commenters seem to be conflating stormwater and non-stormwater discharges. An illicit discharge is “any discharge to a municipal separate storm sewer that is <i>not composed entirely of storm water</i> except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.” (Emphasis added.) See, revised Tentative Fact Sheet at Part IX.I.1, explaining the term “illicit discharge,”</p>

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			and 40 CFR section 122.26(b)(2). The “maximum extent practicable” standard is one that applies to stormwater discharges, not illicit discharges.
I.6.6	Los Angeles County and LACFCD 2 <sup>nd</sup> letter	Attachment A/ Pg. 11. The definition of ‘limiting pollutant’ should be revised to more closely reflect the role of limiting pollutants within RAAs. Limiting pollutants are not simply the pollutants that require greatest load reduction – as the calculation of greatest load reduction includes the corresponding limits which vary and could mean that a pollutant that requires the greatest load reduction is not necessarily limiting. For example, both the baseline levels and receiving water limits for copper are typically lower than those for zinc, which means the magnitude of zinc reduction (lbs) is typically higher than copper; however, control of copper may require more control measures than zinc in which case copper would be limiting even though its required load reduction is lower. Incorporating the definition into the Permit provides an opportunity to clarify that limiting pollutants are those pollutants that are modeled and used to address other modellable and non-modellable pollutants. The potential outcome for limiting pollutants to be non-modeled pollutants should be expressly avoided by the Permit, to prevent cases where pollutants that are infeasibly modeled would drive WMP outcomes. One of the roles of limiting	<b>Change made.</b> Language similar to the suggested language will be used to define limiting pollutant.

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		<p>pollutants is to avoid emphasis on pollutants that infrequently exceed and are not a high priority WBPC. The County and LACFCD request the use of the following proposed definition, or a similar definition, to avoid cases where a higher loading pollutant or non-modeled pollutant would unduly drive WMP strategies and outcomes:</p> <p><i>A limiting pollutant is a pollutant, demonstrated through an RAA, that requires a higher level of stormwater management relative to other pollutants through structural and/or non-structural control measures to achieve its limits, and therefore its control is reasonably expected to result in control of other pollutants (including non-modeled pollutants).</i></p>	
I.6.7	City of Los Angeles	<p>Attachment A, Page A-11. The approved E/WMPs utilized a variety of methods to identify and develop implementation strategies based on a limiting pollutant. An approach utilized in EWMPs the City is party to defined limiting pollutants as the pollutants that drive BMP capacity (i.e., control measures that address the limiting pollutant also address other pollutants). The definition of limiting pollutant in the Tentative Order is focused solely on load reduction. While load reduction may be an appropriate approach in some cases, it is not necessarily appropriate in all cases, as demonstrated by the City's</p>	<p><b>Change made.</b> See response to comment I.6.6.</p>

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		<p>approved EWMPs. Basing the definition solely on load reductions would result in situations where pollutants that require the greatest load reductions, but not the greatest level of control measures, will inappropriately identify the limiting pollutant. As such, LASAN requests that the definition of limiting pollutant be modified as follows:</p> <p>The limiting pollutant is defined as the pollutant requiring the greatest load reduction <u>or requires a level of best management program implementation that is reasonably assured to control other pollutants.</u></p>	
I.6.8	The Nature Conservancy	<p>Att. A – Nature-Based Solution: Page A-13. “A project that utilizes natural processes that slow, detain, infiltrate or filter storm water or urban runoff. These methods <u>may include relying predominantly on soils and vegetation</u>; increasing the permeability of impermeable areas; protecting undeveloped mountains and floodplains; creating and restoring riparian habitat and wetlands; creating rain gardens, bioswales, and parkway basins; and enhancing soil through composting, mulching, and planting trees and vegetation, with preference for native species. Nature-based solutions include projects that mimic natural processes, such as <u>green streets</u>, spreading grounds and planted areas with water storage capacity.”</p>	<p><b>No change.</b> The definition is appropriate and clear as currently written, and is consistent with other definitions of nature-based solutions, including the definition used in the Safe, Clean Water Program. Note that a definition of “green infrastructure” was also added to Attachment A, which provides additional detail on the meaning of “green street.”</p>

