RESPONSE TO COMMENTS
CITY OF LOS ANGELES
LOS ANGELES-GLENDALE WATER RECLAMATION PLANT
TENTATIVE ORDER NO. R4-2022-XXXX
NPDES NO. CA0053953

Comment Letter dated November 14, 2022, from City of Los Angeles

No.	Comment	Response	Action Taken
1	**Permit Section 2.3 (Page 5)** **Fact Sheet Section 3.3.7 (Page F-13)** Section 2.3 is designed to include citations to all portions of the NPDES permit based on state law and not required by the federal Clean Water Act (CWA) or its regulations. Currently, this section only references subsection 4.3, which relates to Recycling Specifications, but many other requirements in the permit are based on state law and should be included in this section. LASAN requests that the following sections of the LAGWRP Tentative Order be added into Section 2.3: Subsection 3.3 (flow is not regulated by the CWA), Subsection 3.5 (based on Water Code §13050(l) and (m)), Table 4 mass limits, toxicity limits, and Title 22-based limits (not required by federal regulations at 40 CFR Part 136, 40 CFR §122.44(d), or 122.45(f)(ii)), Subsection	Although the requirements discussed in this comment are required by State Law, they are also required by federal law as discussed below: **Subsection 3.3**: The regulations at 40 CFR 122.45(b)(1) require effluent limits to be based on the design flow, therefore the flow must be limited to the design flow in the NPDES permit to ensure the effluent limits are protective of the receiving water. See also 40 CFR Part 127, App. A, Table 2 (cross-referencing 122.21, 122.28(b)(2)(ii) and 403.10(f) [design flow] and 122.21, 122.28(b)(2)(ii), 122.41 and 403.10(f) [total actual average flow].) **Table 4 mass limits**: The regulations at 40 CFR 122.45(f) require all pollutants in NPDES permits to have limitations, standards, or prohibitions expressed in terms of mass, with limited exceptions. **Table 4 toxicity limits and subsection 7.10 of the Tentative Order**: The regulations at 40 CFR 122.44(d)(1)(iv) require effluent limits for toxicity when there is reasonable potential for the discharge to cause or contribute to an exceedance	None necessary.

	5.1 (Receiving Water Limits are not required by federal regulations, only effluent limits where RP exists per 40 CFR §122.44(d)(1)(iii)), Subsection 6.1.2 (LA Standard Provisions not required by federal law, which has its own Standard Provisions in 6.1.1), Subsection 6.3.3.c. (PMP) (Required by Water Code §13263.3(d)), Subsection 6.3.4 (none required by CWA or federal regulations), Subsection 6.3.6. (Required by H&S Code 5411.5 or Water Code §13271), and Subsection 7.10 (not required by and inconsistent with federal regulations at 40 CFR Part 136). In addition, many monitoring requirements, including for example Section 9.1 (Watershed Monitoring), Section 9.2 (Tertiary Filter Treatment Bypasses) and Section 9.3 (Monitoring of Volumetric Data for Wastewater and Recycled Water) at pages E-26 to E-28, Section 10.4.5 (Climate Change Effects) at page E-33, Section 10.4.6 (Annual Volumetric Reporting) at pg. E-33, and Section 10.4.8 (recycling feasibility report) at page E-34 of the LAG Tentative Order represent state only requirements, and should also be included in Section 2.3 of the Tentative Order. In addition, the Fact Sheet's unsupported conclusion that	of the narrative prohibition on toxicity in the Basin Plan. (See also Basin Plan, Ch. 3, Toxicity and Clean Water Act § 101(a)(2)(3) [no toxics in toxic amounts].) **Table 4 Title 22-based limits**: The regulations at 40 CFR 122.44(d)(1)(i) and 301(b)(1)(C) of the CWA require limitations to control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality. Since these limits are based on maximum contaminant levels in Title 22 of the CCR (which are State standards) and the Los Angeles Water Board has determined there is reasonable potential for the discharge to cause or contribute to an exceedance of these State standards used to protect beneficial use of the surface water, Title 22-based limits are also required under the federal regulations. **Subsection 3.5 and 5.1 of the Tentative Order**: The prohibition on pollution or nuisance and the receiving water limits in the Tentative Order are based on the water quality standards contained in the Los Angeles Region's Basin Plan, which are federally approved standards under Clean Water Act (CWA) section 303, so the regulations at 40 CFR 122.44(d)(1)(i) apply. These regulations do not specify that the requirements to achieve water quality standards are limited to effluent limitations.	

	"Collectively, this Order's restrictions on individual pollutants are no more stringent than required to implement the requirements of the CWA and the applicable water quality standards for purposes of the CWA" is incorrect. Because the Tentative Order includes the many State only or discretionary requirements outlined in this comment, LASAN requests that this statement be removed from page F-13 as incorrect and unsupported by evidence in the record.	**Subsection 6.3.3.c, 6.3.4, 6.3.6 of the Tentative Order, and section 9.2 and 10.4.5 of the MRP**: The regulations at 40 CFR 122.44(k) require NPDES permits to include Best Management Practices, which is defined in 40 CFR 122.2 to include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." The Pollutant Minimization Program is a schedule of activities the Discharger is required to complete to prevent or reduce the pollution of the Los Angeles River, which is a water of the United States. Requiring treatment plant operators to be certified, requiring the Discharger to plan for the impacts of climate change, requiring alternate power supplies, and requiring routine maintenance and operational testing for emergency infrastructure and equipment, are also considered BMPs because they are management practices to prevent or reduce the pollution of the Los Angeles River, a water of the United States. Spill reporting requirements and requirements for tertiary filter bypasses are also considered BMPs because they are management practices to prevent or reduce the pollution of the Los Angeles River, a water of the United States. (See also 40 CFR § 122.41 (e) [proper operation and maintenance].) **Subsection 6.1.2**: The Los Angeles Water Board Standard Provisions either implement State Standards (authority granted by the regulations at	

		40 CFR 122.44(d)(1)(i)) or are BMPs (authority granted by regulations at 40 CFR 122.44(k). **<u>Section 9.1. of the MRP, Watershed Monitoring</u>**: The required monitoring is necessary to determine whether water quality standards are being met in the receiving water, pursuant to federal authority. 40 CFR 122.44(d) requires NPDES permits to include requirements more stringent than promulgated effluent limitation guidelines or standards under sections 301, 304, 306, 307, 318, and 405 of the CWA necessary to achieve water quality standards established under section 303 of the CWA. Under section 303(d) of the CWA, and the TMDLs cited in and applicable to this Order, states are required to develop lists of impaired waters, or waters for which technology-based regulations and other required controls are not stringent enough to meet the water quality standards set by states. Assessing compliance with watershed monitoring is necessary to identify waters with degraded water quality so that the Los Angeles Water Board can determine whether the discharges in the watershed are achieving WLAs in the TMDLs and complying with the CWA. Since watershed monitoring is conducted to assist in determining the state of waters in the region and this information is used to determine if waters are impaired, watershed monitoring is consistent with and no more stringent than required in the federal regulations. In addition, federal law requires this monitoring. See, e.g., 40 CFR § 122.48; 33 USC § 301(b)(1)(C); 33 USC § 1318 subd. (a); and it is a policy endorsed by USEPA for both stormwater	

		and POTWs (see, Integrated Municipal Stormwater and Wastewater Planning Approach Framework (epa.gov).) See, also, State Water Resources Control Board Order No. 98-01, amended by WQO 99-05 Own Motion Review of the Petition of ENVIRONMENTAL HEALTH COALITION to Review Waste Discharge Requirements Order 96-03, NPDES Permit No. CAS0108740, for Storm Water and Urban Runoff from the Orange County Flood Control District and the Incorporated Cities. In addition to the foregoing, this monitoring program is not new; it was approved in 2008 and has been in prior permits governing this Facility. Finally, Water Code section 13383, designed to implement the CWA, has broad authority to require this monitoring. **Section 9.3 and 10.4.6 of the MRP**: Volumetric monitoring is not a new requirement, nor is it more stringent than federal law. First, this Facility has had to report volumetric monitoring to the State Water Resources Control Board since 2019, in response to issuance of Order No. 2019-0037-EXEC, and the Dischargers never challenged this Order. Second, the Code of Federal Regulations requires influent and effluent volumetric monitoring. See, 40 CFR 122.41(j)(2) and (l)(4); 122.44(i)(1)(ii) and (iii); and Part 127, App. A, Table 2 (cross-referencing 122.21, 122.28(b)(2)(ii) and 403.10(f) [design flow] and 122.21, 122.28(b)(2)(ii), 122.41 and 403.10(f) [total actual average flow]. Finally, Water Code section	

		13383, designed to implement the CWA, has broad authority to require this monitoring. **<u>Section 10.4.8 of the MRP</u>**: Section 2.3 notes that Section 4.3 is a provision that implements State law only. Section 4.3 then cross-references to Section 10.4.8. Accordingly, no revisions are required. In summary, with the exception of Section 10.4.8, none of the above sections, are based on state law only. Additionally, the statement in the Fact Sheet that the restrictions on individual pollutants are no more stringent than required to implement the requirements of the CWA and the applicable water quality standards for purposes of the CWA is factual. Even if specific pollutant limits were more stringent than available U.S. EPA recommended water quality criteria for those pollutants, the CWA authorizes states when establishing water quality standards to develop more stringent standards where necessary to protect beneficial uses. Furthermore, the standards on which effluent limitations are based have all been reviewed and approved by U.S. EPA and serve as federal water quality standards under the CWA for the state, region and/or specific waterbodies to which they apply. (See, 33 U.S. Code §1313.)	
2	**Permit Section 4.1.1.a. Table 4 (Page 6-9), Section 4.1.2 (Page 10), and Section 5.1.1 (Page 11)** The Tentative Order contains new, more	As an initial matter, the established water quality objectives for temperature that are protective of the beneficial uses of the receiving water have been in effect since 1994 when the Basin Plan for	None necessary.

