

Draft Comment Summary and Responses
Proposed Clean Water Act Section 303(d) list for the Los Angeles Region and the
303(d) List Portion of the 2014 and 2016 California Integrated Report
Comment Deadline: 12:00 noon on July 10, 2017

No.	Commenter
1.	Pacific Coast Federation of Fishermen's Associations, San Francisco Crab Boat Owners Association, and the Institute for Fisheries Resources and North Coast Rivers Alliance
2.	Earth Law Center
3.	Heal the Bay, Ventura Coastkeeper, and Los Angeles Waterkeeper
4.	Wishtoyo Foundation and the Ventura Coastkeeper Program
5.	City of Escondido
6.	Orange County Coastkeeper
7.	City of San Buenaventura
8.	California Farm Bureau Federation
9.	City of Burbank
10.	City of Los Angeles, Los Angeles Sanitation
11.	City of Santa Clarita
12.	Risk Sciences on behalf of the Middle Santa Ana River TMDL Task Force
13.	Risk Sciences on behalf of the Lake Elsinore-Canyon Lake TMDL Task Force
14.	General Public – Mary Anne Viney
15.	San Diego Clean Water Authority
16.	Tuolumne County Board of Supervisors
17.	County of Ventura
18.	California Stormwater Quality Association
19.	Calleguas Creek Watershed Management Plan
20.	Farm Bureau of Ventura County
21.	Sanitation Districts of Los Angeles County
22.	County of Los Angeles and the Los Angeles County Flood Control District
23.	Los Angeles Department of Water and Power
24.	County of Orange and the Orange County Flood Control District
25.	Central Sierra Environmental Resource Center
26.	Santa Barbara Channelkeeper
27.	Santa Clara Valley Urban Runoff Pollution Prevention Program
28.	General Public – Joyce Dillard
29.	Center for Biological Diversity
30.	Wood-Claeyssens Foundation
31.	Sherwood Valley Homeowners Association

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Pacific Coast Federation of Fisherman's Associations, San Francisco Crab Boat Owner's Association, Institute for Fisheries Resources, North Coast Rivers Alliance Representative: Stephen Volker	1.01	Pursuant to this statutory and regulatory regime, the State Water Resources Control Board ("State Water Board") is belatedly preparing the California Integrated Reports that were due in 2014 and 2016 for submission as a single document to EPA in late 2017. The State Water Board staff has made recommendations in its proposed combined 2014 and 2016 California Integrated Report for the State Water Board to use the 2012 California Integrated Report with certain changes.	The delay in the submittal of the 2014 and 2016 Integrated Report has been unavoidable due to resource constraints across the Water Boards. In 2015 the Listing Policy was amended to include several methods for increasing the efficiency of the creation and submittal of the Integrated Report to U.S. EPA. Those methods will begin being utilized starting with the 2018 Integrated Report as directed by the State Water Board under Resolution 2015-0005. The combination of multiple Integrated Reports is not ideal but is a common practice across the nation when necessary to meet the biennial submittal requirement.	No
	1.02	Of particular concern to the four Conservation Groups we represent, the section 303(d) lists proposed for Region 2 (San Francisco Bay) and Region 5 (Central Valley) are flawed in a number of significant respects, resulting in less protection for California waterways than is required under the CWA. Coupled with the ongoing ecological collapse of the Bay-Delta and its tributary rivers, these deficiencies threaten to drive another nail in the coffin of California's sport and commercial fisheries, and the ecosystems that support them.	The proposed Clean Water Act section 303(d) list of impaired waters (303(d) List) appropriately utilizes the Listing Policy to determine whether a waterbody beneficial use/pollutant combination should be added or removed to the list. Where warranted, and in part in response to written comments, the proposed list has been revised.	No
	1.03	First, the Central Valley Project ("CVP") and the State Water Project ("SWP") have diverted too	This comment is beyond the scope of the 2014 and 2016 California Irrigated Report process.	No

¹ This column refers to revisions to the Draft Staff Report released on June 9, 2017 or a change that has impacted a 303(d) listing recommendation.

