

Comment Summary and Responses
Total Maximum Daily Load for Nearshore and Offshore Santa Monica Bay
Comment Deadline: 12pm on October 27, 2011

No.	Commenter
1.	Heal the Bay
2.	United States Environmental Protection Agency (USEPA)
3.	County of Los Angeles
4.	Los Angeles County Flood Control District (LACFCD)
5.	City of Los Angeles Bureau of Sanitation (LACBS)
6.	City of Los Angeles Department of Water and Power (LADWP)
7.	City of Malibu
8.	City of Manhattan Beach
9.	City of Thousand Oaks
10.	Joyce Dillard

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0.1	Multiple	Several of the comments submitted to the State Water Resources Control Board (State Water Board) regarding approval of this amendment were submitted verbatim to the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) without further explanation.	<p>The State Water Board’s Notice of Opportunity to Comment concerning this Basin Plan amendment accurately informs interested persons of the procedural requirements used to implement the State Water Board’s regulatory programs. According to the State Water Board’s CEQA Regulations (23 Cal. Code Regs. § 3779, subd. (f)):</p> <p style="padding-left: 40px;">The state board, when considering approval of a regional board's adoption of an amendment to its water quality control plan or guideline, shall prescribe a comment period of not less than 30 days. The state board may refuse to accept any comments received after the</p>

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			<p>noticed deadline. All comments submitted to the state board must be specifically related to the final amendment adopted by the regional board. If the regional board previously responded to the comment, the commenter must explain why it believes that the regional board's response was inadequate. The commenter must include either a statement that each of the comments was timely raised before the regional board, or an explanation of why the commenter was unable to raise the specific comment before the regional board. The state board may refuse to accept any comments that do not include such a statement. The state board is not required to consider any comment that is not in compliance with this section.</p> <p>Several of the comments submitted to the State Water Board on this matter are identical to a comment submitted to the Los Angeles Water Board at the time the draft version of this regulation was under Los Angeles Water Board consideration. During its consideration, the Los Angeles Water Board received and provided written responses to all timely comments. The Los Angeles Water Board's responses either indicated that changes would be</p>

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			<p>made to the regulatory provisions or related documentation in view of the comment (in which case corresponding changes were made and are reflected in the adopted amendment), or the Los Angeles Water Board's written responses indicated that changes would not be made, and the response indicated the reason for making no changes.</p> <p>Where a commenter has merely repeated a previously submitted comment below, the State Water Board cannot divine what the commenter believes has been adequately satisfied and what has not, nor can it determine the reason for any remaining dissatisfaction.</p> <p>Without that information, the State Water Board does not have a fair opportunity to understand what if any remaining concerns exist, and the State Water Board is therefore unable to use its authority under Water Code section 13245 to address them. The doctrine of exhaustion of administrative remedies is intended to allow agencies like the State Water Board an opportunity to address the concerns of the commenters. The State Water Board cannot do so if those concerns have not, as here, been fairly presented.</p>
1.1	Heal the Bay	Heal the Bay supports the TMDL adopted by the Los Angeles Regional Water Quality Control Board on	Comment noted.

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		November 4, 2010. In particular, we strongly support the Regional Board’s requirement of zero trash discharge in the Debris TMDL.	
1.2	Heal the Bay	The Trash TMDL establishes a numeric target, a final Waste Load Allocation (“WLA”), and a final Load Allocation (“LA”) of zero trash, including plastic pellets. We strongly support these requirements, as zero is the only appropriate TMDL for trash given the water quality standards for these waterbodies set forth in the Basin Plan and Clean Water Act requirements. The federal Clean Water Act requires states to establish TMDLs “...at levels necessary to obtain and maintain the applicable narrative and numerical WQS [water quality standards] with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.” The Los Angeles Basin Plan calls for no floatables or settleables that will cause a nuisance or adversely affect beneficial uses. Even small quantities of trash violate the Clean Water Act and Basin Plan. For instance, small amounts of trash can maim or kill wildlife that ingests or becomes entangled in the debris. Small and large particles of trash can inhibit the growth of aquatic plants, reducing habitat they provide fish and other organisms to use for spawning. Plastic trash takes centuries to degrade completely, merely breaking into smaller and smaller particles that can end up in the plastic soup swirling in the Pacific Gyre, wreaking havoc on our ocean for generations. Plainly, zero is the only fair	Comment noted.

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		interpretation of the Basin Plan water quality standards that will guarantee protection of the beneficial uses of these waterbodies with an appropriate margin of safety.	
1.3	Heal the Bay	The State Water Resources Control Board acknowledged that a zero trash discharge requirement was an appropriate piece of regulation with the approval of the LA River Trash TMDL in 2002 and 2008 and five lake and estuary trash TMDLs in 2007, the Malibu Creek Trash TMDL in 2008, and subsequent legal decisions regarding this Trash TMDL by the judicial system further validates this limit. Thus, the proposed zero trash discharge limit is, clearly, appropriate.	Comment noted. The State Water Board agrees that the numeric target of zero trash in this TMDL is appropriate.
1.4	Heal the Bay	In sum, we believe this limit of zero trash is the only way to meet the threshold of attaining and maintaining water quality standards as set forth in the Clean Water Act, and thus, urge the State Board to approve the TMDL.	Comment noted.
2.1	USEPA	The U.S. Environmental Protection Agency (EPA) supports the Los Angeles Regional Water Quality Control Board's proposed basin plan amendment (BPA) to establish Total Maximum Daily Loads (TMDLs) for nearshore debris in Santa Monica Bay. The proposed TMDLs meet all federal regulatory requirements.	Comment noted. The State Water Board agrees that this TMDL meets all federal regulatory requirements.
2.2	USEPA	EPA reviewed the proposed BPA and Staff Report during the consideration of the TMDL by the Los Angeles Regional Water Quality Control Board (Resolution No. R10-010), and supported the adoption of the TMDL with recommended modifications (Letter dated September 13, 2010).	Comment noted.

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2.3	USEPA	EPA supports this TMDL's zero discharge wasteload allocations for trash and plastic pellets in the Santa Monica Bay. Furthermore, we support the assignment of zero plastic pellets to the industrial facilities engaged in the manufacture, transport, or handling of the plastic pellets as a means to address the loading of plastic pellets to Santa Monica Bay at the source. To ensure plastic pellets is controlled at the source and the transport of plastic pellets is not transported via storm drain conveyances, it is critical to develop and implement the Plastic Pellet Monitoring and Reporting Plan. This monitoring report should show that plastic pellets are not transported to Santa Monica Bay.	Comment noted.
2.4	USEPA	EPA reviewed the proposed nearshore debris TMDLs and found reasonable scientific analysis for addressing trash and plastic pellets in Santa Monica Bay. We also appreciate the inclusion of specific actions, milestones and time certain periods in the associated implementation plan to ensure measurable progress and compliance.	Comment noted.
2.5	USEPA	We urge the State Board to approve the TMDLs to meet California's TMDL commitments and to enable EPA to meet its requirements under the consent decree (Heal the Bay v. Browner, C. 98-48 25 SBA, March 22, 1999).	Comment noted.
3.1	County of Los Angeles	1. TMDL is not an appropriate regulatory method to address discharges of plastic pellets Through the adoption of Assembly Bill 258 (AB 258) in 2007, the State Legislature amended the California Water Code and established a regulatory program specifically to address preproduction plastic debris. It is imperative that	State Water Board reviewed and agrees with the Los Angeles Water Board's response to this comment. Please see response to comment 0.1 and the Los Angeles Water Board's response to comment 5.1, which states:

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		<p>preproduction plastic pellets be addressed through the regulatory mechanisms adopted pursuant to that bill. The TMDL program is not a proper regulatory vehicle to address plastic pellets, at least not until the State Water Board determines that addressing plastic pellets through TMDLs such as this one is an appropriate regulatory method.</p> <p>Neither the Regional Board nor the State Water Board currently has the authority to include plastic pellets into a TMDL. AB 258, as set forth in Water Code § 13367, provides that the State Water Board and the Regional Boards shall implement a program to control discharges of preproduction plastic from point and nonpoint sources [Water Code § 13367(b) (1)]. It further provides that State Water Board shall determine the appropriate regulatory methods to address the discharges from these point and nonpoint sources.</p> <p>To our knowledge, the State Water Board has not yet determined the appropriate regulatory methods to address these discharges. Specifically, the State Water Board has not yet determined that TMDLs that impose obligations on municipal stormwater permittees are an appropriate regulatory method to address these discharges. Without this determination, the State Water Board or the Regional Board has no authority to include plastic pellets in this TMDL. (Although Water Code § 13367(h) provides that nothing in Water Code § 13367 limits the authority of the</p>	<p>Cal. Water Code section 13367 requires the state and regional water boards to develop a program to control discharges of preproduction plastics, including minimum best management practices. This provision does not preclude the regional boards from including a program within a TMDL to address plastics. Cal. Water Code section 13367(h) states, “[n]othing in this chapter limits the authority of the state board or the regional boards to establish requirements in addition to the best management practices for the elimination of discharges of preproduction plastic.” This TMDL is consistent with Section 13367.</p> <p>Plastic pellets are subject to regulation through a TMDL because they are “pollutants” as defined in Section 502(6) of the Clean Water Act, which includes “garbage,” “solid waste,” and “industrial waste,” among other materials. They are also “waste” as defined in Water Code section 13050. A TMDL establishes specific regulatory requirements to address a water quality impairment. These regulatory requirements, which if</p>