	stringent temperature limits based on an admittedly new interpretation of the Basin Plan's water quality objectives for temperature. That objective states that "At no time shall these WARM-designated waters be raised above 80 degrees F as a result of waste discharges." (Basin Plan at 3-45.) Thus, the objective is not the same as an end-of-pipe effluent limitation of 80 degrees. Instead, the objective recognizes that the upstream temperature could be raised above 80 degrees as a result of ambient temperature and thus the discharge temperature could also be higher and still not be the cause of raising the temperature above 80 degrees, particularly in the summer months as has been seen. (See F-40.) In addition, the objective specifically states that "water temperature shall not be altered by more than 5 degrees F above the natural temperature" such that the limits can track the upstream temperature. (Id.) The new interpretation of this objective to impose an 80 degree non-adjustable limit is inadequately justified and the provision of a compliance schedule does not justify the unreasonableness of the changed interpretation. This interpretation is too stringent and ignores other sources of temperature	the Los Angeles Region was comprehensively updated. It is not possible to change water quality objectives through an NPDES permit, and the permit must implement the water quality objectives as adopted in the Basin Plan. Because the temperature limit is a new interpretation of the temperature water quality objective, a compliance schedule is allowed per the Statewide Policy for Compliance Schedules in [NPDES] Permits (Compliance Schedule Policy, State Water Board Resolution No. 2008-0025). The Compliance Schedule Policy states "Under section 301(b)(1)(C) of the Clean Water Act, not later than July 1, 1977, National Pollutant Discharge Elimination System (NPDES) permits must include effluent limits as stringent as necessary to achieve water quality standards." The Compliance Schedule Policy also states "The State Water Board recognizes that a compliance schedule may be appropriate, in some cases, when a discharger must implement actions to comply with a more stringent permit limitation, such as designing and constructing facilities or implementing new or significantly expanded programs and securing financing, if necessary, to comply with permit limitations implementing new, revised, or newly interpreted water quality objectives or criteria in water quality standards." Effluent data showed that the LAG WRP would exceed the new limitation, especially during the summer months.	

	change. The limit should be 80 degrees unless upstream is above 80 and then the limit can float up to 5 degrees above the upstream temperature. If used as proposed, then the temperature objectives in the Basin Plan lack adequate implementation provisions to justify the limits imposed in violation of Water Code section 13242, and the new interpretation ignores the provision of Water Code section 13241 that recognizes that "it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses" and the requirement to consider economics and water quality conditions that can be reasonably achieved. The proposed limits are not reasonable as the cost of cooling effluent will be high and will come with high energy costs and greenhouse gas impacts that were not previously considered. For these reasons, LASAN requests that the previous permit limit set forth in Table 5 be carried over into the new permit, not just as an interim limit, but as the final effluent limitation for temperature. Because the requirements may be inconsistent and because there is an effluent [limit], the Receiving Water	The Discharger submitted an application requesting inclusion of a compliance schedule in the Order. The Compliance Schedule Policy provides guidance on developing a time schedule and program of implementation that will achieve the water quality objectives. The proposed Compliance Schedule includes a temperature study to better understand temperature ranges that are protective of aquatic life and identify necessary treatment controls. It is expected that this study will show what the natural receiving water temperature is as well. The receiving water limitation for temperature in section 5.1.1 is also still relevant to protect the receiving water temperature from being altered above the natural temperature. Even at 80°F, the discharge could increase the temperature of the receiving water more than 5°F, depending on the receiving water temperature and flows of both the receiving water and the effluent. Finally, the Basin Plan is an adopted regulation which includes water quality objectives such as this one for temperature. California Water Code Section 13241 requires the Los Angeles Water Board to consider factors such as beneficial use and economic considerations when establishing a water quality objective. These objectives were in fact considered during the comprehensive update of the Basin Plan in 1994. In summary, the temperature water quality objective in Chapter 3 of the Basin Plan for waters designated WARM (which is applicable to the Los	

	Limitation for temperature should be removed as well.	Angeles River) states "…water temperature shall not be altered by more than 5°F above the natural temperature. At no time shall these WARM-designated waters be raised above 80°F as a result of waste discharges." The new temperature effluent limitation of 80°F is based on a new interpretation of this water quality objective for purposes of establishing requirements in this NPDES permit to achieve the temperature water quality standards, and it will ensure protection of the beneficial uses of the receiving water. The end-of-pipe 80°F limitation also ensures temperatures above 80°F in the receiving water are not due to POTW discharges.	
3	**Permit Section 4.1.1.a Table 4 (Page 6-9)** **Fact Sheet Section 4.3.5.b.ii, Table F-11 (Page F 46-49)** The Los Angeles Metals TMDL was first amended by the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) in 2010 to incorporate a copper Water Effect Ratio (WER) developed for the three Water Reclamation Plants (WRP) in the LA River watershed through R10-003. During the TMDL amendment process, USEPA raised concerns in a March 11, 2010 letter about the application of the copper WER to WRP effluent limitations. To address this concern, the revised Staff Report supporting the 2010 TMDL	As a practical matter, the Discharger is able to meet the performance-based limits in the Tentative Order. Chapter 7 of the Basin Plan states, "Regardless of the WER, for discharges regulated under this TMDL with concentrations below WER-adjusted allocations, effluent limitations shall ensure effluent concentrations do not exceed the level of water quality that can be reliably maintained by the facility's applicable treatment technologies existing at the time of permit issuance, reissuance, or modification unless anti-backsliding requirements in Clean Water Act section 402(o) and antidegradation requirements are met. Permit compliance with anti-degradation and anti-backsliding requirements shall be documented in permit fact sheets." (See Table 7-13.1, Los Angeles River and Tributaries Metals TMDL.) These anti-backsliding and	None necessary.

	amendment discussed establishing requirements such that effluent limitations would not exceed the levels of water quality that could be reasonably attained based on performance in the context of the copper WER. Those requirements are incorporated into the 2010 TMDL amendment and were slightly revised when the TMDL was amended again in 2015 to incorporate additional copper WERs developed in the LA River Watershed. During the May 6, 2010 Regional Water Board adoption hearing of the TMDL amendment, Regional Water Board staff stated "the performance-based limit language is in direct response to EPA comments on our proposal and is necessary to ensure that application of the WER does not allow degradation of existing water quality." USEPA's comments were solely based on the adoption of a copper WER and were not related to any of the other metals addressed by the TMDL as those metals did not have site-specific WERs. As such, the performance-based limit requirements currently only apply to copper and no other metals as no other metals have a site-specific WER. Because of this, the PBELs contained in the Tentative Order for lead, cadmium and zinc are inappropriate, unauthorized, and	antidegradation requirements are not met. This statement is included for both the wet and dry weather waste load allocations for cadmium, copper, lead, and zinc and therefore applies to all four metals. A similar statement is included in the section pertaining to permit renewals. The statement is not only limited to copper because the intention of this requirement is to ensure the discharge maintains the same level of treatment if the discharge can achieve concentrations below the assigned waste load allocations. In addition, the Basin Plan assigns each metal a WER of 1.0, unless a site-specific WER is approved. Since the three metals do not include a site-specific WER, they are assigned WERs as described above and in the Order. Since the intention of this requirement in the Basin Plan is to ensure the quality of the discharge is maintained, the Tentative Order implemented performance-based limits appropriately for copper, cadmium, lead, and zinc.	

	unsupported. Because the TMDL contains no WER for lead, cadmium or zinc, it is inconsistent with the assumptions of the TMDL waste load allocations (WLAs) to apply PBELs. See 40 CFR §122.44(d)(1)(vii)(B). The 2017 Permit reflected this interpretation of the TMDL, but the current Tentative Order does not. LASAN requests that the Regional Water Board revise the effluent limitations for lead during dry weather and for cadmium, lead, and zinc during wet weather using the SIP calculations presented in the Tentative Order instead of PBELs.		
4	**Permit Section 4.1.1.a Table 4 (Page 6-9)** **Fact Sheet Section 4.3.4 (Page F 42-46)** The Los Angeles Water Board has determined that 2,3,7,8 TCDD Equivalents has Reasonable Potential (RP) following the procedures stated in the State Implementation Policy (Section 1.4). According to the Fact Sheet of the Tentative Order (Section 4.3.4, page F-42), RP was demonstrated when one of the sixteen 2,3,7,8 TCDD congeners, namely OCDD (OctaChloroDibenzo-p-Dioxin),	Section 7.15 of the Tentative Order indicates that compliance with the 2,3,7,8-TCDD effluent limitation shall be determined based on 2,3,7,8-TCDD alone. The data collected for TCDD equivalents is intended to be used for informational purposes only since 40 CFR 131 only includes 2,3,7,8-TCDD as a priority pollutant. Since the results of 2,3,7,8-TCDD are used for compliance purposes only, the data collected for other congeners of TCDD should not be used in the determination of reasonable potential. Since there were no exceedances of the 2,3,7,8-TCDD water quality objective based on the data reported for 2,3,7,8-TCDD during the last permit cycle, there was no reasonable potential for the effluent to contribute to or cause an exceedance of the	Revisions have been made to the Order.

	measured at 0.095 pg/l (i.e., 950 mg/l multiplied by a TEF factor of 0.0001), has exceeded the WQO/CTR Criteria of 0.014 pg/l. According to the State Implementation Policy (Section 1.2): *"When implementing the provisions of this Policy,* ***the RWQCB shall use all available, valid, relevant, representative data*** *and information, as determined by the RWQCB.* ***The RWQCB shall have discretion to consider if any data are inappropriate*** *or insufficient for use in implementing this Policy.* ***Instances where such consideration is warranted*** *include, but are not limited to, the following:* ***evidence that a sample has been*** *erroneously reported or* ***is not representative of effluent*** *or ambient receiving water quality;* ***questionable quality control/quality assurance practices****; and varying seasonal conditions."* When evaluating this one exceedance of OCDD in isolation, it seems that 2,3,7,8 TCDD Equivalent has reasonable potential. However, when evaluated against many years of available historical data, the sample on 11/5/2017 is an outlier by any statistical measure. Out of eighty effluent samples	water quality objective. The Los Angeles Water Board therefore agrees to remove the effluent limits for 2,3,7,8-TCDD in Table 4 of the Order. To be consistent with the procedures used to determine the monitoring frequency for other pollutants, the monitoring frequency for TCDD equivalents was also reduced to semiannually in Table E-3 of the MRP. Sections 4.3.4 and 7.2 of the Fact Sheet, and Table F-12 and F-13 of the Fact Sheet, and Attachment I were also revised to be consistent with this change.	