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		much of the Delta's fresh water flows.		
	1.04	Second, agricultural diversifiers have discharged and continue to discharge too much contaminated agricultural run-off and return flows into the Delta.	See response to comment 1.02.	No
	1.05	These unsustainable levels of diversions and polluted discharges greatly decrease fresh water flows while increasing water temperature and salinity and the concentration of herbicides, pesticides, and toxic agricultural run-off in the Delta.	See response to comment 1.02.	No
	1.06	These two threats to the Delta's health have grown steadily over the past five decades, and the resulting environmental devastation has pushed the Delta's imperiled fisheries to the brink of extinction. Several species of fish endemic to the Delta have already gone extinct; just twelve indigenous species remain. Critical habitat for the endangered Sacramento River winter run chinook salmon, Central Valley steelhead and spring run chinook, the Delta smelt, and the Southern Distinct Population Segment ("DPS") of the Northern American	See response to comment 1.02.	No

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		green sturgeon suffers progressively accelerating degradation.		
	1.07	The State Water Board's proposed 2014-2016 Integrated Report ignores or understates many of the causes of the habitat degradation that has caused these precipitous declines in the Delta's fisheries. Consequently, as discussed below it will worsen rather than improve the Delta ecosystem, and further imperil these fish species.	See response to comment 1.02.	No
	1.08	The Staff Report proposes 269 listings of waterbodies within Region 5. Of these, the Regional Water Board Staff Report dated September 2016 identified 189 new waterbody evaluations for temperature, and confirmed that excessive temperatures were found in 39 of these waterbodies. Yet only one of these 39 impaired water segments was recommended for listing. The Draft California Integrated Report fails to correct this oversight.	During the December 2016 Regional Water Board meeting, the Regional Water Board responded orally and appropriately with the following response: "In all cases where elevated temperatures were reported (37 of the 186 previously unassessed waterbody segments), further review indicated that the monitoring programs that generated the temperature data were not designed to evaluate attainment of temperature standards to support aquatic life. The surface water grab samples collected did not provide sufficient temporal and spatial representation of temperature conditions throughout the waterbody segment to determine whether growth and all life stages of rainbow trout were being supported.... Staff noted in the fact sheets for these waterbodies that available information is not sufficient to assess whether the aquatic beneficial use is supported" (Regional Water Quality Control Board Central Valley Region, December 2016 Final Staff Report, Page 25).	No
	1.09	The Regional Water Board Staff attempted to excuse this omission by claiming that the surface grab samples revealing excessive temperatures were not representative of temperature conditions throughout these waterbodies. Consequently it ignored virtually	See response to comment 1.08.	No

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		all of these elevated temperatures.		
	1.10	However, when EPA reviewed the underlying lines of evidence, it concluded to the contrary that “there are many waterbodies that are well mixed lotic systems where a surface grab sample showing exceedances of temperature thresholds would still be representative of most of the water column and suggest a temperature impairment for the waterbody as a whole.” EPA letter dated November 3, 2016 to Central Valley Regional Water Board, copy attached as Exhibit 1 hereto (emphasis added), at p. 1. EPA pointed out that its criticism was supported by overwhelming documentary evidence. For example, “[t]here are several waterbodies, such as segments of the Sacramento River that have substantial data collected under the Irrigated Lands Regulatory Program indicating impairment,” and that “[a]dditionally, for many of these waterbodies continuous monitoring stations with existing data published by [the California] Department of Water Resources in publicly available databases (e.g., California Data Exchange Center (“CDEC”) . . . and the California Water Data Library . . . are available to confirm impairments initially identified by the already analyzed grab sample data.” Id. at p. 1 (emphasis added).	<p>During the December 2016 Regional Water Board meeting, the Central Valley Water Board responded orally and appropriately to EPA’s comment letter with the following response:</p> <p>"In response, staff recognizes the value of the continuous data, and we assessed the continuous monitoring data submitted by other agencies during the 2010 data solicitation period. However, we currently do not have the tools needed to transfer and transform the immense data sets archived in databases managed by other state and federal agencies. We would welcome partnering with the U.S. EPA and others to develop the necessary cross-walks to be able to use this information in future assessments."</p>	No
	1.11	EPA also pointed out, correctly, that “the thresholds selected in the [Regional Water Board’s] Staff Report for this [section 303(d)] listing cycle, 21°C and 24°C for rainbow trout and steelhead respectively, are much warmer	<p>During the December 2016 Regional Water Board meeting, the Regional Water Board responded orally and appropriately to EPA’s comment letter with the following response:</p> <p>"In response, different criteria were applied depending on the type</p>	No