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		<p>State Water Board or the Regional Boards to establish requirements in addition to best management practices for the elimination of these discharges, this provision only allows Regional Boards to establish requirements in addition to best management practices in permits issued to facilities that handle or discharge preproduction plastic pellets. Regional boards, however, cannot adopt a regulatory method, such as this TMDL, until the State Board has determined that such a method is appropriate.)</p> <p>The County supports the reduction or elimination of the discharge of plastic pellets into waters of the State. However, given that the sources of plastic pellets are solely industrial facilities, and that these facilities are known to the State, the best and most efficient way to address impairments due to plastic pellets is through the Industrial General Permit (IGP) instead of TMDLs. Also, because plastic pellets observed in a given watershed are not necessarily limited to sources in that watershed as they can be transported from watershed to watershed or region to region, a watershed-based TMDL is not the appropriate regulatory tool to effectively address the problem.</p> <p>In its response to these concerns, the Regional Board stated that "while there are limited circumstances under which impairment may be addressed by a single regulatory action, in this case because there are multiple sources that may be causing and/or contributing to the impairment, a TMDL is the appropriate first step." We</p>	<p>adopted as amendments to a region's water quality control plan, are not generally self-executing but are implemented through regulatory mechanisms such as WDRs/NPDES permits.</p> <p>The Regional Board is obligated under the federal Clean Water Act section 303(d) to establish TMDLs to address water quality impairments. Additionally, while there are limited circumstances under which impairment may be addressed by a single regulatory action, in this case because there are multiple sources that may be causing and/or contributing to the impairment, a TMDL is the appropriate first step.</p> <p>Regional Board staff agrees that the TMDL regulatory requirements imposed on industrial facilities discharging stormwater should be implemented through the Statewide IGP, or its equivalent, and individual industrial stormwater permits. The TMDL, as proposed, emphasizes implementation of the plastic pellets WLAs through these permits, and does not assign plastic</p>

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		<p>believe this statement is incorrect. The sources of pre-production plastic pellets are solely industrial facilities, which manufacture, handle, or use them. This was clearly recognized in AB 258.</p> <p>Enforcement of AB 258 through the IGP would be the proper vehicle for effectively addressing the impairment caused by plastic pellets in the Santa Monica Bay. Therefore, we request that the State Water Board remand the TMDL to the Regional Board and direct the Regional Board to remove the plastic pellets from the proposed TMDL.</p>	<p>pellet WLAs to municipal stormwater permittees. The obligations imposed on MS4 Permittees are to monitor for potential discharge of plastic pellets from the MS4 and to actively implement elements of their MS4 permits to control discharge of plastic pellets from facilities and activities engaged in the manufacture, handling or transport of plastic pellets within their jurisdiction.</p> <p>State Water Board disagrees with the commenter that the Los Angeles Water Board lacks authority to include plastic pellets in a TMDL. No new determination by the State Water Board regarding appropriate regulatory methods to address discharges of preproduction plastic is necessary prior to the Los Angeles Water Board establishing a TMDL to address water quality impairments due to preproduction plastic. As noted in the Los Angeles Water Board’s response, plastic pellets are subject to regulation through a TMDL because they are “pollutants” as defined in section 502(6) of the Clean Water Act, which includes “garbage,” “solid waste,” and “industrial waste,” among other materials. They are also “waste” as defined in Cal. Water Code section 13050. Additionally, federal regulations already contain a number of requirements for addressing these discharges, some</p>

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			<p>of which are described below.</p> <p>State Water Board disagrees with the commenter that the sources of pre-production plastic pellets are solely industrial facilities. There are multiple sources of preproduction plastic pellets to the Santa Monica Bay. As stated in Section III (Source Analysis) of the Staff Report on page 31, “Although plastic industries are the primary point source for plastic pellets, it is likely that any spills that happen during transport, transfer, or handling may release loose plastic pellets to the MS4 and eventually to the beach and the Santa Monica Bay.” Municipalities and counties, as permittees covered by NPDES permits for discharges from MS4s, bear responsibility for ensuring that their stormwater management program includes a program to detect and remove illicit discharges and improper disposal into the MS4 and, within this program, a subprogram to prevent, contain, and respond to spills that may discharge into the MS4. (<i>See</i> 40 CFR § 122.26(d)(2)(iv)(B).) Additionally, MS4 permittees bear some responsibilities related to monitoring and controlling pollutants in stormwater discharges to the MS4 from industrial facilities. (<i>See</i> 40 CFR § 122.26(d)(2)(iv)(C).) The TMDL requirement for MS4 Permittees to develop and implement a Plastic Pellet Monitoring and Reporting Plan (PMRP) is within the scope of these federal requirements.</p>

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			<p>Further, multiple permits including the IGP and individual industrial stormwater permits regulate facilities engaged in the manufacture and handling of preproduction plastics. For these reasons, a single regulatory action through the IGP, as suggested by the commenter, would be inadequate to fully implement actions within the Los Angeles Region necessary to address the impairment of Santa Monica Bay due to plastic pellets.</p> <p>Accordingly, State Water Board agrees with the Los Angeles Water Board that a TMDL is an appropriate regulatory vehicle to address water quality impairments resulting from discharge of preproduction plastic pellets. Therefore, the State Water Board does not agree that remanding the TMDL with direction to remove the elements pertaining to plastic pellets from the TMDL is warranted.</p>
3.2	County of Los Angeles	<p>2. Municipal Separate Storm Sewer System (MS4) permittees should not be responsible for plastic pellets The County also commented to the Regional Board in 2010 that while the proposed TMDL clearly identifies industrial facilities as the source of plastic pellets and assigns associated waste load allocations (WLAs) to those facilities, the TMDL inappropriately requires MS4 permittees to conduct monitoring, inspections, and clean-</p>	<p>State Water Board reviewed and agrees with the Los Angeles Water Board's response to this comment. Please see responses to comments 0.1 and 3.1 , and the Los Angeles Water Board's response to comment 5.2. In response to this comment, the Los Angeles Water Board states in part:</p> <p style="text-align: center;">MS4 Permittees have jurisdiction over the</p>

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		<p>up of spills for plastic pellets. In response, the Regional Board classified the requirement of submitting a Plastic Pellet Monitoring and Reporting Plan (PMRP) into three categories, depending on the land use and the presence of industrial facilities that manufacture, handle, or transport plastic pellets within the jurisdiction's boundary. Although it was an improvement to the original proposal, we still believe it is not appropriate to place any type of monitoring, inspection, and clean-up responsibilities on MS4 permittees at all. Monitoring and cleanup of plastic pellets spills should be the sole responsibility of the plastics industry and should be enforced through the IGP program. Plastic industry facility inspections should be conducted by a regulatory authority who collects fee from holders of the IGP for the purpose of stormwater inspection and regulatory compliance [Water Code §13260(d) (2) (B) (iii)], in which case, the State and regional water quality control boards have a responsibility to fulfill that role.</p> <p>The County requests that the State Water Board remand the TMDL to the Regional Board and direct the Regional Board to remove all MS4 permittee responsibilities associated with plastic pellets.</p>	<p>MS4 and are responsible for discharges of pollutants, including trash and plastic pellets, from the MS4 to Santa Monica Bay. However, Regional Board staff recognizes that the TMDL requirements, particularly achieving the plastic pellets WLA, to eliminate discharge of plastic pellets to Santa Monica Bay should be the primary (though not exclusive, as discussed below) responsibility of the industrial facilities and activities that manufacture, transport and handle plastic pellets. Therefore, the SMB Debris TMDL only assigns a plastic pellet WLA to industrial sources – not to MS4 Permittees.</p> <p>However, MS4 permittees must conduct monitoring if there are facilities or activities, including transportation, that handle plastic pellets within their jurisdiction to determine the extent to which plastic pellets are being discharged from the MS4 to Santa Monica Bay.</p> <p>MS4 Permittees that have jurisdiction over the MS4 are responsible for discharges of pollutants to the MS4 and from the MS4 to receiving waters, including discharges of trash and preproduction</p>

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			<p>plastic pellets. While the State Water Board agrees with the Los Angeles Water Board that achieving the plastic pellets WLA and eliminating the discharge of preproduction plastic pellets to Santa Monica Bay should be the primary responsibility of the industrial facilities, MS4 Permittees must also bear responsibility for monitoring and control of discharges to and from their storm sewer system. (See 40 CFR 122.26(d)(2)(i).)</p> <p>Accordingly, the State Water Board agrees with the Los Angeles Water Board that MS4 Permittees should be responsible for monitoring plastic pellets discharged from the MS4, responding to possible plastic pellet spills, and inspecting industrial facilities within their jurisdictions that manufacture or handle preproduction plastic. Therefore, the State Water Board does not agree that remanding the TMDL with direction to remove all MS4 permittee responsibilities associated with plastic pellets is warranted.</p>
3.3	County of Los Angeles	<p>3. The schedule for submitting trash monitoring and reporting plan (TMRP) should be extended to a minimum of one year</p> <p>The proposed TMDL covers a much larger geographical area than any of the TMDLs previously developed for the Los Angeles region, consisting of about 420 square miles</p>	<p>State Water Board reviewed and agrees with the Los Angeles Water Board's responses to this comment. Please see response to comment 0.1 and the Los Angeles Water Board's responses to comments 5.5 and 5.6.</p> <p>Los Angeles Water Board response to comment 5.5</p>

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		<p>of land area draining to the Santa Monica Bay, 55 miles of shoreline with 44 beaches, and several miles into the ocean. The proposed TMDL also directly affects about 19 Phase I municipal stormwater permittees. Based on the County's experience in implementing other TMDLs, it is not possible to develop an adequate TMRP within a six-month time frame for a TMDL of this scale. This is because the development of the TMRP would require coordination with multiple agencies throughout the watershed and the execution of interagency agreements.</p> <p>Therefore, the County requests that the State Water Board make a nonsubstantive change to the proposed TMDL by extending the timeline for developing monitoring plans, as identified in Tables 7-34.2 and 7-34.3 of the proposed Basin Plan Amendment, from six months to one year.</p>	<p>states in part:</p> <p>The County of Los Angeles is a responsible jurisdiction under two previously established Trash TMDLs within the Santa Monica Bay Watershed Management Area (WMA) – the Malibu Creek Trash TMDL and the Ballona Creek Trash TMDL, which cover the two largest subwatersheds within the Santa Monica Bay WMA (comprising 43.2% of the WMA) . . . Responsible jurisdictions and agencies that have developed a Regional Board approved TMRP for the Ballona Creek Trash TMDL and/or Malibu Creek Trash TMDL do not have to submit a separate TMRP for this Debris TMDL for those areas, if responsible jurisdictions and agencies are meeting all compliance requirements under those TMDLs.</p> <p>Furthermore, the date to begin implementation of a TMRP will likely be at least 1½ years from Regional Board adoption of the TMDL, since the TMDL will likely not become effective for approximately 9 months after the Regional Board’s action, and then after</p>