	and 1,360 TCDD laboratory analysis, OCDD has been detected only once during the last 20 years (2002-2021). Also, none of the other 2,3,7,8 TCDD and its 16 congeners have been detected during the same period as well. Since the result is an outlier and is not representative of the effluent, it should not be included in the determination of reasonable potential. Secondly, TCDD is seldom detected in the influent and almost never in the effluent. Because of the low solubility of dioxins in water and its tendency to accumulate in organic matter and suspended solids, it is expected that only small amounts of dioxins end up in the effluent while most bind with the biosolids. The concentrations measured across LAGWRP (between 2017 to 2021) support this point. There were ten instances out of twenty sampling events that TCDD were detected in the influent and they were all OCDDs. Out of the ten detected in the influent, nine were not detected in the effluent as the OCDD were removed by the treatment process as expected. However, the sample on 11/5/2017 was detected in the effluent (i.e., 950 pg/l) and the result was unexpectedly higher than the influent (i.e., 710 pg/l) instead of lower. As stated earlier, this is suspicious since		

	the plant removes dioxins and does not add to it. The increase in OCDD concentration in the effluent may have resulted from contamination or interference in the sampling or laboratory analysis, or a combination of both. Therefore, the result is not valid and should not be included in the determination of reasonable potential. Based on the SIP guidance above, the Los Angeles Water Board should use its discretion to disregard the result of the sample collected on 11/5/2017 because it is not a valid sample and not representative of the effluent. If the result is disregarded then there is no RP. Since there is no RP, LASAN requests that the 2,3,7,8 TCDD Equivalents limit be removed.		
5	**Permit Section 4.1.1.a Table 4 (Page 6-9)** **Fact Sheet Section 4.3.2.n (Page F 46-41)** The 303(d) list for chlordane and PCBs in the LA River Estuary were identified in prior LAGWRP permit reissuances without proposing the inclusion of effluent limitations. These listings are being addressed by the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic	The 303(d) listings for PCBs and chlordane are only for the LA River Estuary and the upstream reaches of the LA River are not listed on the 303(d) list for PCBs or chlordane. In addition, the responsible parties identified in the Harbor Toxics TMDL and assigned WLAs are those dischargers that directly discharge to the LA River Estuary. Since discharges upstream of the LA River (including those from the LAGWRP) were not assigned WLAs in the Harbors Toxics TMDL and the LAG WRP effluent has not exceeded the water quality objectives for PCBs or chlordane, and	Revisions have been made to the Order.

	Pollutants TMDL (Harbors Toxics TMDL). As noted in Table 2-18 of the Harbors Toxics TMDL Staff Report, the following 303(d) listings for the LA River Estuary are identified: Chlordane, DDT (sediment), and PCBs. Those listings are addressed in the TMDL through Load Allocations and Waste Load Allocations (WLAs) assigned to identified sources. The LA River Estuary WLAs for PCBs and chlordane are presented on page 21 of the Basin Plan Amendment (BPA). The responsible parties identified for the LA River Estuary WLAs are those dischargers that directly discharge to the estuary. Discharges in the remainder of the LA River watershed, including those from the LAGWRP, were not assigned WLAs. As such, if no reasonable potential exists for these constituents as determined by the assignment of WLAs in the TMDL, no effluent limitations are warranted and no limits should be assigned to the LAGWRP related to these listings. See 40 CFR §122.44(d)(1)(iii). This approach is consistent with the regional Municipal Separate Storm Sewer System (MS4) NPDES Permit (R4-2021-0105), which only assigns effluent limitations to those discharges assigned WLAs in the TMDL, which does not include LA River	neither has reasonable potential, no effluent limitations for PCBs and chlordane are required. Los Angeles Water Board agrees to remove the effluent limitations for chlordane and PCBs, and since the effluent limitations have been removed for these pollutants, the effluent and receiving water monitoring frequencies have also been reduced to semiannual for chlordane and annual for PCBs to be consistent with how monitoring frequencies were determined for other pollutants. Tables F-12 and F-13, Section 4.3.2 and 7.2. of the Fact Sheet, and Attachment I were also revised to reflect this change.	

	MS4 Permittees upstream of the Estuary. LASAN requests that the Los Angeles Water Board remove the effluent limitations for chlordane and PCBs as these constituents have no reasonable potential and are already addressed by a TMDL that does not assign WLAs to the LAGWRP.		
6	**Permit Section 4.1.1.a Table 4 (Page 6-9)** **Fact Sheet Section 3.5.3 (Page F 20-21** **Attachment I (Summary of RPA)** The Tentative Order states "Title 22 primary MCLs have been used as bases for effluent limitations in WDRs and NPDES permits to protect groundwater recharge (GWR) beneficial use.". However, the Basin Plan incorporates Title 22 MCLs as water quality objectives only specifically applicable to MUN-designated waterbodies. See Los Angeles Region's Water Quality Control Plan ("Basin Plan") on page 3-30. The LA River does not have an existing MUN use, only a potential (P*) use, which does not justify the imposition of effluent limitations based on that use. Because the Los Angeles Water Board is utilizing MCLs, those can only apply to MUN uses, so MCLs would only apply in	The Los Angeles Water Board applied the Title 22 MCLs as effluent limitations for the protection of the groundwater recharge (GWR) beneficial use since the LAG WRP discharges to an unlined portion of the Los Angeles River impacting the San Fernando Groundwater Basin. With respect to MBAS and radioactivity, the rationale for requiring effluent limitations for each of these pollutants is included in section 4.3.2 of the Fact Sheet and summarized below: **<u>MBAS</u>** The prohibition on foaming substances in the Basin Plan was translated into an effluent limitation for MBAS in the Tentative Order to protect the receiving water from foaming substances that may be present in the discharge. The prohibition states, "Waters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." The Los Angeles Water Board determined the discharge has reasonable potential for MBAS because	Revisions have been made to the Order.

	the groundwater where actually designated as MUN. The Tentative Order states at the end of the footnotes for Table 4 that the GWR use is "intended to protect groundwater quality where surface water recharges groundwater." (Tentative Order, page F-10) Thus, the permit must specify where recharge is occurring and which groundwater subject to recharge that the GWR use is protecting, and then, if that potentially affected groundwater is designated as MUN, groundwater data must be used to assess reasonable potential of any applicable groundwater MUN use. Some areas of coastal groundwater cannot support MUN due to seawater intrusion and high salinity. Although the Los Angeles Water Board attempts to use MCLs to apply directly to the GWR use, the Basin Plan does not incorporate Title 22 MCLs to protect the GWR use. Thus, the Title 22 objectives are inappropriately listed as part of the reasonable potential analysis (see summary tables in Attachment I) for use with surface water. The constituents this comment applies to are MBAS and Radioactivity. As stated above, Title 22 standards do not apply to the GWR use, only to the MUN use, which is not designated for the LA River (only P* is designated).	Section 1.3 of the SIP states that reasonable potential may be determined based on the type of discharge. Because the discharge accepts domestic wastewater (which is known to contain foaming substances), the discharge has reasonable potential to contribute to or exceed the narrative prohibition in the Basin Plan for foaming substances. **Radioactivity** Similarly, the prohibition in the Clean Water Act on radioactive substances was translated into effluent limitations in the Tentative Order to protect the receiving water from radioactive substances that may be present in the discharge. The narrative objective for radioactivity in the Clean Water Act states, "Notwithstanding any other provisions of this Act, it shall be unlawful to discharge any radiological, chemical, or biological warfare agent, any high-level radioactive waste, or any medical waste, into the navigable waters." The Los Angeles Water Board determined the discharge has reasonable potential for radioactivity because Section 1.3 of the SIP states that reasonable potential may be determined based on the type of discharge. Because the discharge accepts industrial waste and waste from hospitals (which are potential sources of radioactivity depending on the industry), the discharge has reasonable potential to contribute to or exceed the narrative prohibition in the CWA for radioactivity. Since the reasonable potential analysis was not included in section 4.3.2(m) of the Fact Sheet, the	

	The water quality objective at issue states: “Water designated for use as Domestic or Municipal Supply (MUN) shall not contain concentrations of chemical constituents in excess of the limits specified in the following provisions of Title 22 of the California Code of Regulations which are incorporated by reference into this plan: Table 64431 A of Section 64431 (Inorganic Chemicals) and Table 64444 A of Section 64444 (Organic Chemicals). This incorporation by reference is prospective including future changes to the incorporated provisions as the changes take effect. (See Tables 3 8 and 3 9.)” See Basin Plan on page 3-30. For these reasons, LASAN requests the constituents listed above be removed from the Tentative Order unless and until a RPA is performed using groundwater data for ambient (C). In addition, reopener language in the current permit related to the Los Angeles Water Board reviewing information developed by the Permittee evaluating the appropriateness of utilizing dilution credits and/or attenuation factors and modifying the permit if they are demonstrated to be appropriate and protective of the GWR beneficial use, on a pollutant-by-pollutant basis, should be	Fact Sheet has been revised to include this analysis.	

	retained.		
7	**Permit Section 4.1.1.a Table 4 (Page 6-9)** **Fact Sheet Section 4.3.2.iii (Page F 35)** According to Fact Sheet, page F-35, "From the Facility's data, the MECs for LAGWRP in ELS Present and ELS Absent were equal to 2.0 mg/L and 2.3 mg/L, respectively. The ELS Present and ELS Absent MOSF = 2 x 0.231 = 0.46 and 2 x 0.303 = 0.61, respectively." The Los Angeles Water Board incorrectly rounded off the effluent limit to 2.4 mg/l rather than 2.5 mg/l in Table 4. LASAN request to change the Ammonia ELS Present AMEL to 2.5 mg/l in Table 4.	The typographic error was fixed in Table 4 of the Order, and Tables F-8, F-12, and F-13. The concentration-based and mass-based ammonia ELS Present AMELs were corrected from 2.4 mg/L to 2.5 mg/L and 400 lbs/day to 420 lbs/day, respectively.	Revisions have been made to the Order.
8	**Permit Section 4.1.1.a Table 4 (Page 6-9)** The Proposed Tentative Order includes a chronic toxicity limit of "Pass" based on unpromulgated 2010 EPA guidance related to the Test of Significant Toxicity ("TST") as a AMEL and "Pass or % Effect <50 (survival endpoint)" as an MDEL. Notwithstanding that similar limits were in the past permit, these	The Los Angeles Water Board has the discretion to select the statistical approach for analyzing WET test data that is most appropriate for use in a particular permit. (See section 9.4.1.2 of Short-term Methods, October 2002, EPA-821-R-02-013 ["[T]he statistical methods recommended in the manual are not the only possible methods of statistical analysis."].) The Los Angeles Water Board has selected the TST statistical approach for use in this Order, consistent with the 2017 Order.	None necessary.