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		than the temperatures recommended in EPA's 2003 Region 10 Guidance for Pacific Northwest State and Tribal Temperature Water Quality Standards." Id. (emphasis added). This means that river segments with temperatures too high to support salmonid survival were omitted from the list of impaired waterways.	of data and species present. The U.S. EPA's 2003 criteria were applied when continuous data and salmonids were present. When only grab samples were available, peer-reviewed and geographically relevant criteria were applied. These peer reviewed documents included U.S. EPA issue papers published in 1999 and 2001 that documented upper threshold temperatures for most salmon and steelhead species during spawning, migration and juvenile rearing. Where presence of salmon could not be confirmed, temperature data were assessed using the upper threshold for rainbow trout growth and completion of most life stages identified by Peter Moyle in his 1976 book, Inland Fishes of California."	
	1.12	As EPA explained, the Regional Water Board failed to identify numerous river segments as temperature impaired even though existing numeric temperature criteria are clearly exceeded for these river segments, many of which are salmon spawning and rearing waterways. Tables III-IV and III-IVA in the Sacramento and San Joaquin River Basin Plan for example, identify specific objectives for Deer Creek and the Sacramento River – major salmon spawning waterways – that were ignored by the Regional Water Board in its section 303(d) list. Id. at p. 2.	<p>During the December 2016 Regional Water Board meeting, the Regional Water Board responded orally and appropriately to EPA's comment letter with the following response:</p> <p>"U.S. EPA staff noted that the temperature thresholds selected for this listing cycle, for rainbow trout and steelhead, are warmer than the temperatures recommended in EPA's 2003 Region 10 Guidance for Pacific Northwest State and Tribal Temperature Water Quality Standards.</p> <p>Different criteria were applied depending on the type of data and species present. The U.S. EPA's 2003 criteria were applied when continuous data and salmonids were present. When only grab samples were available, peer-reviewed and geographically relevant criteria were applied. These peer reviewed documents included U.S. EPA issue papers published in 1999 and 2001 that documented upper threshold temperatures for most salmon and steelhead species during spawning, migration and juvenile rearing. Where presence of salmon could not be confirmed, temperature data were assessed using the upper threshold for rainbow trout growth and completion of most life stages identified by Peter Moyle in his 1976 book, Inland Fishes of California.</p>	No

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			<p>USEPA staff reviewed the objectives used in the fact sheets for Deer Creek and portions of the Sacramento River and noted inconsistencies with the Basin Plan. In response, Deer Creek is a very popular name for creeks in the Central Valley. USEPA staff inadvertently reviewed data for a Deer Creek that does not have site specific objectives—so no change was warranted. EPA staff were correct that for a portion of the upper Sacramento River, the incorrect objective was used. We revised the fact sheets and although some of the numbers changed, the decision ‘not to list’ remained the same.”</p> <p>This response adequately addressed the commenter’s and EPA’s concerns. Central Valley Water Board staff appropriately updated Decisions 57832, 57670, and 57656 to use the objectives outlined in Tables III-4 and III-4A of the Sacramento/San Joaquin Basin Plan.</p>	
	1.13	<p>According to the Central Valley Basin Plan, 56°F (13.3°C) is the numeric objective for the Sacramento River between Keswick Dam and Hamilton City. But in direct defiance of this clear water quality standard, the Regional Water Board’s section 303(d) list is based on a line of evidence for this segment that erroneously utilizes a 21°C threshold for salmonid protection – nearly 8°C (14°F) too high. As a consequence, significant segments of the Sacramento River and its tributaries that are essential for spawning and rearing of chinook salmon are excluded from the Regional Water Board’s section 303(d) list – and from the State Water Board’s proposed California Integrated Report – even though these river segments currently have excessive temperatures for salmon</p>	<p>During the December 2016 Regional Water Board meeting, the Regional Water Board responded orally and appropriately to EPA’s comment letter with the following response:</p> <p>"In response, different criteria were applied depending on the type of data and species present. The U.S. EPA’s 2003 criteria were applied when continuous data and salmonids were present. When only grab samples were available, peer-reviewed and geographically relevant criteria were applied. These peer reviewed documents included U.S. EPA issue papers published in 1999 and 2001 that documented upper threshold temperatures for most salmon and steelhead species during spawning, migration and juvenile rearing. Where presence of salmon could not be confirmed, temperature data were assessed using the upper threshold for rainbow trout growth and completion of most life stages identified by Peter Moyle in his 1976 book, Inland Fishes of California.</p>	No