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			<p>the TMDL becomes effective, responsible jurisdictions have another six months to submit their TMRPs and PMRPs, and then 6 months after EO approval to implement them. Therefore, in effect, Responsible Jurisdictions will have over one year to submit the TMRP after the Regional Board adopts this TMDL, and over 1½ years to begin to implement it.</p> <p>Los Angeles Water Board response to comment 5.6 states in part:</p> <p>The Implementation Schedules for both point and nonpoint sources specified in the BPA are reasonable. Responsible agencies within the Los Angeles Region have a great deal of experience implementing a variety of certified full capture devices, partial capture devices, and institutional controls to comply with the requirements of other established Trash TMDLs in the LA Region, and in the Santa Monica Bay Watershed Management Area. Many of these responsible agencies and jurisdictions are the same as those named in the Santa Monica Bay Debris TMDL, including the County of Los Angeles. This TMDL will</p>

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			<p>benefit from the innovation of agencies such as the County of Los Angeles, City of Los Angeles, Caltrans and others that have developed cost effective certified full capture devices, and partial capture systems, and have extensive experience installing and maintaining these BMPs. Data collected by the responsible jurisdictions for these other Trash TMDLs support the effectiveness of these compliance measures to reduce trash loading to Santa Monica Bay.</p> <p>Although the Santa Monica Bay Watershed Management Area (WMA) is large, the two largest subwatersheds within the WMA, namely the Malibu Creek Watershed and the Ballona Creek Watershed, are already covered by established trash TMDLs. The proposed Santa Monica Bay Watershed Debris TMDL implementation schedule takes into account the related implementation schedules of these other two Trash TMDLs and establishes a final compliance deadline that is after the final compliance deadlines for the Malibu and Ballona Creek Watershed Trash TMDLs.</p>

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			<p>The State Water Board agrees with the Los Angeles Water Board that the deadline for the TMRP is appropriate. Therefore, the State Water Board does not agree that the suggested change is warranted.</p> <p>In addition, pursuant to Resolution No. R10-008, the Los Angeles Water Board Executive Officer may only make minor, non-substantive modifications to the language of the TMDL as needed for clarity or consistency. The Executive Officer does not have the authority to adjust the TMDL implementation schedule. Only the Los Angeles Water Board at a publicly noticed meeting may change the deadlines. Thus, the commenter's proposed changes would constitute a substantive change to the language of the TMDL and thus cannot be made. However, as noted before, the State Water Board does not believe the proposed changes are warranted.</p>
4.1	LACFCD	The Los Angeles County Flood Control District also concurs with the comments submitted by the County of Los Angeles and hereby incorporates them by reference.	Comment noted. See responses to comments 3.1 through 3.3.
4.2	LACFCD	<p>1. The proposed TMDL should not name the LACFCD as a responsible party.</p> <p>The proposed TMDL does not assign a Waste Load Allocation (WLA) to the LACFCD but states that the</p>	State Water Board reviewed and agrees with the Los Angeles Water Board's response to this comment. Please see response to comment 0.1 and the Los Angeles Water Board's response to comment 6.1, which states:

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		<p>LACFCD "may be held responsible with a jurisdiction and/or agency for non-compliance" under certain situations where certain actions or lack of actions by the LACFCD would be construed as "causing or contributing to a responsible jurisdiction and/or agency to be out of compliance with its interim or final [WLA]" (Basin Plan Amendment, p. 6).</p> <p>In its letter to the Regional Board dated September 13, 2010, the LACFCD commented that the proposed TMDL should not name the LACFCD as one of the responsible parties. None of the land areas draining to the LACFCD storm drains that empty into the Santa Monica Bay are under the jurisdiction of the LACFCD. The drains themselves function solely as a conveyance for urban and stormwater runoff from upstream entities and do not generate any of the pollutants of concern at issue in the TMDL. Because the LACFCD does not control land uses within the municipalities or industrial facilities within the municipalities, it has no feasible means of preventing the pollutants at issue flowing from those land uses and facilities from entering its facilities and the Santa Monica Bay.</p> <p>In responding to this comment, Regional Board staff stated that the LACFCD has authority over portions of the MS4 and that some of the key compliance strategies for the trash TMDL rely on installations within the LACFCD's infrastructure. Given this fact, this TMDL</p>	<p>The Regional Board's approach to regulating trash in the context of a TMDL is unique and unlike that used for other pollutants. Trash is generally visible and easily containable, and these attributes make it a pollutant that is readily controllable within its area of origin through proper and frequent collection and disposal by municipalities and the public. Also, the feasibility of containing this pollutant allows for determining compliance within a jurisdiction prior to discharge to the MS4. The LA Region trash TMDLs take this into account in identifying responsible jurisdictions and agencies and their points of compliance, and in assigning waste load allocations.</p> <p>The TMDL is designed to assign all responsibility for trash generated within a land area to the responsible jurisdictional agency. The intent of the TMDL is to control the trash prior to its being discharged to the MS4 and from there to impaired waters. In this manner, responsible jurisdictions within the watershed are assigned waste load allocations and should be responsible for</p>

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		<p>should be consistent with and incorporate the approach of the Los Angeles River Trash TMDL (Regional Board Resolution No. 2007-012 and State Board Resolution No. 2008-0024). The TMDL, however, does not do so. The Regional Board's staff response to comments does not explain why a different approach should be used when the comments themselves recognize that the debris which is the subject of this TMDL is a type of trash.</p> <p>Consistency benefits all parties. This TMDL for debris near-shore and offshore of Santa Monica Bay is addressing trash. There is no reason why this TMDL should not be consistent with the other Trash TMDLs which are currently being implemented. Accordingly, this TMDL should use the same language that was used to incorporate the Trash TMDL into the Los Angeles County Municipal Stormwater Permit with respect to the obligations of the LACFCD or other entities that control MS4s. That language is as follows:</p> <p>"Any Permittee whose compliance strategy includes full or partial capture devices and who chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity is responsible for obtaining all necessary permits to do so. If a Permittee believes it is unable to obtain the permits needed to install a full or partial capture device within another Permittee's MS4 physical infrastructure, either Permittee may request the Executive Officer to hold a conference with the</p>	<p>controlling all potential trash discharges from their area. The flood control districts are not assigned waste load allocations. However, the Regional Board recognizes the flood control districts' authority over the MS4 and the fact that some of the key compliance strategies for the trash TMDL rely on installations within the flood control districts' infrastructure. Because of this, flood control districts may be held responsible with a jurisdiction and/or agency for non-compliance where the flood control district has either:</p> <p>(i) without good cause denied entitlements or other necessary authority to a responsible jurisdiction or agency for the timely installation and/or maintenance of full and/or partial capture trash control devices for purposes of TMDL compliance in parts of the MS4 physical infrastructure that are under its authority, or</p> <p>(ii) not fulfilled its obligations regarding proper BMP installation, operation and</p>

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		<p>Permittees." (NPDES CAS004001, Order No. 01-182 Amended on December 10, 2009 by Order R4-2009-0130, p. 82)</p> <p>This language should replace the first full paragraph on page 6 of the Basin Plan Amendment beginning with "Flood control districts" and ending with "final Waste Load Allocations."</p> <p>Accordingly, the LACFCD requests that the State Water Board make this clarifying change. Alternatively, the State Board should remand the proposed TMDL to the Regional Board and direct the Regional Board to revise the TMDL to remove any reference to the LACFCD and instead, insert the language above for consistency with the Los Angeles River Trash TMDL and its subsequent incorporation into the Los Angeles County MS4 Permit.</p>	<p>maintenance for purposes of TMDL compliance within the MS4 physical infrastructure under its authority,</p> <p>thereby causing or contributing to a responsible jurisdiction and/or agency to be out of compliance with its interim or final Waste Load Allocations.</p> <p>Under these circumstances, the flood control district's responsibility shall be limited to noncompliance related to the drainage area(s) within the jurisdiction where the flood control district has authority over the relevant portions of the MS4 physical infrastructure.</p> <p>Additionally, consistent with the requirements of their respective MS4 permits, the flood control districts are responsible for visually monitoring and removing trash and debris from all open channels and other MS4 drainage structures under their ownership. These requirements are intended to address stray trash and debris that have been deposited either illegally or through wind transport into the open channels. The flood control</p>

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			<p data-bbox="1283 300 1829 841">districts shall also identify and prioritize problem areas of illicit discharge. For these problem areas, the flood control districts shall propose a more frequent schedule of inspection and removal beyond the standard requirements of their MS4 permits. Alternatively, the flood control districts shall demonstrate that stray trash and debris are captured or removed prior to their discharge from the MS4 to Santa Monica Bay. Regional Board staff has added language to address LACFCD's comment by more precisely defining the scope of the flood control districts' responsibility under the TMDL.</p> <p data-bbox="1228 885 1906 1347">State Water Board agrees with the Los Angeles Water Board that LACFCD is appropriately named as a responsible party to this TMDL. Under the Clean Water Act, a point source is defined as "any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit...from which pollutants are or may be discharged." (33 U.S.C. § 1362(14).) Under the Clean Water Act, therefore, the fact that a point source may merely convey pollutants, and does not generate them, does not absolve the point source operator of responsibility for discharges of pollutants from the point source. This was recently confirmed</p>