	limits violate four currently binding precedential orders issued by the State Water Resources Control Board that specify a narrative toxicity effluent limitation stating: "There shall be no chronic toxicity in the effluent discharge." The permit can contain a toxicity trigger that would trigger a TIE/TRE, and should contain a reopener that states: "This permit may be reopened to include effluent limitations for pollutants found to be causing chronic toxicity and to included numeric chronic toxicity effluent limitations based on direction of the State Board [once the Toxicity Provisions are approved by USEPA] or failure of the City to fully comply with the TIE/TRE requirements." (See SWRCB Order Nos. 2003-0012, 2003-0013, 2008-0008, and 2012-0001.) Because the Toxicity Provisions have not yet been adopted, the Regional Board cannot rely on those new regulations to justify the proposed limits. In addition, the limits proposed are not the same as those in the Toxicity Provisions and would need to be modified anyway	The comment contends that the referenced orders set a precedent for the toxicity requirements in all NPDES permits in the Los Angeles Region. The referenced State Water Board Orders predate the State Water Board's adoption of the Toxicity Provisions and clearly contemplated that the Toxicity Provisions would inform future permits (hence the reopener language). The Tentative Order includes toxicity requirements consistent with the current rendition of the Toxicity Provisions and the referenced requirements have been included in all recently-adopted municipal NPDES permits in the Los Angeles region, including each of the facilities included in Order 2003-0012 (Los Coyotes WRP and Long Beach WRP) and Order 2003-0013 (Whittier Narrows WRP). The NPDES permits for the Long Beach Water Reclamation Plant (adopted on February 10, 2022), Los Coyotes Water Reclamation Plant (adopted on December 9, 2021), Whittier Narrows Water Reclamation Plant (adopted on June 10, 2021), and Pomona Water Reclamation Plant (adopted on June 10, 2021) all have the same toxicity effluent limitations discussed in the comment including an AMEL of "Pass" and an MDEL of "Pass" or "Percent effect >50" using the TST statistical approach for the most sensitive species at the time of permit reissuance. In 2010, the USEPA finalized the *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document*, which provides guidance to regulatory authorities regarding how to implement the Test of Significant Toxicity	

		statistical approach. Since the available guidance has changed since the adoption of Order No. 2003-0012 and 2003-0013, and 40 CFR 122.44(d)(1) requires NPDES permits to include numeric effluent limitations for chronic toxicity if there is reasonable potential, the NPDES Orders for those facilities now include numeric effluent limits using the TST statistical approach. The Los Angeles Water Board has further determined that numeric effluent limitation for chronic toxicity are necessary, feasible, and appropriate for all NPDES permits in the Los Angeles region where there is reasonable potential. In addition, the new limits are incorporated in the Tentative Order based on 40 CFR 122.44(d)(1)(iv), which requires NPDES permits to include effluent limitations for toxicity if there is reasonable potential and based on the characteristics of the discharge, the LAG WRP has reasonable potential to exceed the water quality objective for chronic toxicity. The Los Angeles Water Board has discretion as to how to implement the effluent limitations and has decided to be consistent with the Toxicity Provisions since, although not yet approved by the USEPA, the Toxicity Provisions have gone through the public review process and include requirements based on input from multiple agencies around the State. The City admits that the last iteration of its NPDES permit contained substantively the same provisions as the tentative Order. To the extent that the City wished to have the State Water Board consider those provisions in the context of the	

		other orders the City cites, the time to do so has expired. (Wat. Code § 13320.)	
9	**Permit Section 4.1.1.a Table 4 (Page 6-9)** **Fact Sheet Section 4.3.2.j (Page F 38), Section 4.3.2.l (Page F 40)** The Los Angeles Water Board inappropriately applied Title 22 Recycled Water Regulations on Total Coliform and Turbidity. According to the Fact Sheet on bacteria (page F-17), "This Order also includes effluent limitations based on Title 22 disinfected tertiary recycled water requirements for the protection of human health" and on turbidity (page F-40), "The effluent limitation for turbidity is based on the Basin Plan (page 3-46) and section 60301.320 of Title 22, Chapter 3, "Filtered Wastewater" of the CCR…" Total coliform effluent limits should be removed as inapplicable to the LA River since no applicable total coliform objectives are set in the Basin Plan for bacteria. In addition, the Title 22 recycled water regulations for disinfected tertiary requirements related to coliform and turbidity are for recycled water regulation, not CWA effluent limitations. Other permits in the State set these requirements for adequate disinfection more appropriately as	The rationale for requiring effluent limitations for turbidity and total coliform is included in section 4.3.2 of the Fact Sheet and is summarized below: **Turbidity** The Los Angeles Water Board translated the water quality objective in the Basin Plan for turbidity to numeric effluent limitations consistent with section 60301.320 of Title 22, Chapter 3, "Filtered Wastewater" of the California Code of Regulations. The water quality objective for turbidity in the Basin Plan states, "Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses." This effluent limitation ensures the effluent will meet the water quality objective and will protect the water contact recreation beneficial use. **Total Coliform** Using the procedures in section 1.3 of the SIP, the Los Angeles Water Board determined that the discharge has reasonable potential for total coliform since the discharge accepts municipal waste, which is likely to have concentrations of total coliform that could negatively impact the beneficial uses of the receiving water. Effluent limitations for total coliform are established in the Tentative Order based on the Title 22 definition of disinfected tertiary recycled water to protect the GWR beneficial use since the effluent is	None necessary.

	Recycled Water Specifications (i.e. Section 4.3) so the requirements encourage recycled water and are not subject to MMPs or citizen suits. (See e.g., Order No. R5-2017-0113 at IV.C. and also proposed Order No. R4- 2022-XXXX). LASAN requests the Total Coliform and Turbidity limits be removed as inapplicable as water quality objectives to the LA River.	discharged to an unlined portion of the Los Angeles River. Since both the turbidity and total coliform effluent limits were established to ensure the water quality objectives in the receiving water are met and the discharge is able to meet these requirements, the effluent limitations are applicable to the discharge.	
10	**Fact Sheet Section 3.3.12 (Page F 14)** Although no legal requirement or authority exists for the Los Angeles Water Board to mandate the use of recycled water, prevent waste of water, or evaluate the reasonableness of every wastewater discharge in the region, LASAN anticipates that this issue may be raised in the context of this Tentative Order as it was in the previous permit and requests that additional findings be added related to the LAG plant's plans for recycling. LASAN has an interest in recycling as much as possible to reduce reliance on imported water supply and has made substantial progress over the years implementing new recycling projects as customer demand, funding, and regulatory approvals have allowed. LASAN has engaged in numerous recycled water projects over the last four	The Tentative Order does not include a description of all the recycled water projects the City of LA is pursuing for this facility because this is an NPDES permit for discharges to the Los Angeles River. However, to make the Fact Sheet more complete, the Los Angeles Water Board agrees to add more of these facts and the suggested language (using the average flow rate from May 1, 2017 to January 31, 2022) to section 4.7 of the Fact Sheet. The flow rates included in the comment are averaged from January 1, 2021 to August 31, 2021. The flow rates in the Order are based on the average flow rate over the past five years, the flow rates described in section 3.3.12 of the Fact Sheet were revised as: "The LAGWRP generated approximately 13.~~7~~6 MGD (~~5-water-year~~ average from May 1, 2017 through January 31, 202~~1~~2 of discharge volumes) of tertiary treated effluent. Of that effluent, about 9.~~2~~1 MGD is discharged to the Los Angeles River,	Revisions have been made to the Order.

	decades and continues to look for new projects. In 1976, LAG started operations as the first water reclamation plant in the City, funded predominantly by state and federal grants. The cities of Los Angeles and Glendale co-own the plant, and LASAN operates and maintains the LAG plant with each city paying 50% of the costs and receiving an equal share of the recycled water. The plant can process approximately 20 MGD of wastewater. The LAG water reclamation plant is one of the leading producers of recycled water in the San Fernando Valley. LAG produces recycled water used for landscape and industrial purposes as well as provides flows to the LA River to support the local habitat and other beneficial uses. Without a mandate from the State, on February 21, 2019, Los Angeles' Mayor Garcetti pledged that Los Angeles will recycle 100% of its wastewater by 2035 — a major step to expand water recycling and reduce reliance on imported water. Los Angeles' LAG plant is already producing high levels of recycled water for irrigation and industrial purposes. However, limitations exist on the amount that can be recycled as further proposed reductions in wastewater to the LA River	and about 4.5 MGD is reused for non-potable recycled water applications, covering irrigation, parks and recreational, and industrial uses."	

	may be conditioned (limited) as necessary to support instream beneficial uses, including new uses that rely on continued wastewater discharges, such as kayaking. LASAN requests that more of these facts be incorporated into the permit and that the following sentence similar to the one in the LAGWRP Tentative Order be added to Section 3.3.12, Water Recycling: "About 8.1 MGD on average is discharged to the Los Angeles River, which is not properly characterized as a waste or unreasonable use of water since that water protects instream beneficial uses. Moreover, the maximum currently authorized amount of recycled water, which equals about 6.6 MGD on average is reused for non-potable recycled water applications, covering irrigation, parks and recreational, and industrial uses."		
11	**Permit Section 6.3.6.f (Page 27)** **Fact Sheet Section 3.5.6 (Page F 21)** These sections discuss the SSS WDR, but inappropriately include language that seems to incorporate the requirements of the SSS WDR into the Tentative Order. To avoid this misinterpretation, LASAN requests the following edits be made at page 27: "The Permittee must *separately* comply with the SSS WDRs	The Los Angeles Water Board agrees with the addition since complying with the SSS WDRs is a separate requirement from this Order. Permit section 6.3.6.f was revised to "… The Permittee must <u>separately</u> comply with the SSS WDRs (State Water Board Order No. 2006-0003-DWQ, …" Fact Sheet section 3.5.6 was revised as "…The Permittee must <u>separately</u> comply with State	Revisions were made to the Order.