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		spawning and rearing, rendering them “impaired” as a matter of law under the CWA.	<p>USEPA staff reviewed the objectives used in the fact sheets for Deer Creek and portions of the Sacramento River and noted inconsistencies with the Basin Plan. In response, Deer Creek is a very popular name for creeks in the Central Valley. USEPA staff inadvertently reviewed data for a Deer Creek that does not have site specific objectives—so no change was warranted. EPA staff were correct that for a portion of the upper Sacramento River, the incorrect objective was used. We revised the fact sheets and although some of the numbers changed, the decision ‘not to list’ remained the same.”</p> <p>Central Valley Water Board staff appropriately updated Decisions 57832, 57670, and 57656 to use the objectives outlined in Tables III-4 and III-4A of the Sacramento/San Joaquin Basin Plan. Furthermore, U.S. EPA did not submit comments to the State Water Board on the proposed 2014 and 2016 California Integrated Report, indicating that U.S. EPA found the response adequate.</p>	
	1.14	The Integrated Report fails to remedy the Region 5 Board’s omission of reliable and available data that reveal impairment due to excessive temperature, salinity and other pollutants.	<p>EPA’s regulations require that “each State shall assemble and evaluate all existing and readily available water quality-related data and information to develop the [Section 303(d)] list.” 40 C.F.R. §130.7(b)(5). If a state decides not to rely on certain existing and readily available data or information, the state must provide EPA with documentation explaining the rationale for that decision. 40 C.F.R. §130.7(b)(6).</p> <p>To meet EPA’s requirement to provide EPA with documentation explaining the rationale for the decision to not include all readily available data, State Water Board provided the following direction to Regional Water Boards for the data solicitation period: “Due to the volume of data received during the 2010 data solicitation period, the State Water Board will not solicit additional data until all of the current data is assessed and migrated to the California Water Quality Assessment Database (CalWQA) for Regional Water Board listing and</p>	No

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			<p>delisting recommendations.” (Letter from Nick Martorano, Chief, Surface Water Quality Assessment Unit, Division of Water Quality, State Water Resources Control Board, to Interested Parties, California Integrated Report [Clean Water Act Sections 303(d) and 305(b)] Update (November 12, 2013)).</p> <p>On February 3, 2015, in its adoption of Resolution No. 2015-0005 to amend the Water Quality Control Policy for Developing California’s Clean Water Act Section 303(d) List (Listing Policy), the State Water Board reaffirmed that “[f]or the upcoming 2012, 2014 and 2016 Integrated Reports, the data and information submitted in response to the 2010 notice of solicitation shall be assessed and considered.” The data collected by the 27 monitoring stations as part of the Bay Delta Plan were not submitted as part of the 2010 solicitation period. The Central Valley Regional Water Board has committed to working with the U.S. EPA and sister agencies to ensure that past and future data not included in the 2014 and 2016 California Integrated Report will be assessed in a future cycle.</p>	
	1.15	<p>EPA was particularly critical of the Region 5 Board’s “inconsistent assessments for dissolved oxygen and salinity” as required to be measured under the 2006 Bay-Delta Plan despite the fact that “there is an abundance of publicly available data identifying broader impairments.” Id. at p. 2 (emphasis added). As EPA noted, “[t]hese data should be assessed and incorporated into the final Staff Report.” Id. EPA pointed out that the Regional Water Board’s “omission of continuous monitoring information is particularly notable in the Delta where 24 continuous monitoring stations are identified in Table 7 of the 2006 Bay-Delta Plan as stations to assess compliance with water quality</p>	<p>See response to comment 1.14.</p>	No

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		objectives,” yet this information is “not assessed for this Integrated Report.” Id. The omission of this critical information has, according to EPA, “resulted in illogical[waterway] listing decisions [by the Regional Water Board] such as the listing of the Stockton Deep Water Ship Channel for temperatures unsuitable to support migration of cold water species, but none of the surrounding waters are listed as impaired.” Id. (emphasis added).		
	1.16	These glaring omissions from the California Integrated Report violate the CWA and must be rectified. Under the CWA, “[i]n developing Section 303(d) lists, states are required to assemble and evaluate all existing and readily available water quality-related data and information, including, at a minimum, consideration of existing and readily available water quality-related data and information about the following categories of waters: (1) waters identified as partially meeting or not meeting designated uses, or as threatened, in the state’s most recent CWA section 305(b) report; (2) waters for which dilution calculations or predictive modeling indicate non-attainment of applicable standards; (3) waters for which water quality problems have been reported by governmental agencies, members of the public, or academic institutions; and (4) waters identified as impaired or threatened in any CWA Section 319 non-point assessment submitted to EPA.”	See response to comment 1.14.	No
	1.17	Table 3 of the Water Quality Control Plan for the	According to the Water Quality Control Plan for the San Francisco	No