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			<p>by the U.S. Court of Appeals for the 9th Circuit in <i>Natural Resources Defense Council et al. v. County of Los Angeles et al.</i>, to which the District was a party. In that case, the Court stated, “Although the District argues that merely channeling pollutants created by other municipalities or industrial NPDES permittees should not create liability because the District is not an instrument of ‘addition’ or ‘generation,’ the Clean Water Act does not distinguish between those who add and those who convey what is added by others - the Act is indifferent to the originator of water pollution.” (2011 WL 2712963, p. *17 (July 13, 2011).</p> <p>LACFCD asserts that “it has no feasible means of preventing the pollutants at issue flowing from those land uses and facilities from entering its facilities and the Santa Monica Bay.” The State Water Board disagrees. While the LACFCD may not have control over the area from which the pollution is coming, it does have control over its own conveyance systems. Because the LACFCD is the owner and operator of the drain systems that collect and convey untreated discharges to the Santa Monica Bay, it has the responsibility and ability to control the water and the quality of the water that it conveys, identify and eliminate illicit discharges and improper disposal into the MS4, conduct routine maintenance of its facilities, including inspections, clean outs and other</p>

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			<p data-bbox="1226 303 1906 513">maintenance. LACFCD can install pollutant controls at its facilities to prevent pollutants from being discharged to Santa Monica Bay, or can allow access and authority for other responsible parties to install pollutant controls in the drains owned and operated by LACFCD.</p> <p data-bbox="1226 558 1906 1024">Furthermore, this TMDL is consistent with the Los Angeles River Trash TMDL in that it does not assign WLAs to LACFCD. This TMDL contains additional language clarifying LACFCD’s responsibilities, which are consistent with its existing obligations under federal regulation and as spelled out in the Los Angeles County MS4 Permit, as an owner/operator of the Los Angeles County MS4. (See 40 CFR 122.26(d)(2)(i)(D) and 40 CFR 122.26(d)(2)(iv); see also Part 3.D.1 of Los Angeles Water Board Order 01-182 as amended.) Accordingly, the proposed language suggested by LACFCD is not warranted.</p> <p data-bbox="1226 1070 1906 1347">Lastly, it must be noted that upon request of the LACFCD during the Los Angeles Water Board adoption process, LACFCD specifically requested that the Los Angeles Water Board add the sentence “Any Permittee whose compliance strategy includes full or partial capture devices and who chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity is</p>

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			<p>responsible for obtaining all necessary permits to do so.” This sentence was added verbatim to the TMDL based on this request. In its comment letter to the State Water Board, LACFCD now requests that additional language be added. LACFCD should have made this request to the Los Angeles Water Board prior to its adoption of the TMDL, which would be the most appropriate and effective forum to present suggested revisions to the language in a proposed TMDL.</p> <p>Accordingly, the State Water Board agrees with the scope of LACFCD’s responsibility under this TMDL. Therefore, the State Water Board does not agree that remanding the TMDL with direction to remove any reference to the LACFCD is warranted.</p>
4.3	LACFCD	<p>2. The LACFCD's responsibility should be limited to granting access permits for installation of trash capture devices</p> <p>The language set forth above should be substituted for the language on page 6 of the Basin Plan Amendment. If the State Water Board should nevertheless go forward and keep the language currently on page 6, then subparagraph (ii) of that language should be clarified or removed. Subparagraph (ii) states that the flood control districts may be held responsible with a jurisdiction and/or agency for noncompliance where the</p>	<p>See response to comment 4.2.</p> <p>The State Water Board disagrees that the language in subparagraph (ii) is unclear or unnecessary. The language is clear that while LACFCD is not assigned waste load allocations, due to its authority as owner/operator of large portions of the Los Angeles County MS4, it is responsible for complying with its permit requirements that support the control of trash discharges from the MS4. (<i>See, in particular, Part 4.F.5 of Regional Water Board Order 01-182 as</i></p>

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		<p>flood control district has:</p> <p>“not fulfilled its obligations under its MS4 permit regarding, proper BMP installation, operation and maintenance for purposes of TMDL compliance within the MS4 physical infrastructure under its authority, thereby causing or contributing to a responsible jurisdiction and/or agency to be out of compliance with its interim or final Waste Load Allocations.” (Basin Plan Amendment Page 6, subparagraph (ii))</p> <p>This language is unclear and could be erroneously interpreted to suggest that the LACFCD is responsible for installing Best Management Practices (BMPs) to comply with the proposed TMDL within the MS4 physical infrastructure. Also, this language could easily be misconstrued as LACFCD being liable with any jurisdiction under the TMDL, in the event that a jurisdiction do not comply with the TMDL. However, the TMDL recognizes that the LACFCD is not assigned a wasteload allocation, and is not required to install BMPs to address those wasteload allocations.</p> <p>Implementation of BMPs is the obligation of the permittees who have jurisdiction over and control the sources of the trash within their jurisdiction.</p> <p>In this regard, the LACFCD is already required to cooperate with these other jurisdictions in the timely installation and</p>	<p>amended.) The language in subparagraph (ii) simply clarifies that LACFCD must fulfill its existing permit obligations in order to meet its obligations under the TMDL.</p> <p>In addition, it must be noted that upon request of the LACFCD during the Los Angeles Water Board adoption process, LACFCD specifically requested that the language in subparagraph (ii) be modified to delete the words “entitlement or other” and add the words “under its MS4 permit”. These changes to subparagraph (ii) were made verbatim based on this request. In its commenter letter to the State Water Board, LACFCD now requests that subparagraph (ii) be revised again or removed entirely. LACFCD should have made this request to the Los Angeles Water Board prior to its adoption of the TMDL, which would be the most appropriate and effective forum to present suggested revisions to the language of the proposed TMDL.</p> <p>Accordingly, the State Water Board agrees with the scope of LACFCD’s responsibility under this TMDL. Therefore, the State Water Board does not agree that the proposed changes to subparagraph (ii) are warranted.</p>

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		<p>maintenance of their full or partial trash control devices in the MS4 physical infrastructure that is under its authority as set forth in subparagraph (i). Subparagraph (ii) is therefore unnecessary and should be removed. Alternatively this subparagraph should be clarified to make clear that this TMDL is not imposing any new obligations on flood control districts to implement BMPs.</p>	
4.4	LACFCD	<p>3. The LACFCD should not be required to submit a Plastic Pellets Monitoring and Reporting Plan (PMRP)</p> <p>The proposed TMDL names the LACFCD as one of the parties responsible for submitting a PMRP. Unlike municipalities, the LACFCD has no jurisdiction over industrial facilities or activities related to the manufacturing, handling, or transportation of plastic pellets. We request that flood control districts be removed from the requirement to submit PMRP under this TMDL as shown below (the strike-out portion to be removed):</p> <p>"Jurisdictions and agencies identified as responsible jurisdictions for point sources of trash in this Santa Monica Bay Debris TMDL and in the existing Malibu Creek and Ballona Creek Trash TMDLs, including the Los Angeles County Flood Control District and the Ventura County Watershed Protection District, shall either prepare a Plastic Pellet Monitoring and Reporting Plan (PMRP), or ..." (BPA Page 8)</p>	<p>See response to comment 0.1. .</p> <p>See also responses to comments 4.2 and 4.3.</p> <p>Although LACFCD does not have jurisdiction over industrial facilities or activities related to the manufacturing, handling, or transportation of plastic pellets within the jurisdictional areas of municipalities, LACFCD has authority over the MS4 as the owner/operator. Consistent with the requirements of federal regulation and the Los Angeles County MS4 Permit, LACFCD is responsible for certain stormwater management programs, including but not limited to detection and removal of illicit discharges and improper disposal into the storm sewer and monitoring. The Plastic Pellet Monitoring and Reporting Plan (PMRP) is within the scope of these federal requirements.</p> <p>Accordingly, the State Water Board agrees with the Los Angeles Water Board that LACFCD should</p>

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			submit a PMRP. Therefore, the State Water Board does not agree that the proposed changes are warranted.
5.1	LACBS	<p>The City supported the passage of AB 258 (Krekorian), approved by the Governor on October 14, 2007, requiring the State Coastal Commission to implement a statewide marine debris reduction effort in to control the discharges of plastic. AB 258 also required the State Board and Regional Boards to implement a program for the control of discharges of preproduction plastics from point and nonpoint sources, including waste discharge monitoring, and reporting requirements that target plastic manufacturing, handling, and transportation facilities.</p> <p>While the Bureau appreciates and thanks Regional Board staff for the efforts in developing the BPA and addressing specific Bureau concerns, the Bureau continues to have concerns with a certain technical issue that was included in the Bureau's September 9, 2010 comment letter to the Regional Board. As described herein, the responses provided by the Regional Board did not adequately address this concern and the Bureau is therefore submitting this comment to the State Board for consideration.</p>	Comment noted.
5.2	LACBS	<p>The Bureau has the following specific technical comment:</p> <p>Industrial Permit Requirements</p>	State Water Board reviewed and agrees with the Los Angeles Water Board's responses to this comment. Please see responses to comments 0.1 and 3.2, and Los Angeles Water Board's responses to comments

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		<p>The Bureau supports the TMDL in identifying the industrial plastic pellets facilities as a point source and consequently having the industries to comply with waste load allocations for pellets. If industries are not held accountable in their permit for monitoring, that would shift the responsibility unrightfully to the municipalities, resulting in additional cost to the MS4 permittees and ultimately will not solve the pellet debris problem.</p> <p><i>The Bureau request that the industries be held responsible for all actions including monitoring and spill response, and that these actions be clearly specified in their relevant permit.</i></p>	<p>2.3, 3.2, 5.2, and 20.2.</p> <p>As noted by the Los Angeles Water Board in its response to comment 20.2, “Industrial facilities within the Santa Monica Bay Watershed Management Area that manufacture, handle or transport plastic pellets will be required, under the Statewide Industrial General Permit upon its reissuance, or Individual or Regional Industrial Stormwater Permits, to monitor, document, and submit an annual report regarding plastic pellet discharges.”</p> <p>However, as stated in Section III (Source Analysis) of the Staff Report on page 31, “Although plastic industries are the primary point source for plastic pellets, it is likely that any spills that happen during transport, transfer, or handling may release loose plastic pellets to the MS4 and eventually to the beach and the Santa Monica Bay.” Municipalities and counties, as permittees covered by NPDES permits for discharges from MS4s, bear responsibility for ensuring that their stormwater management program includes a program to detect and remove illicit discharges and improper disposal into the MS4 and, within this program, a subprogram to prevent, contain, and respond to spills that may discharge into the MS4. (See 40 CFR § 122.26(d)(2)(iv)(B).) Additionally, MS4 permittees</p>