	(State Water Board Order Number 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, as amended by State Water Board Order No. WQ 2008-0002-EXEC and No. WQ 2013-0058-EXEC).”; and at pages F-21: “The Discharger must *separately* comply with State Water Board Water Quality Order Number 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (SSS WDRs), as amended by State Water Board Order Number WQ 2008-0002-EXEC and WQ 2013- 0058-EXEC and any subsequent order updating these requirements.” These changes are consistent with the language of other NPDES permits in the State that recognize that the SSS WDR is not federally required or part of an NPDES permit.	Water Board Water Quality Order Number 2006-0003-DWQ, …”	
12	**Page 8** **Section 7.10 (Page 32)** **Table E-3 (Page E-11)** **Footnote of Table E-3** **Section 5.8.1 (Page E-19)** **Table E-5 (Page E-22)** **Footnote of Table E-5 (Page E-23)** **Table F-12 (Page F-52)** **Table F-13 (Page F-63)**	The most sensitive species from the last species sensitivity screening on the LAG WRP effluent was used in the Tentative Order as the test species for Chronic Toxicity. The Discharger is required to run a species sensitivity screening for chronic aquatic toxicity prior to Order reissuance, but no later than 18 months prior to the expiration date of this Order (reduced from every 24 months in the 2017 Order). The most recent species sensitivity screening was conducted in August and	None necessary.

	Ceriodaphnia dubia regarded as the most sensitive species. LASAN requests the removal of *Ceriodaphnia dubia* that is used throughout the draft LAG Permit. Chronic Toxicity is the parameter that is measured and *C. dubia* is one of 3 species that can be used to conduct the Chronic Toxicity test. The species that is used is determined by a 3- species screening whose process is described in the draft permits in Section 5.4 of the MRP and is consistent with Section III.C.2. of the Toxicity Provisions. Since the species should be determined by the species screening, one of the species should not be written/identified in numerous places of the draft permits and we request that it be removed and reverted to the current 2017 Permit language.	September 2021. The Discharger determined that *Ceriodaphnia dubia* was the most sensitive species for chronic toxicity since October 2021. Since then, *C. dubia* has been used for the chronic toxicity tests and will continue to be used as required in this Order until the Order is reissued. These modifications to the species sensitivity screening process are consistent with the most recent rendition of the Toxicity Provisions and have been applied to all recently adopted municipal NPDES permits in the region.	
13	**Footnote a of Table 4 (Page 9)** LASAN requests that the sentence below be reinstated. Without it, it will result in two violations when the flow exceeds 20 MGD during wet- weather storm events. As stated in the Mass and Concentration Limitations, Permit Section 7.12, page 33 of the tentative order: *"Compliance with mass and concentration effluent limitations for the same parameter shall be*	The suggested language from section 7.12 of the Tentative Order states that compliance with mass and concentration effluent limitations for the same parameter are to be considered separately, meaning the mass and concentration effluent limitations are separate limitations and can result in two separate violations. This language does not shield the Discharger from violations when the flow exceeds 20 MGD during wet weather events. In addition, this language was not included in the footnote in the 2017 Order. Since this language is already included in section 7.12 of the Tentative	None necessary.

	determined separately with their respective limitations."	Order, it would be unnecessary and redundant to include in the effluent limitations table.	
14	Footnotes for Table 4.h. 7.10, page 32 Footnotes for Table F-12, page F-53 LASAN requests reverting back to the current 2017 Permit language. The current language identifies/explains the MMEL and MDEL; however, the current 2017 permit language is much clearer in stating that "up to three independent toxicity tests may be conducted in the calendar month when one test results in 'Fail". The proposed language in the draft permits is confusing referring to tests as MMEL tests when MMEL is the compliance that is trying to be met.	Section 7.10 refers to the routine monitoring tests and MMEL compliance tests. The routine monitoring test is the first test conducted in a given month, and MMEL compliance tests are those tests that are conducted if the routine monitoring test results in a "Fail" for any endpoint. The Tentative Order also includes similar language regarding the number of tests that may be conducted to comply with the MMEL: *The MMEL for chronic toxicity is exceeded and a violation will be flagged when the median of no more than three independent chronic toxicity tests, initiated in a calendar month and analyzed using the TST statistical approach result in "Fail" for any endpoint.* The Tentative Order further states, "If a chronic aquatic toxicity routine monitoring test results in a "Fail" at the IWC, the Permittee may complete a maximum of two MMEL compliance tests." This means that three independent toxicity tests may be conducted in the calendar month (one routine monitoring test and two MMEL compliance tests). Since the suggested language has just been rephrased in the Tentative Order and is meant to be consistent with the Toxicity Provisions, no revisions to the language are necessary.	None necessary.
15	**section 5.1.4, page 11** LASAN requests clarification on why	The water quality objective in the Basin Plan for total residual chlorine states, "Chlorine residual shall not be present in surface water discharges at	None necessary.

	sentence in the Basin Plan's residual chlorine *("Chlorine residual shall not be present in surface water discharges at concentrations that exceed 0.1 mg/L*") was removed in this tentative order. The City would like to make sure that "any concentration" does not mean any concentration even below 0.1 mg/l. LASAN requests to reinstate the old language to the tentative order according to the Basin Plan, which states that: *"Chlorine residual shall not be present in surface water discharges at concentrations that exceed 0.1 mg/L and shall not persist in receiving waters at any concentration that causes impairment of beneficial uses"*	concentrations that exceed 0.1 mg/L and shall not persist in receiving waters at any concentration that causes impairment of beneficial uses." Section 5.1.4 of the Tentative Order is a receiving water limitation based on this Basin Plan water quality objective. The Tentative Order also includes an effluent limitation for total residual chlorine of 0.1 mg/L in Table 4, so the 0.1 mg/L water quality objective for discharges was translated to an effluent limitation and the receiving water quality objective was included in section 5.1.4 as a receiving water limitation. Therefore, both water quality objectives described in this comment have been properly incorporated into the Tentative Order.	
16	**Sec 5.1.21, page 13** LASAN requests reverting back to a modified version of the current 2017 Permit language for the chronic toxicity receiving water quality objectives with a small edit to remove the accelerated monitoring of the current permit language to be consistent with the Toxicity Provisions. Chronic Toxicity Narrative Receiving Water Quality Objective: a. There shall be no chronic toxicity in	Footnote i in Table E-3 already includes the suggested language, "Receiving water and effluent toxicity testing shall be performed on the same day or as close to concurrently as possible." Since this is a monitoring requirement and not a receiving water limitation, the current location of this statement is appropriate. The Los Angeles Water Board will determine the origin of toxicity on a case-by-case basis, after reviewing self-monitoring reports submitted by the Discharger. Since the determination of the origin of toxicity is dependent on many site-specific factors, the suggested language regarding chronic toxicity	None necessary.

	ambient waters as a result of the wastes discharged. b. Receiving water and effluent toxicity testing shall be performed on the same day or as close to concurrently as possible. c. If the chronic toxicity median monthly threshold of the receiving water at both upstream and downstream stations is not met, but the effluent chronic toxicity median monthly effluent limitation was met, then chronic toxicity is not a result of the wastes discharged.	being the result of the wastes discharged is not appropriate.	
17	1) **6.3.4.b, page 21** 2) **10.4.5, page E-33** **3.5.1, page F-19** LASAN requests that the study be submitted in 24 months rather than 12 months. A similar study with a smaller defined scope was completed in 2017 utilizing existing data sources that required over 1.5 years to complete. The tentative NPDES permit requires assessment of a greater scope with smaller staffing and resource availability: LASAN's 6,700-mile collection system network, for which data source layers have yet to be created or identified; the reassessment of climate change impacts past mid-	Considering the City of Los Angeles' past experience with a similar study with a more limited scope, Los Angeles Water Board staff agree to modify the submittal due date for the Climate Change Plan from 12 months to 24 months in section 6.3.4.b of the Order, section 10.4.5 of the MRP, and section 3.5.1 of the Fact Sheet.	Revisions have been made to the Order.

	century; as well as steps to address greenhouse gas emissions. Due to the additional requirements, LASAN is respectfully requesting 24 months to complete the new Climate Change Plan.		
18	**Table Simple Calculation, page 36** LASAN requests to change Cs-134 to Cs-134m in the sample calculation presented in the table. The conversion from table (pCi/4 millirem) is 20,000 pCi/l, which is Cs-134m under the Nuclide section found in the Derived Concentrations (pCi/l) of Beta and Photon Emitters in Drinking Water (page 35).	Los Angeles Water Board has modified the typographic error by replacing Cs-134 with Cs-134m.	Revision has been made to the Order.
19	**Sec 7.18.4, page 37** Per the Bacteria Provisions *Enterococcus* is the indicator for marine waters and as LAG is an inland plant and discharges to freshwater the indicator should be changed to *E. coli.* In the method title *Test Methods for Escherichia coli and Enterococci in Water By Membrane Filter Procedure* - both bacteria indicators should be italicized.	*Enterococcus* is still required to be monitored if a spill from the facility reaches marine waters, so the language in Section 7.18.4 was revised as follows: "Detection methods used for *Escherichia coli* and *Enterococcus* shall be those presented in Table 1A of 40 CFR part 136 or in the USEPA publication EPA 600/4-85/076, "Test Methods for *Escherichia coli* and *Enterococci* in Water By Membrane Filter Procedure or any improved method determined by the Executive Officer and/or USEPA to be appropriate.""	Revision has been made to the Order.
20	**Page A-5** Recommend removing this definition. Although the State and LA Regional	Since the bacteria requirements in the Tentative Order are based on the more stringent Basin Plan WLAs instead of the Bacteria Provisions, the Statistical Threshold Value (STV) is not required to	Revision has been made to the Order.