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		<p>Suggest change to "rely". If we say "may include relying predominantly" it suggests that other types of projects such as subsurface detention facilities "may" also be included. Such facilities do not "rely" on soil infiltration or vegetation for their performance. We propose that nature-based solutions <b>must</b> include soil infiltration/filtration and/or vegetation, with a preference for vegetated Nature-Based Solutions.</p> <p>"green streets" is a catch-all, vague term that can mean many things. TNC suggests "vegetated bio-retention basins on or adjacent to public streets as a component of green street projects"</p> <p>TNC suggests adding a final sentence to this definition, "The term Nature-Based Solutions, when used in this document, is intended to imply a clear preference for <b>vegetated</b> stormwater management practices over non-vegetated practices as the presence of vegetation is directly correlated to a multitude of co-benefits related to environmental and human health."</p>	
I.6.9	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	Att. A - Non-Storm Water Discharge; Page A-13. Recommend clarifying definition to answer the question: Do non-storm water discharges include discharges of pollutants in storm water	<b>No change.</b> See response to comment I.6.5.

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		that have not been reduced to the maximum extent practicable?	
I.6.10	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	Att. A – Restaurant; Page A-16. For consistency with the industrial element of the Industrial/commercial Facilities Program, recommend defining restaurants by the SIC Code manual: "Establishments primarily engaged in the retail sale of prepared food and drinks for on-premise or immediate consumption. Caterers and industrial and institutional food service establishments are also included in this industry."	<b>Change made.</b> The Board agrees that it is appropriate to refer to the SIC Code definition for Eating Places.
I.6.11	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	Att. A - Retail Gasoline Outlet; Page A-16. For consistency with the industrial element of the Industrial/commercial Facilities Program, recommend referring to Retail Gasoline Outlets as Gasoline Service Stations and defining by the SIC Code manual: "Establishments primarily engaged in selling gasoline and lubricating oils. These establishments frequently sell other merchandise, such as tires, batteries, and other automobile parts, or perform minor repair work. Gasoline stations combined with other activities, such as grocery stores, convenience stores, or carwashes, are classified according to the primary activity."	<b>No change.</b> The definition is appropriate and clear as currently written.
I.6.12	SGVCOG 2 <sup>nd</sup> Letter and ULAR Group	Att. A – Vehicle Maintenance/Material Storage Facilities/Corporation Yards; Page A-20. Note Corporate Yards are referred to as a Public Works Yard in Section VI.D.8.b Table 11. Recommend using one term.	<b>No change.</b> Corporation yard is commonly understood to mean a storage and/or work area for public maintenance vehicles and equipment. Public works yard is an appropriate equivalent term in the Public

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			Agency Activities Program section (Part VIII.H of the Revised Tentative Order).
I.7.1	---	No comments received.	---

### Miscellaneous Modifications

1. Changed “storm water” as two words to “stormwater” as one word throughout the permit as appropriate.
2. Attachment A, Marine Waters. Added clarification to marine waters definition.
3. Attachment F, Part III.E. Updated December 21, 2023 e-reporting rule deadline to December 21, 2025.
4. Attachment F, Part XV.A.3. Added dates and descriptions of new board meetings and public workshops that occurred since the release of the tentative draft permit.
5. Attachment F, Part XV.A.4. Added dates and descriptions of new meetings that occurred since the release of the tentative draft permit.
6. Attachment F, Part XV.B. Added description of the tentative draft permit notification method.
7. Attachment F, Part XV.C. Added due date for written comments on the tentative draft permit.
8. Attachment F, Part III.B. Added finding for Statewide Toxicity Provisions adopted by the State Water Board on December 1, 2020.