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		<p>San Francisco Bay/Sacramento-San Joaquin Delta Estuary ("2006 Bay-Delta Plan") reiterates the salmon-doubling water quality objective set forth in the 1995 Bay-Delta Plan, as follows: Water quality conditions shall be maintained, together with other measures in the watershed, sufficient to achieve a doubling of natural production of chinook salmon from the average production of 1967-1991, consistent with the provisions of State and federal law.</p> <p>The salmon-doubling standard of the 2006 Bay-Delta Plan constitutes a water quality standard under the CWA with which the State Water Board section 303(d) list must be consistent. Yet both the Regional Water Board's list of impaired waterways and the State Water Board's proposed Integrated Report make no effort to implement this water quality objective. As a consequence, the Integrated Report conflicts with the 2006 Bay-Delta Plan, and the beleaguered populations of chinook salmon will continue their rapid decline, leading potentially to their extinction.</p>	<p>Bay/Sacramento-San Joaquin Delta Estuary (page 34), D-1641 (Water Right Decision 1641, December 29, 1999) assigned responsibility to the USBR and DWR to comply with the river flow and operational objectives for fish and wildlife. These objectives help protect salmon migration through the Bay-Delta Estuary. D-1641 did not require separate actions to implement the narrative objective for salmon because the State Water Board expects that implementation of the numeric flow-dependent objectives and other non-flow measures will implement this objective. These objectives can be found in section 4.1.2.4 titled Riverine Flows, System Flushing, and Pollutant Loading. Furthermore, there are no numeric evaluation guidelines to apply for assessment of the salmon doubling narrative objective found in the Bay Delta Plan consistent with Section 6.1.3 of the Listing Policy.</p>	
	1.18	<p>Since 2008, numerous state and federal agencies have been engaged in a comprehensive effort to restore the San Joaquin River. As a result of these efforts, the upper restoration reaches have had temperature data collected for at least 8 years by the California Department of Fish and Wildlife ("CDFW"). According to EPA, these data show impairment of the upper San Joaquin River for salmonid reintroduction, and should be utilized in the</p>	<p>See response to comment 1.14.</p>	No

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		Integrated Report as required by the CWA. Id. at p. 3.		
	1.19	CDFW has long recognized that “[t]he San Francisco Bay/Sacramento-San Joaquin River Estuary (Delta) is in a state of ecological crisis, with many native fish species populations at all time low abundances.” Letter from CDFW, ECD/Water Branch, to Central Valley Regional Water Board, dated March 24, 2017, at p. 1, attached as Exhibit 2 hereto. “In recent years, the poor water quality conditions in the Delta and Sacramento and San Joaquin River watersheds, exacerbated by drought, have brought fish species listed under the protection of the state or federal Endangered Species Acts to levels near extinction or extirpation.” Id. (emphasis added).	See response to comment 1.02.	No
	1.20	Based on overwhelming data and careful review in numerous recent studies, CDFW has pinpointed the discharge of pyrethroids as a key factor in the collapse of the Delta’s fisheries: “The trend toward greater pyrethroid use has coincided with abrupt declines in abundances of pelagic fishes.” CDFW, March 24, 2017 letter to Central Valley Regional Water Board, at p. 3, quoting from Brooks, et al. (2012). CDFW concluded that “[c]ontaminants, including pyrethroids, in Delta waters have likely contributed to ecological degradation and should be considered along with other stressors in Delta management.” Id. CDFW has noted in particular that the increasing use of pyrethroid	See response to comment 1.14.	No