	Board adopted USEPA's water quality objective (WQO) for *E. coli*, Statistical Threshold Value (STV) of 320 (CFU or MPN)/100mL, in REC-1 freshwaters, this WQO did not supersede the existing LA River Bacteria TMDL WQO and numeric site-specific objectives. The use of Statistical Threshold Value (STV) is not used in any other part of the draft permits other than in the definition section (attachment A).	be calculated, therefore the definition of Statistical Threshold Value (STV) in Page A-5 was removed.	
21	**5.5.1, page D-8** LASAN requests that the tentative order be revised to include contact information (contact person and phone number) when orally reporting non- compliance issues. LASAN also suggests to consider email notification as another option for reporting non-compliance issues.	To clarify the contact for noncompliance unrelated to spills, additional language was added to section 5.5.1 of Attachment D as follows: "The Discharger shall report any noncompliance which may endanger health or the environment <u>to the Manager of the Watershed Regulatory Section of the Los Angeles Water Board at (213) 576-6616 and jeong-hee.lim@waterboards.ca.gov.</u> Any information shall be provided orally within 24 hours from the time the Discharger …"	Revision has been made to the Order.
22	**5.5.1, page D-8** LASAN requests to add "business" days of the time the discharger becomes aware of the circumstances. This will allow the City more time when the "circumstances" described in the tentative order happens on a weekend when there is no staff available to write the report.	Section 5.5.1 of Attachment D states, "…A report shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances…" The five days is intended to include holidays and weekends. This ensures the notification of any noncompliance to the Los Angeles Water Board will be expedited so that the Los Angeles Water Board can take any necessary actions to protect human health or the environment. No change is needed.	None necessary.

23	**Table E-3, page E-10** LASAN requests that footnote "f" be added in Total Coliform, *E. coli*, and Total Residual Chlorine under "Notes" in Table E-3 Effluent Monitoring as all these parameters are collected and monitored on a daily basis.	Footnote f states, “Daily grab samples shall be collected at monitoring location EFF-001A, Monday through Friday only, except for holidays.” This statement is already included for total coliform and *E. coli* in footnote e, but with a different monitoring location since bacteria is monitored at EFF-001B. This statement is also already included for total residual chlorine in footnote d.	None necessary.
24	**Sec 5.3, page E-15** LASAN requests to replace the unit for salinity from “PPT” to “PSU”. The “ppt” unit is used to refer to “Knudsen salinities” and is not used since 1978 when a new salinity scale was developed based on electrical conductivity - the Practical Salinity Scale (PSS-78). This is the international standard of how salinity is measured and reported. It is reported using the suffix “PSU” (practical salinity unit), which is technically not a unit, as practical salinity is dimensionless.	Since salinity data has historically been reported to the Los Angeles Water Board in ppt, the Los Angeles Water Board would like to maintain consistency within the CIWQS database for comparability. No change is needed.	None necessary.
25	**Sec 5.4, page E-15** LASAN requests further clarification from the Regional Board regarding the timeline for when the species screening is to be conducted. LASAN also requests the continued use of the word "valid" to be deleted, "the results of all 12 valid tests" should be	Section 5.4 of the Monitoring and Reporting Program describes when the 3-species screening is required. The frequency for conducting the 3-species screening has been reduced from the frequency in the 2017 permit (every 2 years) and the Tentative Order only requires a 3-species screening once during the 5-year permit term (the 3-species screening must be initiated no later than	None necessary.

	the results of all 12 tests. The stipulation of all valid tests is not coming from the Toxicity Provisions and as the tests are conducted with larval animals, invertebrates, and an alga species the requirement is unrealistic and out of the control of the analyst.	18 months prior to the expiration date of the Order). In order to properly assess the sensitivity of the three species being tested, all 12 tests conducted to determine species sensitivity must be valid. If a test is deemed invalid, there is no way to determine if the species used in that test can be considered more or less sensitive than any other species used in the screening. Requiring that all tests used in the screening process to be valid ensures that each species will be fairly represented in the screening process and that the data used to determine most sensitive species is reliable.	
26	**Sec 5.5.2, page E-16** LASAN requests to revert back to the current 2017 permit language. The current language is more streamlined, short, and to the point. Suggested language: "The Median Monthly Effluent Limit (MMEL) for chronic toxicity only applies when there is a discharge of more than one day in a calendar month period. During such calendar months, up to three independent toxicity tests may be conducted when one toxicity test results in 'Fail'". If the Regional Board disagrees with reverting the language back to the current permit language as requested	The language in the Tentative Order is appropriate for continuous dischargers. The LAG WRP is considered a continuous Discharger because the facility discharges without interruption throughout its operating hours, except for infrequent shutdowns for maintenance, process changes, or other similar activities, and discharges throughout the year. The Discharger's proposed language is not appropriate since the discharge is continuous. The Los Angeles Water Board understands the Discharger has several facilities to monitor and limited resources and it may be difficult to conduct the first test in the beginning of the month. In addition, "the beginning of the month" is undefined, so this section should be clarified. The language in section 5.5.2 on page E-16 has been modified as follows:	Revision has been made to the Order.

	above, then LASAN requests removing the phrase "in the beginning of" from the sentence "If the initial toxicity test, conducted in ~~the beginning of~~ the month, results in “Fail” at the IWC,". LASAN's EMD toxicity testing unit conducts all of the toxicity tests for all 4 water reclamation plants that the City owns and operates. Due to the size of the laboratory, the amount of chamber space, the number of staff, and the availability of organisms from vendors it is not possible for all of the 4 plants tests to be at "the beginning of" the month.	If the initial toxicity test~~,~~ conducted in a given ~~the beginning of the~~ month~~,~~ results in a “Fail” at the IWC, then the Discharger shall initiate up to two additional chronic aquatic toxicity tests in the remainder of the month to determine compliance with the MMEL.	
27	**Sec 5.7.5, page E-19** LASAN requests that the language from the 2017 Permit be reinstated to the Tentative order: " TRE may be ended at any stage if monitoring finds there is no longer toxicity".	The intent of a TRE/TIE is to identify the source/cause of toxicity and to reduce it. The intent of omitting the proposed language in the Tentative Order is to ensure the Discharger consults with the Los Angeles Water Board before ending a TRE/TIE. The proposed language could result in a TRE being ended before the Los Angeles Water Board finds it appropriate.	None necessary.
28	**Sec 8.1.2, page E-24** LASAN requests to change the language back to the previous permit and match the Tentative DCT permit (for 72 hours instead of 48 hours). "Receiving water samples shall not be taken during or within 72 hours following the flow of rainwater runoff into the Los	Los Angeles Water Board agrees to keep the same timeframe, as allowed in the current permit, for the Discharger to collect receiving water samples after 72 hours following the flow of rainwater runoff into the Los Angeles River.	Revision has been made to the Order.

	Angeles River." Forty- eight hours is too short of time and the bacterial levels would most likely still be high. Seventy-two hours allows adequate time for the river to return to its natural state. Additionally, LASAN would like to know why the 48 hours was chosen for the LAG permit and not the DCT permit.		
29	**Sec 3.3.15, page F-16** LASAN requests to revise *"Any change to the program*" to *"Any significant change to the program"*. "Any change" is too general and broad. Only "significant change" should be reported. This will be consistent in the language in Attachment H, Section 1.4.6 which states that "A brief description of any significant changes in operating the pretreatment program..."	The regulations at 40 CFR 403.18 include requirements for modifying a POTW's pretreatment program. Modifications to a pretreatment program may be considered substantial or non-substantial. Substantial modifications include: 1) modifications that relax POTW legal authorities, with some exceptions, 2) modifications that relax local limits, with some exceptions, 3) changes to the POTW's control mechanism, 4) a decrease in the frequency of self-monitoring or reporting required of industrial users, 5) a decrease in the frequency of industrial user inspections or sampling by the POTW, 6) changes to the POTW's confidentiality procedures, 7) other modifications designated as substantial modifications by the Approval Authority. Approval procedures for substantial modifications are included in 40 CFR 403.8(c) and require the POTW to submit to the Approval Authority a statement of basis for the desired program modification, a modified program description, or such other documents the Approval Authority determines to be necessary under the circumstances.	Revisions have been made to the Order.

		All other pretreatment program modifications that do not fit the definition of substantial modifications are considered non-substantial modifications. The approval procedures for non-substantial modifications are included in 40 CFR 403.18(d) and require the POTW to submit to the Approval Authority a statement of basis for the desired program modification, a modified program description, or such other documents the Approval Authority determines to be necessary under the circumstances. Both types of pretreatment program modifications require the POTW to notify the Approval Authority of the modification so the Approval Authority can determine whether the pretreatment program continues to meet the federal regulations. The main difference between substantial and non-substantial modifications is that substantial modifications require a public review process and non-substantial modifications do not. Since the federal regulations specifically require the Discharger to notify the Los Angeles Water Board of any changes to the pretreatment program, no change to the reporting procedures in this section is necessary. In addition, section 1.4.6. of Attachment H is a requirement of the annual pretreatment report, not a requirement any time there is a pretreatment program modification. The requirement in section 3.3.1.5 of the Fact Sheet describes what is required any time the Discharger makes changes to the pretreatment program. Since the annual report includes a summary of the pretreatment activities throughout the year, the annual report	

		should also include a summary of all pretreatment program modifications made throughout the year. To clarify this requirement, section 1.4.6. of Attachment H is revised as follows: *"A brief description of any ~~significant~~ changes in operating the pretreatment program which differ from the previous year including, but not limited to, changes concerning the program's administrative structure, local limits, monitoring program or monitoring frequencies, legal authority, enforcement policy, funding levels, or staffing levels;"*	
30	**Sec 7.18.3, page 37** LASAN requests to remove the fecal in the following paragraph as fecal coliform is no longer tested. "Detection methods used for coliforms (total and fecal) shall be those presented".	Since fecal coliform is not required to be monitored, fecal coliform was removed from section 7.18.3. Since fecal coliform is also referenced in section 7.18.2 of the Order and 1.14.1 of the MRP, the term was also removed from these sections.	Revisions have been made to the Order.
31	**Sec 5,5.5, page E-17** LASAN understands that WET methods manual should be followed when preparing samples for toxicity testing. However, LASAN seeks clarification and requests for additional information as to what specific WET methods manual should be used.	The WET Methods Manual referenced throughout the permit is the *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (USEPA 2002, EPA-821-R-02-013), as described in section 5.5.3 of the MRP. Section 5.5.3 was revised to clarify the short-hand terminology for the manual.	Revisions have been made to the Order.
32	**Table E-2 (Page E-8), Table E-3 (Page E-12), Table E-5 (Page E-23)**	The Los Angeles Water Board agrees to modify the units for PCBs as aroclors from "pg/L" to "**µg/L**" in Tables E-2, E-3, and E-5.	Revisions have been made to the Order.