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			<p>bear some responsibilities related to monitoring and controlling pollutants in stormwater discharges to the MS4 from industrial facilities. (<i>See</i> 40 CFR § 122.26(d)(2)(iv)(C).)</p> <p>Accordingly, the State Water Board agrees with the Los Angeles Water Board that responsibility appropriately falls on both industrial facilities and municipalities to address discharges of plastic pellets to the Santa Monica Bay.</p>
5.3	LACBS	<p>TMRP Requirements</p> <p>The City has been actively implementing both the Los Angeles River and Ballona Creek Trash TMDLs, and is currently well ahead of the required implementation goals outlined in the respective TMDL Basin Plan Amendments. While acknowledging the Ballona Creek efforts in the Debris TMDL, the Bureau believes that the language must be revised or (clarified) to ensure that responsible MS4 parties that are on schedule and meeting regulatory milestones for existing trash TMDLs are in compliance with the Debris TMDL. Therefore, the Bureau requests that the following language be included on page 14 of the Debris TMDL BPA under the first paragraph in the Monitoring and Reporting Plan for clarity:</p> <p>Responsible agencies and jurisdictions that have</p>	<p>The Los Angeles Water Board added clarifying language to the TMDL and Staff Report in response to this and similar comments. Page 5 of the TMDL states, “The WLA applicable to MS4 Permittees that is established herein, and the associated requirements for these responsible agencies and jurisdictions shall be complied with through the Ballona Creek Trash TMDL (Regional Board Resolution No. R01-014 and any amendments thereto) and the Malibu Creek Trash TMDL (Regional Board Resolution No. R08-007 and any amendments thereto).” In addition, page 32 of the Staff Report states, “The WLA applicable to MS4 Permittees that is established in the Santa Monica Bay Debris TMDL, and the associated requirements for these responsible agencies and jurisdictions shall be addressed through the Ballona Creek Trash TMDL (Regional Board Resolution No. R01-014</p>

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		<p>developed a Regional Board Approved TMRP for the Ballona Creek Trash TMDL shall not be required to submit a TMRP for areas already being addressed by BC Trash TMDL in the Santa Monica Bay WMA if currently meeting all compliance requirements.</p>	<p>and any amendments thereto) and the Malibu Creek Trash TMDL (Regional Board Resolution No. R08-007 and any amendments thereto). Therefore, compliance with the existing Malibu Creek and Ballona Creek Trash TMDLs will constitute compliance with the trash related requirements of the Santa Monica Bay Debris TMDL.”</p> <p>The TMRP is an associated requirement of the Santa Monica Bay Debris TMDL. Therefore, State Water Board believes it is clear that submittal of TMRPs in compliance with the Ballona Creek or Malibu Creek Trash TMDLs fulfills the TMRP requirements of the Santa Monica Bay Debris TMDL.</p> <p>Further, the Los Angeles Water Board confirmed this understanding in its response to comment 5.5, which states in part:</p> <p style="padding-left: 40px;">Responsible jurisdictions and agencies that have developed a Regional Board approved TMRP for the Ballona Creek Trash TMDL and/or Malibu Creek Trash TMDL do not have to submit a separate TMRP for this Debris TMDL for those areas, if responsible jurisdictions and agencies are meeting all compliance requirements under those TMDLs.</p>

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			Accordingly, the State Water Board does not agree that the proposed change is necessary or warranted.
5.4	LACBS	<p>MFAC Requirements</p> <p>The beaches of southern California (boardwalk to the water level) are owned by the State of California and operated by the Los Angeles County Department of Beaches and Harbors. The Bureau only has jurisdiction over the boardwalk and the facilities (not the beach) to the west of the boardwalk, which can result in nonpoint sources of trash. To address these nonpoint sources, the City currently cleans the boardwalk and associated facilities daily. As such, the City is meeting the conditional frequency of the MFAC and requiring cleanup and/or evaluation at dusk, which would not be consistent with our current maintenance procedures, will result in the City incurring additional costs without commiserate benefits.</p> <p><i>The Bureau request that the Los Angeles County Department of Beaches and Harbors be identified as the entity responsible for MFAC requirements at the beaches adjacent to the Venice Beach area, and clarify the language that pertains to the requirement to do daily cleaning at dusk to simply doing daily cleaning.</i></p>	<p>State Water Board reviewed and agrees with the Los Angeles Water Board’s response to this comment. This comment was submitted verbatim to the Los Angeles Water Board, and the commenter has not explained why the Los Angeles Water Board’s response was inadequate. Please see response to comment 0.1, and Los Angeles Water Board response to comment 20.4.</p> <p>Accordingly, the State Water Board does not agree that the proposed change is warranted.</p>
5.5	LACBS	Footnote Clarifications	The footnote described by the commenter from the

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		<p>In reviewing the Final BPA, the Bureau noted several changes in footnotes between the Draft BPA and Final BPA that appear to be transcription issues. The following documents the potential transcription errors between the Draft and Final BPAs and suggested revisions:</p> <ul style="list-style-type: none"> • Final BPA Page 18: Footnote 6 from the Draft BPA, which begins "The monitoring and reporting requirements under the Ballona Creek Trash TMDL and Malibu Creek Trash TMDL..." was removed. It is recommended that the removed footnote 6 be reintroduced as Footnote 6 as it is still referenced by Task 3. • Final BPA Page 19: Under Task 3, it appears that Footnote 6 intends to reference the Footnote 6 that was removed as discussed in the previous bullet. Task 3 was not broken into two parts regarding TMRP and PMRP reporting and appears to be the source of the confusion. It is recommended that the removed Footnote 6 be reintroduced as Footnote 6, existing Footnotes 6 and 7 be reassigned as 7 and 8, respectively, and the references to Footnotes 6 and 7 under Task 4 be updated to 7 and 8, respectively, to reflect this new numbering. 	<p>Draft BPA was removed as part of a non-substantive change submitted by the Executive Office to the State Water Board after the Los Angeles Water Board hearing on March 18, 2011. At the Los Angeles Water Board hearing, Tasks 1 and 2 were separated into two different tasks. Tasks 1a and 2a address the TMRP, and separate tasks (1b and 2b) address the PMRP. Since these tasks were separated, the footnote was no longer needed for clarification in Tasks 1 and 2 and the Executive Officer correction removed the footnotes. However, the commenter is correct that Task 3 was not separated and a footnote is still needed for clarity for that task. Therefore, the Los Angeles Water Board has submitted an additional EO correction letter dated November 18, 2011 correcting all transcription errors. The corrections include reinserting the footnote language that states, "The monitoring and reporting requirements under the Ballona Creek Trash TMDL and Malibu Creek Trash TMDL for areas within those subwatersheds fulfill the requirement herein to prepare and implement a TMRP. Therefore, only a PMRP is required from these jurisdictions" as footnote 6. In addition, the footnotes in Task 4 have been renumbered to remain consistent with the insertion of footnote 6. Footnote 8 was also renumbered to footnote 9.</p>

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		<ul style="list-style-type: none"> • Final BPA Page 20-21: The numbering assigned to the Footnotes in tasks 5, 8, 9, and 10 does not appear to have been updated. It is recommended that the removed Footnote 6 be reintroduced as Footnote 6, existing Footnotes 6 and 7 be reassigned as 7 and 8, respectively, which will resolve the numbering issue for these four tasks. 	
6.1	LADWP	<p>Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to comment on the TMDL for Debris in Nearshore and Offshore Santa Monica Bay. LADWP recognizes that any type and form of plastic may cause significant harm to fish and wildlife. Thus, LADWP supports the concept that no plastic debris should be discharged to the Santa Monica Bay, as stated in this TMDL.</p>	Comment noted.
6.2	LADWP	<p>LADWP supports the concept of zero discharge of plastic debris with an equivalent compliance definition that includes best available control measures, used to capture the entire volume of plastic debris.</p> <p>LADWP recommends that the definition of compliance in the Basin Plan Amendment be modified to include best available control measures as "full capture devices," The TMDL would remain protective of the fish and wildlife using Santa Monica Bay.</p>	<p>See response to comment 0.1 above. It appears that this commenter did not present these concerns to the Los Angeles Water Board prior to its adoption of the TMDL, which would be the most appropriate and effective forum to present comments concerning a proposed TMDL.</p> <p>The TMDL includes a definition of full capture systems. Page 8 of the TMDL states that "A full capture system, at a minimum, consists of any device or series of devices that traps all particles retained by a 5 mm mesh screen and has a design</p>

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			<p>treatment capacity of not less than the peak flow rate (Q) resulting from a one-year, one-hour, storm in the subdrainage area. The rational equation is used to compute the peak flow rate: $Q = C \times I \times A$, where Q = design flow rate (cubic feet per second, cfs); C = runoff coefficient (dimensionless); I = design rainfall intensity (inches per hour); and A = subdrainage area (acres).” This definition was first developed in the Los Angeles River Trash TMDL and has been used in all subsequent trash TMDLs. In 2004, the Los Angeles Water Board established procedures and requirements for certification of best management practices for trash control as full capture systems. These procedures and requirements were included in Appendix 7-2 of the Los Angeles County MS4 Permit (Order No. 01-182, as amended) in 2009 when the Los Angeles Water Board incorporated the provisions of the Los Angeles River Trash TMDL. Thus, responsible parties to this TMDL can seek certification of best available control measures as full capture systems for trash control. Accordingly, the State Water Board does not believe the suggested change is necessary or warranted.</p>
7.1	City of Malibu	The City is very appreciative for this opportunity to comment on the Santa Monica Bay Nearshore and Offshore Marine Debris TMDL. The City would also like to recognize the Regional Board staff for their effort, time and outreach to coordinate with MS4 permittees during	Comment noted.