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		pesticides has been implicated in the dramatic loss of Delta fisheries known as the “pelagic organism decline,” or POD. Id. at pp. 2-3, citing Healy, et al. 2016.		
	1.21	In its comments to the Region 5 Board, CDFW pointed to “multiple lines of evidence” that confirm that pyrethroids are a principal factor in the ongoing ecological collapse of the Delta, including in particular, the imperiled Delta smelt and longfin smelt. According to CDFW, pyrethroids are particularly harmful to zooplankton, which in turn, “are important prey for larval and juvenile salmon; splittail; Delta smelt, longfin smelt; and other estuarine fish species” Id. at p. 4. For example, “[t]he decline in mysid [shrimp] abundances have coincided with increased pyrethroid uses.” Id. For these reasons, CDFW has recommended that the Regional Water Board employ a rigorous, scientifically-based methodology for identifying water quality impairment by pyrethroids. Id. at pp. 5-7.	Comment noted.	No
	1.22	Of particular relevance here, CDFW has pointed out that the Regional Water Board’s use of bioavailability calculations for predicting toxicity ignores many pathways by which pyrethroids and other pesticides harm fishes and their prey, particularly zooplankton. Id. at 5-7. For example, CDFW has stressed that the Regional Water Board’s “regulation of pyrethroids using [only] the dissolved fraction does not account for the fate and transport of sediment-bound pyrethroids.” Id. at p. 5. Accordingly, CDFW	The analysis in the Central Valley Water Board Staff Report regarding the estimated maximum pyrethroids concentrations in sediment if the 5th percentile concentration goals are being attained was recognized as very conservative because it is based on the assumption that all of the bed sediment would contain pyrethroids at the estimated levels, but it is likely that it is mixed with sediments that do not contain pyrethroids (section 5.6.1.1, The Control of Pyrethroid Pesticides Discharges, Staff Report, May 2017). This conservative analysis was not provided as a predictive estimate of expected concentrations, which would likely be significantly lower. It is not expected that sediment bound pyrethroid concentrations will	No

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		recommends that the Regional Water Board consider sediment-bound pyrethroids in calculating impairment of waterways, noting that “[r]egulating sediment-bound pyrethroids at the source would be feasible.” Id. at p. 5. CDFW “has invested great efforts to restore Delta habitats for the benefit of imperiled native species, which may be jeopardized by continued inputs of pyrethroid-contaminated sediments.” Id.	equal or exceed the LC50 values for pyrethroids when the proposed concentration goals are attained, because even the conservatively calculated estimated maximum sediment concentrations did not exceed the LC50 for 3 of the six pyrethroids and did not exceed the LC50 by more than a factor of 3 for any pyrethroid. This analysis indicates that attainment of the proposed concentration goals would likely resolve most of the toxicity to <i>Hyalella</i> observed in sediment toxicity testing. Sediment toxicity testing with <i>Hyalella azteca</i> is required in monitoring for municipal storm water and agricultural dischargers to ensure that benthic organisms are protected.	
	1.23	As Dr. Weston pointed out in his comments to the Central Valley Regional Water Board dated March 24, 2017 (attached as Exhibit 3 hereto), “[p]yrethroid contamination, and its associated toxicity, is so pervasive that it exists in nearly all urban run-off and a substantial fraction of agricultural and POTW discharges.” Id. at p. 1. Yet, notwithstanding the massive adverse impact of pyrethroid discharges on ecological health in the Delta and its tributary rivers, in evaluating impairment of waterways, the Regional Water Board has chosen to “regulate only what they view as the bioavailable fraction,” excluding approximately 90 percent of the harmful pyrethroids present in these waterways. Id.	See response to comment 1.22.	No
	1.24	The proposed California Integrated Report likewise ignores 90 percent of the pyrethroids present in California waterways. Although the Staff Report confusingly states that “the use of whole water concentrations” – rather than only the “dissolved concentration” of the pyrethroids – “is also valid,” it does not appear that the	See response to comment 1.22.	No

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		State Water Board's staff has made any effort to correct the Regional Water Board's exclusion of 90 percent of the harmful pyrethroids from its list of impaired waterways.		
	1.25	The Regional Water Board's – and now, the State Water Board's – “exclusion of particle-bound pyrethroids from regulatory limits is likely to be of greatest significance with respect to agricultural discharges, since they often have the highest suspended sediment loads.” Id. This scientifically unsound approach not only ignores the obvious, well-documented impact upon filter-feeding and deposit-feeding aquatic species on which higher-trophic level fishes such as salmonids feed, it wrongfully “provides a disincentive for growers to control release of suspended sediments.”	See response to comment 1.22.	No
	1.26	In summary, the Regional Water Board's – and now, the State Water Board's – refusal to recognize waterway impairment by the 90 percent of pyrethroid contamination that is not dissolved, has no basis in science. Id. at p. 4. To the contrary, as Dr. Weston pointedly observes, this is a “head-in-the-sand” approach: “1) never before used anywhere in the world, 2) that disregards 90% of the pollutant, 3) that incorporates numerical values that have never been shown to be generally applicable or field-verified, and 4) that is not scheduled to be re-assessed by the Board for 15 years”	See response to comment 1.22.	No
	1.27	Id. Rather than perpetuate this evasion of proper scientific methodology and analysis, this Board should recognize, consistent with these	See response to comment 1.22.	No