	LASAN requests to change the units for PCBs as aroclors from “pg/L” to “**µg/L**” to match the way LAGWRP results have always been reported in the past, to standardize with LAGWRP requirements, and for consistency and continuity of our data management.		
33	**Table E-2 (Page E-8)** LASAN requests that the Sample Type for Bis(2- Ethylhexyl)phthalate changes to “grab or **24-hour** composite”.	The Los Angeles Water board agrees to modify the sample type in Table E-2 to clarify the composite sample is collected over 24 hours.	Revision has been made to the Order.
34	**Table E-2 (Page E-8)** LASAN requests that the Sample Type changes to “grab or **24-hour** composite for bis(2-ethylhexyl)phthalate and TCDD equivalents” for “Remaining USEPA priority pollutants excluding asbestos”.	The Los Angeles Water Board agrees to modify the sample type in Table E-2 to clarify the composite sample is collected over 24 hours.	Revision has been made to the Order.
35	**Table E-3 (Page E-11)** LASAN requests that the Sample Type for “Nitrate + Nitrite (N)” be changed to “**calculated**”.	The Los Angeles Water Board agrees to modify the sample type from 24-hour composite to calculated for Nitrate + Nitrite.	Revision has been made to the Order.
36	**Table E-3 (Page E-11)** LASAN requests that the Minimum Sampling Frequency is changed to “**quarterly**”. Although Chlordane has an effluent limit, it has not been detected in the effluent for the last five years.	Refer to response to comment #5.	Revision has been made to the Order.

37	**Table E-3 (Page E-11)** LASAN requests that the Sample Type for "TCDD Equivalents" changes to "grab or **24-hour** composite".	The Los Angeles Water Board agrees to modify the sample type in Table E-3 to clarify the composite sample for TCDD equivalents is collected over 24 hours.	Revision has been made to the Order.
38	**Table E-3 (Page E-11)** LASAN requests that the Minimum Sampling Frequency for "TCDD Equivalents" be changed to "**quarterly**". Although TCDD has an effluent limit, it has been detected only once for more than 20 years.	Refer to response to comment #4.	Revision has been made to the Order.
39	**Table E-5 (Page E-22)** LASAN requests that the Minimum Sampling Frequency for "Ammonia nitrogen, Nitrate nitrogen, Nitrite nitrogen, and Nitrate + nitrite nitrogen" be changed to "**monthly"**. Effluent monitoring is monthly in Table E-3.	The minimum sampling frequency for these four constituents is weekly because the *TMDL for Nitrogen Compounds and Related Effects in the Los Angeles River* requires weekly receiving water monitoring to ensure compliance with the water quality objective. The frequency of monitoring may be re-evaluated at the conclusion of the third year of confirmatory receiving water monitoring described in section 8.2. of this MRP.	None necessary.
40	**Table E-5 (Page E-22)** LASAN requests that the Sample Type for "Nitrate + nitrite nitrogen" be changed to "**calculated".**	The Los Angeles Water Board agrees to modify the sample type from grab to calculated for Nitrate + Nitrite nitrogen.	Revision has been made to the Order.
41	**Table E-5 (Page E-22)** LASAN requests that the Sample Type for "Total Kjeldahl nitrogen" be changed to **"calculated**".	The Los Angeles Water Board agrees to modify the sample type from grab to calculated for Total Kjeldahl nitrogen.	Revision has been made to the Order.

42	**7.18.4., Page 37** LASAN requests that the first "*Enterococcus"* be corrected to "**Escherichia coli**" and that "Escherichia coli" be italicized.	See response to comment #19.	None necessary.
43	LASAN noted some typographical errors and requested that they be corrected.	The typographical errors pointed out by LASAN have been corrected unless otherwise noted in the responses above.	Revisions have been made to the Order and Attachments in various places.

Comment Letter dated November 14, 2022, from Heal the Bay

No.	Comment	Response	Action Taken
1	**The Regional Board must enforce that instream water temperature shall not exceed 80°F, or be raised by more than 5°F, as a result of waste discharge.** Section 4.2 of the Tentative Permit provides an interim temperature effluent limitation for the duration of the compliance schedule, stating that "[t]he temperature of wastes discharged shall not exceed 86°F except as a result of external ambient temperature." A compliance schedule and interim effluent limitation for temperature of 86°F was requested because the facility cannot consistently comply with the final 80°F limitation. However, warmer water temperatures negatively affect the beneficial uses for humans as well as the organisms that rely on these water sources for survival, and we are concerned about the negative impacts if these	The Tentative Order contains a temperature effluent limit of 80ºF to better ensure attainment of the permit's receiving water limits. The Discharger will be subject to a compliance schedule and an 86°F interim effluent limit because the LAG WRP cannot consistently comply with the following Basin Plan temperature water quality objectives: *The natural receiving water temperature of all regional waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Board that such alteration in temperature does not adversely affect beneficial uses. Alterations that are*	None necessary.

	warmer effluent conditions are allowed to persist. Water temperature influences the types of aquatic life that are able to survive and reproduce in the river. An increase in temperature also increases the rate of decaying organic matter, which then depletes the supply of oxygen. This could lead to hypoxic conditions, as warm water also holds less dissolved oxygen. In general, increases in water temperature will lead to an increase in water pollution problems. The Regional Board should remove the interim effluent limitations for water temperature currently allowing effluent water temperature up to 86°F, and instead enforce the final effluent limit of 80°F, as required under the Clean Water Act. At a minimum, we request that the compliance schedule to meet the final effluent limit of 80°F be shortened to 8 years. We understand that the need for a site-specific study may cause the need for a longer compliance schedule, and do not wish to reduce the study time in a way that may compromise the quantity and quality of data necessary to complete such a study. However, we believe there are areas where the timeline can be safely and effectively shortened as follows: Task | Completion Date	*allowed must meet the requirements below.* *For waters designated WARM, water temperature shall not be altered by more than 5 °F above the natural temperature. At no time shall these WARM-designated waters be raised above 80 °F as a result of waste discharges.* The interim limit provided in the Tentative Order is established consistent with Resolve 7.b of the State Water Board's Resolution 2008-0025, Policy for Compliance Schedules in National Pollutant Discharge Elimination System Permits (Compliance Schedule Policy), which reads as follows: "If the compliance schedule exceeds one year, the Water Board shall establish interim numeric limitations for the pollutant in the permit; and may also impose interim requirements to control the pollutant, such as pollutant minimization and source control measures. Numeric interim limitations for the pollutant must, at a minimum, be based on current treatment facility performance or on existing permit limitations, whichever is more stringent. If the existing permit limitations are more stringent, and the discharger is	

		Submit and Begin Implementation of Pollution Prevention Plan (PPP) for Source Control	April 1, 2023	not in compliance with those limitations, the noncompliance under the existing permit must be addressed through appropriate enforcement action before the permit can be reissued, unless the anti-backsliding provisions in Clean Water Act section 402(o) are met." The compliance schedule and the interim limit in section 6.3.7 of the Tentative Order are also authorized under section 1.e. of the Compliance Schedule Policy, for the newly interpreted temperature final effluent limitation. Since the discharger is unable to immediately comply with the new final effluent limitation, the interim limit is necessary to give the discharger additional time to complete tasks that will bring the discharge into compliance with the final effluent limitation. The Technical Work Plan will include a site-specific study in the Los Angeles River, which the Discharger is planning to conduct over the course of 2 years to collect enough data to capture the seasonal and annual variations in water temperature of the receiving water. Since this study will need to be completed over the course of two years, the suggested reduction in the time schedule to complete the study is not appropriate. Once the final	
		Select members for the Technical Advisory Committee and Stakeholder Committee and regularly convene the committee members to initiate the development of a Technical Workplan that includes a temperature study that identifies the potential impacts of the WRP's effluent temperature and potential control measures (including nature-based solutions) that can be implemented to protect beneficial uses.	July 1, 2023		
		Finalize and submit a Technical Workplan for the Los Angeles Water Board Approval, secure the necessary permits for Los Angeles River Channel access and deployment of in-situ monitoring devices, and initiate bidding and procurement for any necessary equipment and/or services.	May 1, 2024		
		Workplan, initiate testing and deployment of any necessary equipment, and continue securing the necessary permits for Los Angeles River Channel access and	May 1, 2025		

	deployment of in situ monitoring devices.		technical report is submitted, the Los Angeles Water Board staff also needs several months to review and discuss the report and next steps with the Discharger, so we have included six months for this to take place. In addition, the Discharger will need the proposed timeframe between notifying the Los Angeles Water Board of the selected preferred project and starting the preliminary design to accommodate their bidding process and other required internal approval processes. The Discharger's internal review and approval process will also require approximately a year from the time the designs for the selected project are completed to when they are able to issue a Notice to Proceed to start work on the preferred project. Since the Discharger has proposed a schedule based on previous experience with similar projects, the Los Angeles Water Board is not proposing changes to the Discharger's schedule.	
	~~I~~Complete implementation of the Technical Workplan and begin drafting a Final Technical Report.	~~May 1, 2026~~ December 31, 2025			
	Complete and submit the Final Technical Report.	~~February 1, 2027~~ August 1, 2026			
	Notify Los Angeles Water Board of Selected Preferred Project and Identify Regulatory Approval Process (if appropriate given the study findings), Present Results of Technical Workplan at Next Scheduled Los Angeles Water Board Meeting	~~August 1, 2027~~ March 1, 2027			
	Begin Preliminary Design and Environmental Review	~~April 30, 2028~~ April 30, 2027			
	Complete Preliminary Design	~~April 30, 2029~~ April 30, 2028			