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		<p>this TMDL process. The outreach led to an open and collaborative dialogue on this TMDL. The City is also pleased to see that many recreational and park agencies that own and control open space have been included as responsible parties to this TMDL. Having parkland and recreational facilities in our region is a tremendous gift to the residents and visitors to the area, and we are all lucky to have such beautiful mountains, streams and coastline nearby.</p>	
7.2	City of Malibu	<p>But, as we know, this natural beauty comes with a tremendous amount of responsibility for everyone. Thus, the SWRCB should be aware that there has been a simple but critical omission from the TMDL of two agencies that own and/or operate a substantial portion of recreational and park facilities throughout the Santa Monica Mountains, and even in the Los Angeles River Watershed: the Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority.</p>	<p>See response to comment 0.1 above. The commenter provided these comments at the Los Angeles Water Board hearing and the Los Angeles Water Board responded to the comments.</p> <p>At the hearing, the Los Angeles Water Board explained that they used the GIS information that was available at the time of the development of this TMDL. Agencies that were identified by the GIS to be in the Santa Monica Bay watershed were included as responsible jurisdictions in this TMDL. The GIS information that the Los Angeles Water Board had available at the time of the development of this TMDL did not include a level of detail that illustrated a need for the Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority to be named responsible jurisdictions in this TMDL. As a result, the TMDL names the National Park Service, California Department of Parks and Recreation, County of Los</p>

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			<p>Angeles, County of Ventura, and State Lands Commission, which have jurisdiction over non-beach open space and/or parks as responsible jurisdictions for nonpoint sources of trash. The TMDL states, “The LA [load allocations] may be assigned to additional responsible jurisdictions and/or agencies in the future under appropriate regulatory programs.” The TMDL also includes a mandatory reconsideration at which point the Los Angeles Water Board can consider including the Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority, if warranted.</p>
7.3	City of Malibu	<p>Collectively, the Santa Monica Mountains National Recreation Area boasts in excess of 30 million annual visitors that bring with them, but leave behind (whether intentional or not), litter and waste. City staff has previously provided a list in writing and verbally to Regional Board staff of all responsible parkland agencies that must be included as responsible parties to this TMDL. This list included the California Department of Parks and Recreation, the Santa Monica Mountains National Recreation Area, the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority as owners or managers of park properties in the region. A more detailed list, including individual parks or open space properties in the North Santa Monica Bay region, is attached to this letter for your</p>	<p>See response to comment 7.2. The Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority are covered by the language that states that load allocations may be assigned to additional responsible jurisdictions and/or agencies in the future under appropriate regulatory programs.</p>

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		reference. So, it was surprising to notice in the Responses to Comments for this TMDL that the Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority were not listed as responsible parties.	
7.4	City of Malibu	<p>The Santa Monica Mountains Conservancy was established by the California State Legislature in 1980 to help preserve over 60,000 acres of parkland in both wilderness and urban settings and has improved more than 114 public recreational facilities throughout Southern California. The Mountains Recreation and Conservation Authority preserves and manages local open space and parkland, watershed lands, trails and wildlife habitat. The Mountains Recreation and Conservation Authority manages and provides ranger services for thousands of acres of public lands and parks that it owns and that are owned by the Santa Monica Mountains Conservancy or other agencies and provides comprehensive education and interpretation programs for the public.</p> <p>The following are excerpts from the two agencies' websites:</p> <p>"The Santa Monica Mountains Conservancy zone covers an area from the edge of the Mojave Desert to the Pacific Ocean. The zone encompasses the whole of the Santa Monica Mountains, the Simi Hills, the Verdugo Mountains and significant portions of the Santa Susana</p>	Comment noted. See response to comment 7.2.

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		<p>and San Gabriel Mountains."</p> <p>"In addition, the Mountains Recreation and Conservation Authority also owns or manages thousands of acres ... From north to south, these areas drain into the Santa Clara River, Calleguas Creek, numerous smaller coastal watersheds in the Santa Monica Mountains, and the Los Angeles River and Rio Hondo."</p> <p>As an important community resource, these agencies also offer public programs, hiking trails, tours and facility rentals for special events, including conferences/meetings, picnics and weddings, all of which can generate substantial litter and debris. Facilities owned and managed by the Mountains Recreation and Conservation Authority for rent include King Gillette Ranch, which is listed as: "One of the most stunning locales in the Santa Monica Mountains, 588-acre King Gillette Ranch is situated in the heart of the Malibu Creek Watershed, by the confluence of five major tributaries (emphasis added), and adjacent to Malibu Creek State Park." Additional event rental sites: Temescal Gateway Park in Pacific Palisades, and The Los Angeles River Center and Gardens in Los Angeles, both with the potential to discharge to regional water bodies draining to the Santa Monica Bay.</p>	
7.5	City of Malibu	Hence, these agencies control significant land area in the North Santa Monica Bay where debris is generated and can be discharged to the Santa Monica Bay. It is	See response to comment 7.2. State Water Board agrees that it is important to include all agencies that are sources of trash and preproduction plastic pellets

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		imperative that all agencies controlling land where debris and waste are generated be included as responsible agencies under the TMDL.	to the Santa Monica Bay. This TMDL includes a provision that states, “The LA may be assigned to additional responsible jurisdictions and/or agencies in the future.” This TMDL will be reconsidered at five years from the effective date of the TMDL. State Water Board believes that it is appropriate that the Los Angeles Water Board review updated GIS maps and assign load allocations to these agencies, if appropriate, at that time.
7.6	City of Malibu	At the Regional Board Hearing on November 4, 2010 when this TMDL was adopted, Regional Board staff reported that those agencies were not included as responsible parties to this TMDL because the geographic information systems (GIS) showed several [small or scattered] parcels throughout the area. In other words, staff did not consider these agencies to have control over a significant amount of land to include them. Staff reassured the City at the hearing that this could be looked into in any future amendments or TMDL reconsiderations. However, the Board should not wait until that uncertain date to re-evaluate the responsible agencies. These park agencies exist and control significant portions of land in the region. By their very nature, the parcels owned and operated by these park agencies are interspersed parcels and pocket parks throughout the region, as explained above.	See response to comments 7.2 and 7.5. The existing language of the TMDL and the scheduled reconsideration five years from the effective date of the TMDL addresses this comment.

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7.7	City of Malibu	It is imperative that these agencies be named as responsible parties to this TMDL with load allocations and standard requirements at this final adoption stage. To not include them is a major oversight and places undue burden on the remaining responsible agencies to control debris from land where it has no jurisdiction or control. The City of Malibu supports environmental initiatives and regulations that protect environmental resources and, to be effective, this TMDL must apply to all responsible agencies that control land where debris is generated.	See responses to comments 7.2, 7.5, and 7.6.
8.1	City of Manhattan Beach	Our comment is with respect to Task 11 of the Implementation Schedule in Table 7-34.2 and Task 7 of Table 7-34.3 of Attachment A to Resolution No. R10-010 Proposed Amendments to the Water Quality Control Plan - Los Angeles Region for the Santa Monica Bay Nearshore and Offshore Debris TMDL. Tasks 7 and 11 which were not included in the Tentative Order provide that "If within three (3) years of Regional Board adoption date of this TMDL, a city or county voluntarily adopts local ordinances to ban plastic bags, smoking in public places and single use expanded polystyrene food packaging, it shall receive a three-year extension of the final compliance date." It is the City's recommendation that Task 11 and 7 in these tables should be revised to provide three years from the <i>effective date</i> of the TMDL rather than three	The Los Angeles Water Board added Tasks 11 and 7 to the implementation schedule in response to written comments received on the tentative TMDL and oral comments at the hearing. As an incentive to local agencies, Heal the Bay suggested that the Los Angeles Water Board provide a "compliance deadline bonus" in the TMDL that would allow for three additional years for final compliance if a city or county voluntarily adopts local ordinances targeting plastic bags, Styrofoam, and cigarette butts. In response, the Los Angeles Water Board added Tasks 11 and 7 to make the suggested change. The Los Angeles Water Board was not legally required to provide a "bonus" in the TMDL. The decision to include a "bonus," and the deadlines imposed concerning that bonus, do not affect the validity of

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		years from the date of adoption by the Regional Board for municipalities to enact these local ordinances.	<p>the TMDL. These were policy decisions made by the Los Angeles Water Board based on comments received and after discussion on the record. The State Water Board is not in a position to question these policy decisions, and the commenter has not provided sufficient justification warranting the change. The State Water Board therefore does not believe the suggested changes are warranted or necessary.</p> <p>In addition, pursuant to Resolution No. R10-008, the Los Angeles Water Board Executive Officer may only make minor, non-substantive modifications to the language of the TMDL as needed for clarity or consistency. The Executive Officer does not have the authority to adjust the TMDL implementation schedule. Only the Los Angeles Water Board at a publicly noticed meeting may change the deadlines in Tasks 11 and 7. Thus, the commenter's proposed changes would constitute a substantive change to the language of the TMDL and thus cannot be made. However, as noted above, the State Water Board does not believe the proposed changes are warranted or necessary.</p>
8.2	City of Manhattan Beach	You may be aware that on July 14, 2011 the City of Manhattan Beach was notified in a unanimous Supreme Court decision that it had prevailed in defending its July 2008 ordinance to ban plastic bags in a suit	See response to comment 8.1.