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		criticisms by CDFW and Professor Weston, that pyrethroid poisoning of our waterways is a significant cause of the ongoing ecological collapse of the Delta and its tributary rivers, and that ignoring the impact of 90 percent of the pyrethroids that are not “dissolved” is an evasion of the letter and spirit of the Clean Water Act.		
	1.28	The Staff Report contains several passages that are confusing to the lay reader, and may betray logical errors. For example, under “Sediment Matrix Analyses” the Staff Report states that “[i]n the event that the OC [organic carbon]-normalized MDL result was above the evaluation guideline, the sample was not included in the analysis. However, if the OC-normalized MDL was below the guideline the result was counted as a non-exceeding sample.” Id. at p. 4. It is not clear from this passage whether Staff’s analysis of pyrethroids and other toxics excluded samples that exceeded applicable limits, including only those that did not. Although this may not be the intent (or substance) of Staff’s approach, the language used to describe Staff’s analysis is at minimum confusing and should be restated. If, on the other hand, Staff did intend to exclude samples that exceeded applicable standards, this would not be appropriate and should be corrected.	This section has been edited in the revised Staff Report to provide additional clarity. Samples that were detected and exceeded applicable standards were not excluded from assessment. Laboratory results that are reported as “non-detect” (ND) or as not detected do not have a numeric value associated with them. However, the ND samples have an associated Method Detection Limit (MDL) which is the minimum amount of a pollutant that can be detected given a specific laboratory method. If the MDL for a ND sample is below the evaluation guideline the sample can be counted as not exceeding the evaluation guideline because the ND sample is below the MDL and therefore below the evaluation guideline. Conversely, If the MDL for a ND sample is above the evaluation guideline the sample cannot be used for assessment purposes because it cannot be determined if the ND sample is above or below the evaluation guideline.	Yes
	1.29	Second, when discussing Staff’s “Indicator Bacteria Assessment Approach,” the Staff Report states that Staff would not update an analysis that was outdated because it used	The Central Valley Water Board utilized the bacteria objectives for contact recreation supported by their Basin Plans which is consistent with the Listing Policy. The 2012 U.S. EPA criteria were not finalized until November 26, 2012, at which point bacteria lines of evidence	No

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		EPA's 1986 Ambient Water Quality Criteria for Bacteria, rather than EPA's 2012 criteria that are now available and should be used instead. Staff Report at p. 8. Utilizing 30-year old water quality criteria instead of current criteria does not reflect the best science available, and deviates from EPA's adopted protocol. This should be rectified.	had already been written using the 1986 criteria. The State Water Board is proposing to update the statewide water quality objectives for bacteria as they apply to water contact recreation. Those objectives would supersede the objectives used in basin plans where a conflict exists and will be used for future 303(d) assessments.	
	1.30	Third, in discussing "Toxicity Assessments," the Staff Report states that it "determined, for 303(d) assessment purposes, only the SL [i.e., "Significantly Lower"] code should be used to determine whether a sample is considered to have a toxic effect and thereby an exceedance." Staff Report at p. 9. It is not clear why toxicity data associated with the "Significantly Greater" result code was not likewise considered in determining whether there is "an exceedance." Id. This discussion should be revised and clarified. And, of course, if Staff's approach ignores toxicity data indicating a "significantly greater" impact on toxicity, improperly excluding such data from the analysis and thereby leading to an inappropriately low recognition of exceedances, then the methodology should be revisited and, where appropriate, corrected.	<p>Page 9 of the Staff Report has been clarified in response to this comment by removing the language "or Significantly Greater (SG)."</p> <p>The SG code is applied to an ambient sample that is significantly different than the control sample (using a t-test statistical comparison), but it is also of greater similarity to the control sample. The ambient sample is significantly different from the control but the response within the ambient sample is more similar to that of the control sample response. Therefore, the ambient sample is not an exceedance because it is more similar to the control sample.</p>	Yes
Earth Law Center Representative: Grant Wilson	2.01	On behalf of Earth Law Center (ELC), which works for waterways' rights to flow, we welcome the opportunity to submit this formal request for the inclusion of hydrologically impaired (i.e., flow impaired) waterways in the 2014 and 2016 California Integrated Report. At	Identifying hydrological impairments, which are "pollution" impairments and not "pollutant" impairments, is beyond the scope of the State Water Board's June 9, 2017 notice of opportunity to submit written comments, which only pertains to "pollutant" impairments proposed to be included in the combined statewide 2014 and 2016 Clean Water Act Section 303(d) List. The State Water	No