	<table><tr><td>Complete Environmental Review</td><td>~~April 30, 2030~~ April 30, 2029</td></tr><tr><td>Complete Design of Preferred Project</td><td>~~April 30, 2031~~ April 30, 2030</td></tr><tr><td>Issue Notice to Proceed for Project Work</td><td>~~April 30, 2032~~ July 31, 2030</td></tr><tr><td>Complete Preferred Project</td><td>~~February 1, 2033~~ July 31, 2031</td></tr></table>			
2	**We request that the Regional Board disclose if and how often the influent exceeds the plant design flow rate, and what actions are taken when this occurs.** As stated in the Tentative Permit, "the mass-based effluent limitations for cadmium, copper, lead, and zinc do not apply during wet weather when the influent exceeds the plant design flow rate of 20 mgd." This statement is in alignment with the L.A. River Metals TMDL, so we do not ask the Regional Board to remove this language. However, we do		During the past five years, there were no instances when the peak daily influent flow rate to the LAGWRP exceeded its design capacity during wet weather and the Los Angeles Water Board does not anticipate that the daily influent flow rate will exceed the design capacity within the next five years because the plant is only running at approximately 69% capacity. Since the LAGWRP is part of the Hyperion	None necessary.

	request that the Regional Board disclose if and how often the influent exceeds the plant design flow rate. We also request that the Regional Board provide clarifying language in the permit to explain what regulatory action will take place in the event that influent exceeds the plant design flow to ensure protection of the L.A. River from heavy-metals-contaminated discharge. Given ongoing discussions of diverting stormwater to the sanitary sewer system, it is critical that we minimize the potential for influent to exceed the plant design flow rate, and that we have a regulatory plan in place that can be efficiently implemented if it does.	Treatment System (as discussed in section 2.1.1 of the Fact Sheet), any influent flow in excess of the LAGWRP's design capacity of 20 MGD is conveyed to the Hyperion Water Reclamation Plant for treatment and disposal. In the event the influent flow rate exceeds the design capacity of the LAGWRP and the flow is not able to be conveyed to the Hyperion WRP, the enforcement unit at the Los Angeles Water Board will review the monitoring data to determine if there are any violations. In addition, if a spill occurs as a result of the influent flow exceeding the design capacity, the Order includes monitoring and reporting requirements for spills in section 6.3.6 of the Order. In terms of compliance with the effluent limits for copper, lead, cadmium, and zinc during wet weather events, even if the influent flow rate exceeds the design capacity, the Discharger is still required to meet the concentration-based effluent limits and is subject to enforcement action if the discharge exceeds any of the concentration-based limits.	
3	**The Regional Board must enforce all permit violations.**	CIWQS lists all reported violations and any violations that are dismissed also	None necessary.

	The Fact Sheet of the Tentative Permit includes a compliance summary explaining exceedances for temperature, nitrate, and nitrate plus nitrite. In review of the California Integrated Water Quality System (CIWQS) website for the Facility, these exceedances are not listed, but there are 10 monitoring violations and 1 violation for chronic toxicity reported. The Regional Board must ensure that the CIWQS website is maintained to ensure transparency. If exceedances are determined by the Regional Board to not be a violation of the permit terms, the exceedances should still be listed along with an explanation for why they do not constitute a violation. Additionally, we request that all permit violations be enforced by the Regional Board. Reach 3 of the L.A. River is designated to provide water supply, habitat, and recreation beneficial uses, but is currently listed as impaired under the California Integrated Report. Any discharge that causes or contributes to that impairment must be regulated and violations must be enforced.	remain in CIWQS with a note indicating why the violation was dismissed. In Section 2.4 of the Fact Sheet, it is noted that there were multiple monitoring and reporting requirement violations during the current permit term. The Los Angeles Water Board also notes the chronic toxicity violation that occurred on May 8, 2022. Enforcement staff investigate violations of permit requirements and take appropriate enforcement action as required by and consistent with the California Water Code and State Water Resources Control Board's Water Quality Enforcement Policy. Any unresolved violations of Order No. R4-2017-0063 can still be addressed as appropriate after permit renewal. The Tentative Order states that "Order Number R4-2017-0063 is rescinded upon the effective date of this order except for enforcement purposes…"	

Comment Letter dated November 9, 2022, from Los Angeles WaterKeeper and Heal the Bay

No.	Comment	Response	Action Taken
H1	The Water Boards must evaluate and prevent waste and unreasonable use when reissuing the POTW permits.	The question of what the water boards "must" do with respect to waste and unreasonable use is the subject of ongoing litigation. As a practical matter, however, the Los Angeles Water Board strongly encourages water recycling, water conservation,	None necessary.

		and use of stormwater and dry-weather urban runoff, consistent with the Water Quality Control Policy for Recycled Water (Recycled Water Policy) and Resolution Nos. 2017-0012 and R18-004 that the LA Water Board and State Water Board have adopted on these subjects – recycling, climate change, etc. The current permit requires the Discharger to evaluate the feasibility of recycling, conservation, and/or alternative disposal methods for wastewater, and/or capture and treatment of dry weather urban runoff and stormwater. The Tentative Order carries over this requirement in section 4.3. Section 4.7 of the Fact Sheet of the Tentative Order also briefly discusses the Discharger's future plans for reusing final effluent from LAGWRP. The Discharger requested authorization to reduce the discharge of treated effluent up to 3,700 acres feet per year (AFY) from the LAGWRP to the Los Angeles River in 2016, and the State Water Board approved wastewater petition WW0097 to reduce discharge from the LAGWRP to the Los Angeles River on March 13, 2019. This reduced flow would be directed to miscellaneous irrigation and industrial projects within the cities of Pasadena, San Marino, Los Angeles, La Cañada-Flintridge, and unincorporated Los Angeles County. In addition, the treated wastewater discharged from the LAGWRP provides habitat along the Los Angeles River and maintains flow in the river to support other beneficial uses. So, although the effluent is discharged to the Los Angeles River, the discharge is not considered a waste and	

		unreasonable use of water since it is providing a benefit to the environment and neighboring communities. Because the effluent discharged to the river helps maintain the beneficial uses of the river, the Discharger followed the Water Code section 1211 petition process with the State Water Board's Division of Water Rights to ensure the beneficial uses of the Los Angeles River are maintained with any reduction in discharge flow.	

Comment Letter dated November 9, 2022 from LA WaterKeeper

No.	Comment	Response	Action Taken
1	The Regional Board did not analyze or consider minimum flows for the LA River to support beneficial uses as part of the Tentative Permits, nor did the Regional Board consider the potential environmental impacts of discharging millions of gallons of treated wastewater into the ocean every day. There are numerous ongoing efforts to identify minimum flows for the LA River, including a study by the Southern California Coastal Water Research Project. Other regulatory processes have ramped up wastewater recycling activities at the Tillman, LA-Glendale, and Burbank POTWs. The Tentative Permit for Tillman mentions the	The primary purpose of NPDES permits is to regulate the discharge of pollutants to a water of the United States, not to govern in-stream flows. The mechanism for evaluating whether a wastewater discharger must maintain a minimum flow is through the Water Code section 1211 petition process with the State Water Board. A 1211 petition is required whenever a project proposes to reduce flow to an inland surface water, so whenever the Discharger proposes to reduce flow to the LA River for other beneficial reuse, they must first file a 1211 petition with the State Water Board. Through the 1211 petition process, a determination is made regarding whether the change in the wastewater discharge will adversely affect beneficial uses of the river and what change in wastewater discharge is appropriate considering the minimum flows required to maintain the beneficial uses of the river. In addition to the	None necessary.

	Tillman Groundwater Replenishment Project and the anticipated proposal for Tillman to recycle an additional 30,000 acre-feet per year ("AFY") of advanced treated wastewater for groundwater recharge. In 2016, LA-Glendale received permission from the State Water Resources Control Board ("State Board") to reduce its discharges by 3,500 AFY. But the Tentative Permits do not mention any commitments to minimum flows in the LA River to support beneficial uses as all of these wastewater recycling initiatives ramp up.	1211 petition process, additional studies and monitoring may also be required to determine the appropriate minimum flows. Finally, it bears mentioning that the State Water Board and the Los Angeles Water Board, in cooperation with local municipalities, are wrapping up the Los Angeles River Flows Project to better evaluate the cumulative impacts of potential flow reductions. The Southern California Coastal Water Research Project is leading the project to evaluate flows and establish a framework to develop flow criteria. That effort will inform future decisions regulating flows. This study was initiated, in part, in response to the State Water Board's order on 1211 petitions related to the Los Angeles River.	
2	The tentative permit is subject to Chapter 1 of CEQA and is legally required to make findings as to whether the project has significant and unavoidable impacts, including cumulative impacts resulting from multiple approvals of WDRs for POTWs. If applicable, it should identify feasible alternatives or mitigation measures that would substantially lessen those impacts. Such an analysis will ensure that permitting decisions made now will make important progress toward maximizing wastewater recycling in the Los Angeles region while	Under California Water Code section 13389, the action to adopt an NPDES permit is exempt from the provisions of Chapter 3 of CEQA, which states: "Neither the state board nor the regional boards shall be required to comply with the provisions of chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code prior to the adoption of any waste discharge requirement, except requirements for new sources as defined in the Federal Water Pollution Control Act or acts amendatory thereof or supplementary thereto." The Federal Water Pollution Control Act defines new sources as: "any building, structure, facility or installation from which there is or may be the discharge of pollutants, the construction of which commenced after the	None necessary.

	preserving minimum flows in the LA River.	publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such sources, if such standard is thereafter promulgated in accordance with this section." Since the LAGWRP is not considered a new source, the action to adopt the NPDES permit is exempt from CEQA. Furthermore, the California Environmental Quality Act defines a project as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment…". The LAG WRP is currently discharging tertiary-treated water to the Los Angeles River under the current permit and has been discharging for years under previous permits. The renewal of the permit to allow continued discharge would not cause a direct or indirect physical change to the Los Angeles River. However, since the LAG WRP discharge provides a significant source of flow to the Los Angeles River, if a permit were to significantly decrease the discharge flow, a physical change to the flow of the river could occur. Dischargers that wish to decrease the amount of water they discharge to waterways must file a wastewater change petition with the State Water Board's Division of Water Rights if the diversion will result in decreased flow in those waterways. Non-exempt wastewater change petitions are subject to CEQA and the State Water Board must either undertake CEQA review as a lead agency or review CEQA documents before	

		making a decision. Certain factors considered before decisions are made include whether the change can be made without injuring other legal users of water including the environment and if the petition is in the public interest.	