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		<p>brought by the "Save the Bag Coalition." As is evident from the City's experience, the process of adopting such ordinances involves a significant amount of staff and City Attorney time as well as important public comment processes and it is not reasonable to expect that the city should be able to adopt two additional such ordinances which can withstand legal challenges in less than two years. Since Tasks 7 and 11 only provide for extension of the final compliance deadline, but do not provide any extension of the interim deadlines, to provide three years from date of adoption to enact ordinances will not in any way delay the actions that must be taken by municipalities to comply with the interim deadlines for compliance with the Marine Debris TMDL.</p>	
9.1	City of Thousand Oaks	<p>However, the overarching concern that the City wants to express to the State Board is our alarm at the failure of the Regional Board to provide any substantive linkage analyses and an overreaching use and abuse of jurisdictional authority with the Regional Board's interpretation of what's commonly referred to as the Tributary Rule. This tributary rule, was used consistently by the Regional Board staff in response to SMB Debris TMDL comments, as 'justification' in lieu of any due diligence to provide any linkage analysis or rationale between inland, upstream activities and offshore impairments.</p>	<p>This TMDL relies on extensive research demonstrating the land-based origin of debris in the marine environment and in the Southern California Bight and Santa Monica Bay, in particular.</p> <p>See also Los Angeles Water Board response to comment 8.11, which states:</p> <p>First, many areas within the Santa Monica Bay Watershed Management Area are unassessed. However, it is reasonable given the characteristics of the WMA – highly urbanized areas and/or heavily used recreational areas – and the</p>

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			<p>ubiquitous nature of debris in the environment to assign wasteload and load allocations to all land areas draining to Santa Monica Bay. The Clean Water Act requires protection of downstream areas, and nothing in section 303(d) limits the Regional Board's authority to establish a TMDL for upstream waterbodies that flow into downstream waterbodies that are identified as impaired. Therefore, the TMDL includes all areas that may be a source of trash to downstream water bodies. This approach is consistent with the decision in <i>City of Arcadia v. State Water Resources Control Board</i>, 135 Cal. App. 4th 1392 (2006), in which the court ruled that the trash TMDL was consistent with federal and state law in providing for an adequate margin of safety and considering other uncertainties. Furthermore, the Regional Board has authority to regulate pollutants that could discharge into upstream waterbodies in order to protect downstream water bodies. See, for example, <i>Headwaters, Inc. v. Talent Irrigation Dist.</i> 243 F.3d 526 (9th Cir. 2001) and <i>National Cotton Council of America v. U.S. Environmental Protection Agency</i>, 553</p>

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			<p>F.3d 927 (6th Cir. 2009).</p> <p>Second, the SMB Debris TMDL does not require retrofitting of all areas with certified full capture devices. Responsible jurisdictions may choose from a variety of implementation approaches, including structural full or partial capture devices or institutional controls. It may be adequate and most cost-effective in lightly urbanized areas to use a suite of institutional controls such as enforcement of litter ordinances, street sweeping, and cleanout of catch basins, particularly prior to the rainy season to achieve compliance with the WLAs.</p> <p>As noted by the Los Angeles Water Board, federal regulations require that states ensure that water quality standards are attained in downstream waters. (<i>See</i> 40 CFR § 131.10(b).) Accordingly, the Los Angeles Water Board followed section 303(d) of the Clean Water Act and implementing regulations at 40 CFR § 130.7(c), to assign allocations to all upstream reaches and tributaries that may cause or contribute to impairments in downstream reaches.</p>
9.2	City of Thousand	Before expounding on the City's concern, a bit of background is being provided. A small portion of the	The State Water Board has reviewed and agrees with the Los Angeles Water Board's responses to this and

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	Oaks	<p>City (about 16%) lies within the upper Malibu Creek Watershed (MCW). The City is currently identified as a responsible party to the Malibu Creek Watershed Trash TMDL. These are on 303(d) listed reaches for trash impairment. The City has coordinated compliance efforts with other MCW stakeholders and is actively implementing and currently meeting all MCW Trash TMDL compliance requirements.</p> <p>The City then is extremely frustrated in that this broadly asserted ‘tributary rule’ is being used in this era of scarce public revenue and assets to force the City and (other MCW stakeholders) to expend additional funds to combat the same trash/ debris impairment, from unlisted reaches as we are from the currently listed reaches. Additionally these additional ‘debris control’ expenditures must occur concurrently with ‘trash control’ expenditures prior to any determination as the effectiveness of the trash control efforts and expenditures during the implementation of the Trash Monitoring and Reporting Program (TMRP). This is an expensive Regional Board driven bureaucratic redundancy.</p> <p>To further illuminate the City's position we are most highly troubled with specific comments, made by Regional Staff in the Responsiveness Summary, their impact on the residents of Thousand Oaks and the inadequate response from Regional Board staff by</p>	<p>similar comments. See Los Angeles Water Board responses to comments 5.3, 5.5, 8.4, 8.11, 11.1, and 11.3.</p> <p>See also responses to comments 3.3, 5.3, and 9.1.</p> <p>The State Water Board disagrees that there are overlapping or duplicative TMDL requirements for this Debris TMDL. The Los Angeles Water Board has made it extremely clear in the TMDL, Staff Report, and its responses to comments that monitoring and reporting requirements under the existing Ballona Creek Trash TMDL and/or Malibu Creek Trash TMDL for areas within those subwatersheds fulfill the requirement to prepare and implement a TMRP under this TMDL. The monitoring and reporting requirements under the existing Ballona Creek Trash TMDL and Malibu Creek Trash TMDL for areas within those subwatersheds fulfill the requirement to prepare and implement a TMRP. Since the City of Thousand Oaks is named a responsible jurisdiction in the Malibu Creek Trash TMDL, the only new requirement in this TMDL is the submittal of a PMRP. Thus, this TMDL does not create duplicative or overlapping requirements.</p>

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		<p>citing the "Tributary Rule":</p> <p>Naming the City as a responsible party under the Santa Monica Bay Debris TMDL in addition to the Malibu Creek Watershed Trash TMDL will require the City to meet the requirements of two different regulations addressing the variations of exactly same impairment in the MCW. It also places the City in regulatory "double jeopardy", in that compliance with the "trash" TMDL does not ensure compliance with the "debris" TMDL. The existing EPA approved MCW Trash TMDL addresses all listed trash impairments in the watershed. The Regional Board has not provided adequate linkage analysis data to justify the imposition of additional TMDL implementation and monitoring requirements. The overlapping TMDLs will ultimately led to extraordinary costs, complication and confusion for both the City and the other MCW Trash TMDL responsible parties, without increased beneficial use protection.</p> <p>Regional Board (Responsiveness Summary 11.1): The SMB Debris TMDL has been specifically developed to coordinate with the requirements and schedule of the MCW Trash TMDL to ensure that entities identified under the MCW Trash TMDL do not face duplicative requirements. Please also see responses to comments 5.3 and</p>	

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		<p>8.4.</p> <p>The only rationale for Regional Board staff to insist that these requirements are not duplicative is that they apply to reaches unlisted for trash impairment.</p> <p>(5.3) Compliance with the Ballona Creek Watershed Trash TMDL and the Malibu Creek Trash TMDL will constitute compliance with the trash related requirements of the SMB Debris TMDL for areas jurisdictions within the the Ballona Creek and Malibu Creek Watersheds that are addressed by those existing TMDLs. Clarification is provided in the Basin Plan Amendment and Staff Report.</p> <p>(8.4) As stated in the Basin Plan Amendment, the trash WLA and trash related requirements of the SMB Debris TMDL that are applicable to responsible agencies and jurisdictions covered by the Ballona Creek Watershed Trash TMDL and the Malibu Creek Trash TMDL shall be addressed through the Ballona Creek Trash TMDL and the Malibu Creek Trash TMDL.</p> <p>So the takeaway message is for the City to keep performing all the requirements for compliance with the Trash TMDL for the listed reaches and now add all the requirements for the Debris TMDL to control the same pollutant for the unlisted reaches is due to the</p>	

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		<p>Regional Boards perspective that:</p> <p>(8.11) First many areas with the Santa Monica Bay WMA are unassessed... it is REASONABLE to assign wasteload and load allocations to ALL land areas draining to the Santa Monica Bay. ...and nothing in Section 303(d) limits the Regional Board's authority to establish a TMDL for upstream waterbodies that flow into downstream waterbodies that are identified as impaired. Therefore the TMDL includes all areas that MAY be a source of trash to downstream water bodies. (emphasis added)</p> <p>Consequently the Regional Board fails to apply a linkage analysis and subsequently applies an overreaching application of the Tributary Rule. The City is remains highly concerned with the Regional Board's use of this 'tributary rule' to apply these overlapping TMDL requirements if the Debris TMDL is adopted as proposed.</p>	
9.3	City of Thousand Oaks	It appears unclear why the Regional Board is adopting additional TMDL requirements in the MCW, essentially creating duplicative regulatory actions and requirements addressing the same pollutant. The City has invested resources into meeting compliance requirements per the EPA approved MCW Trash TMDL for identified and listed reaches impaired for trash. The Regional Board is not allowing the adopted	<p>See response to comment 9.2 above. The State Water Board disagrees that there are duplicative or overlapping regulatory requirements.</p> <p>However, to further clarify the City of Thousand Oaks' responsibilities under this Debris TMDL, the Executive Officer has made minor non-substantive changes to Table 7-34.2 of the Basin Plan</p>

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		<p>Trash TMDL Implementation Plan to address the issue. The City would be required to address point sources via a mechanism other than the current Minimum Frequency Assessment Program (MFAC) approach and develop separate Trash Monitoring and Reporting Plans (TMRPs), as would be required in the Debris TMDL BPA. The current Debris TMDL language acknowledges the use of the MCW baseline for the Debris TMDL but lacks any reference to current MFAC or TMRPs. Furthermore, the Debris TMDL BPA lists implementation requirements for open space areas not currently 303(d) listed for trash. Again, the BPA would essentially require two separate MFACs and / TMRPs for the same sub-watershed area.</p> <p>The City believes that the improvements and constructive elements included in the MCW Trash TMDL should be allowed to be fully implemented and evaluated prior to any effort to re-double the regulatory burden on listed Responsible Parties. As proposed, the City would have to develop and implement two TMRPs. We request clarification in both Staff Report and BPA language to clarify any possible confusion, and again, would recommend clearly stating that a responsible party implementing and in full compliance with the MCW Trash TMDL is meeting all trash/debris requirements of the Debris TMDL.</p>	<p>amendment. These changes are reflected in a memorandum to the State Water Board dated November 18, 2011. To conform with the text in Table 7-34.1 on page 5, which states that “The WLA applicable to MS4 Permittees that is established herein, and the associated requirements for these responsible agencies and jurisdictions shall be complied with through the Ballona Creek Trash TMDL (Regional Board Resolution No. R01-014 and any amendments thereto) and the Malibu Creek Trash TMDL (Regional Board Resolution No. R08-007 and any amendments thereto),” the City of Thousand Oaks has been removed from Task 1.a and 2.a and added to Task 3 under the heading “For PMRP Only”. The same change has been made for the City of Westlake Village for the same reasons.</p>
9.4	City of	The City would like to also take this opportunity to	See response to comment 9.1 and 9.2.

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	Thousand Oaks	<p>provide comment at the State level that this failure of the Regional Board to conduct an appropriate linkage analyses and the overly broad application of the Tributary Rule is also leading to gross inconsistencies in the application of this proposed regulation. Agencies directly discharging to the Los Angeles River are unaffected by this regulation. This despite direct hydraulic contact from "highly urbanized areas and/or heavily used recreation areas- and the ubiquitous nature of debris in the environment" (Responsiveness Summary Section 8.11). The proposed Debris BPA also fails to address other 'reasonable hydraulic contact' sources. This would include pleasure boat use, the large commercial passenger/ cruise boat industry, the freight/ commercial shipping industry, the fishing industry. Yet the City is listed as a Responsible Party along with several other Malibu Creek inland agencies which have an extremely limited seasonal conduit of hydraulic contact with the debris impaired Santa Monica Bay. More than 10 months a year there are more than five 'sinks' and five more physical barriers that essential paralyze the mobility of any water-borne trash to flow from the City's jurisdiction to Santa Monica Bay. These include; Lake Sherwood and dam, the consistently 'dry' reach between Lake Sherwood and Westlake Lake and dam, Lake Lindero and dam, Malibu Lake and dam, Rindge dam, Malibu Lagoon and beach sand bar also constitute nearly insurmountable barriers for trash movement from</p>	<p>The Los Angeles River is not in the Santa Monica Bay Watershed Management Area, and does not discharge into the Santa Monica Bay. Further, there exists a separate, but very similar, TMDL for the Los Angeles River Watershed to address trash impairments in that river system.</p> <p>The Santa Monica Bay Debris TMDL addresses marinas and harbors, and assigns allocations to owners and operators of these areas. In addition, the State Water Board is currently developing a statewide Marina Permit, which intends to regulate marinas and mooring fields in coastal regions of California that contain slips or mooring locations for 10 or more boats.</p>

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		<p>Thousand Oaks to the Santa Monica Bay. Additionally for most of the year the creek surface dries up on other significant reaches of the creek between the Calabasas/Agoura Hills area and Tapia Wastewater Treatment facility. Yet the City and its neighbors are expected to bear the costs of implementing an additional trash-based Debris TMDL, due to impairments in a water body that conceivably is nearly impossible for us to impact with water-borne debris for over 10 months a year.</p>	
9.5	City of Thousand Oaks	<p>Based on the above comments, the City requests that it be removed as a responsible party to the Debris TMDL or that the BPA be revised to fully acknowledge that the City and other Trash listed Responsible Parties, if implementing and fully complying with the MCW Trash TMDL, are deemed to be in compliance with the Debris TMDL.</p>	<p>See responses to comments 9.1 to 9.4.</p> <p>The State Water Board agrees with the Los Angeles Water Board that the City is appropriately named as a responsible party to this TMDL. As noted previously, the TMDL states: “The WLA applicable to MS4 Permittees that is established herein, and the associated requirements for these responsible agencies and jurisdictions shall be complied with through the Ballona Creek Trash TMDL (Regional Board Resolution No. R01-014 and any amendments thereto) and the Malibu Creek Trash TMDL (Regional Board Resolution No. R08-007 and any amendments thereto),” In addition, the Executive Officer made minor non-substantive changes to address the City’s concern as noted in response to comment 9.3 above.</p>

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9.6	City of Thousand Oaks	<p>The City is troubled by the precedent established by the approach taken in the BPA, which proposes TMDL requirements for reaches that have not been identified as impaired. It does not seem appropriate for the Regional Board to utilize a "guilty until proven innocent" approach for this TMDL, by seemingly assuming that every reach of stream that drains to the bay is a source of Marine Debris. The Malibu Creek Watershed has identified impaired areas which are addressed by the MCW Trash TMDL. The City requests the language be revised to remove any required Debris TMDL efforts outside of the identified impaired reaches in the MCW.</p>	<p>See responses to comments 9.1 to 9.5 .</p>
10.1	Joyce Dillard	<p>There are Conflict of Interest issues when it comes to the City of Los Angeles and the California Water Boards and the funding source for the City of Los Angeles, Proposition O, a local \$500,000,000 bond.</p> <p>At least one member of the LA Regional Water Quality Control Board, Francine Diamond, sits on the Citizens Oversight Committee of Proposition 0, the City of Los Angeles Bond funding base. There is a Conflict of Interest in this issue.</p> <p>At least four members of Heal-the-Bay, Mark Gold, Adi Lieberman, Craig Perkins and Dayna Bochco, sit on the Citizens Oversight Committee of Proposition 0, the City of Los Angeles Bond funding base. There is a</p>	<p>See response to comment 0.1 above. It appears that this commenter did not present these concerns to the Los Angeles Water Board prior to its adoption of the TMDL, which would be the most appropriate and effective forum to present comments concerning a proposed TMDL.</p> <p>The TMDL is a regulatory planning document, and does not specify the manner of compliance. Responsible jurisdictions can comply with the TMDL in any lawful manner. Funding for Proposition O projects is independent of the establishment of this TMDL and therefore comments pertaining to alleged conflict of interest issues with the members of the Citizens Oversight Committee</p>

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		<p>Conflict of Interest in this issue.</p> <p>Tiger Kang with Pacific American Volunteer Association works with Heal the Bay sits on the Citizens Oversight Committee of Proposition 0, the City of Los Angeles Bond funding base. There is a Conflict of Interest in this issue.</p> <p>Teresa Villegas, an employee of Board of Supervisor Gloria Molina sits on the Citizens Oversight Committee of Proposition 0, the City of Los Angeles Bond funding base. There is a Conflict of Interest in this issue.</p> <p>Cynthia McClain-Hill, principal of Strategic Counsel PLC, registered lobbying firm, sits on the Citizens Oversight Committee of Proposition 0, the City of Los Angeles Bond funding base. There is a Conflict of Interest in this issue.</p>	<p>are outside the scope of the State Water Board’s review of this TMDL.</p> <p>The commenter fails to elaborate on the alleged ethical issues involved with the Proposition O bond.</p> <p>The commenter’s conclusion that “conflicts of interest” exist because stakeholders comprise the Citizens Oversight Committee is not explained.</p> <p>The State Water Board fails to see the alleged conflict of interest involved with any of the members of the Citizens Oversight Advisory Committee of Proposition O.</p> <p>Proposition O mandates that the Citizens Oversight Advisory Committee consist of nine members, with four appointed by the Mayor and five appointed by the Council President. Of the Council President’s five appointments, three must have expertise and experience in clean water issues, and one of these shall be recommended by the Regional Water Quality Control Board. The remaining two must be knowledgeable community representatives.</p> <p>The State Water Board suggests the commenter submit her comments regarding an alleged conflict of interest and unethical use of Proposition O directly to the Mayor of Los Angeles and/or the</p>

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			Council President.
10.2	Joyce Dillard	There are also ethical issues regarding Santa Monica Bay Restoration Commission, Santa Monica Bay Foundation and Heal-the-Bay that should be addressed.	<p>The commenter fails to elaborate on the alleged ethical issues regarding Santa Monica Bay Restoration Commission, Santa Monica Bay Foundation and Heal the Bay. The commenter’s conclusion that “ethical issues” exist is not explained. The State Water Board fails to see the alleged ethical issues and therefore does not understand the commenter’s concerns. Further, addressing alleged ethical issues related to these organizations is outside the scope of the State Water Board’s review of this TMDL.</p> <p>See response to comment 0.1 above. It appears that this commenter did not present these concerns to the Los Angeles Water Board prior to its adoption of the TMDL, which would be the most appropriate and effective forum to present comments concerning a proposed TMDL.</p>
10.3	Joyce Dillard	The TMDL process must include solution-based approach. An Adaptive Management strategy should be engaged. This is the approach taken by the scientists in their approach to Climate Change in the Southern California Bight: Integrating Science and the Societal Implications at the USC Dornsife College Conference. Sometimes, it is a small change that can affect the problem with little capital outlay, but facts are needed	<p>See response to comment 0.1 above. It appears that this commenter did not present these concerns to the Los Angeles Water Board prior to its adoption of the TMDL, which would be the most appropriate and effective forum to present comments concerning a proposed TMDL.</p> <p>The Los Angeles Water Board has implemented an</p>

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		for the analysis.	<p>adaptive management approach to solving the water quality issues throughout its region and this TMDL is no different, requiring cooperation amongst all stakeholders involved. The Los Angeles Water Board is obligated under the federal Clean Water Act section 303(d) to establish TMDLs to address water quality impairments. TMDLs are the backstop of the federal Clean Water Act and are intended to drive solutions to water quality impairments. This TMDL does not specify the manner of compliance to achieve the TMDL's allocations. Responsible jurisdictions may comply in any lawful manner, and this TMDL identifies a number of possible means of complying with the TMDL's allocations. Further, the Los Angeles Water Board has supported and, where possible, provided incentives in the form of longer implementation schedules to develop integrated solutions to water quality issues in the region. Finally, most Los Angeles Water Board adopted TMDLs provide appropriate implementation schedules to allow time for adaptive management.</p>