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		<p>minimum, ELC requests the following waterways be listed as hydrologically impaired, whether under Category 4C or Category 5:</p> <p>2014 Integrated Report Regions</p> <ul style="list-style-type: none"> • Central Coast Region (Region 3): Salinas River, Carmel River, San Clemente Creek, Big Sur River, and Santa Maria River • Central Valley Region (Region 5): San Joaquin River, inflow to the Delta; and the San Francisco Bay Delta, outflow to Suisun Bay and San Francisco Bay • San Diego Region (Region 9): Those 30 waterways already properly identified as hydrologically impaired in Region 9's approved <p>Integrated Report 2016 Integrated Report Regions</p> <ul style="list-style-type: none"> • San Francisco Region (Region 2): Napa River (non-tidal) • Los Angeles Region (Region 4): The Ventura River (Reaches 3 and 4) and the Santa Clara River • Santa Ana Region (Region 8): Santa Ana River (Reaches 3 and 4) <p>ELC submitted comment letters to each of the above Regions requesting that these waterways be listed as hydrologically impaired in each region's respective Integrated Report. Additionally, after approval of the regional 2014 or 2016 Integrated Reports (with the exception being the Los Angeles Region, which has not approved its Integrated Report), ELC requested in a May 5, 2017 letter that the State Water</p>	<p>Board only takes formal action on the 303(d) List, and the 303(d) List does not include Integrated Report Category 4c in which a pollutant impairment would be listed.</p> <p>In addition, the May 5, 2017 letter requesting review was not timely as to the waterbodies located in the regions of the Regional Water Boards for the Central Coast, Central Valley, and San Diego. (See Listing Policy, Sections 6.2 and 6.3 - requests for review must be made within 30 days of the Regional Water Board's approval and only timely requests for State Water Board review may be commented on.)</p> <p>Although the comments concerning pollution assessments are beyond the scope of the notice, the following responds to each comment and provides the rationale for not including the identified waterbodies on the 2014-2016 California Integrated Report as hydrologically impaired under Category 5 or 4c.</p>	

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		<p>Board review the above listings for hydrologically impaired waterways that had not been made.</p> <p>ELC reiterates its request that the State Water Board list hydrologically impaired waterways within the Integrated Report, whether Category 4C or 5 – and in particular those waterways that are impaired due to low flows. As described below, this request is supported by the Clean Water Act and the implementing guidance from the U.S. Environmental Protection Agency (U.S. EPA), and is supported by compelling public policy considerations and precedent in other states as well as the State Water Board’s own documents as attached hereto (see Attachment C; available online at: http://bit.ly/2u0cQFG). Therefore, we ask that you revise the draft Staff Report to include, at minimum, the above listed waterways as hydrologically impaired under Categories 4C or 5.</p>		
	2.02	<p>1. Full Compliance with Clean Water Act Sections 305(b) and 303(d) Requires Identification of Hydrologically Impaired Waterways</p> <p>Clean Water Act (CWA) Section 303(d)(1)(A) requires California to “identify those waters within its boundaries for which the effluent limitations ... are not stringent enough to implement any water quality standard applicable to such waters.” This must be a robust listing, with sufficient details about the waterways (including flow) to allow the state to</p>	<p>Neither Clean Water Act section 303(d) nor section 305(b) requires the State Water Board to place waterbodies identified as hydrologically impaired in Category 4c or 5. Section 303(d) of the Clean Water Act requires states to identify waters for which effluent limitations for specified point sources are not stringent enough after implementation of technology-based controls to implement water quality standards applicable to those waters. (Clean Water Act § 303(d)(1)(A).) “Water quality standards” are a state’s regulatory provisions that establish beneficial uses for the state’s waters and water quality objectives for such waters based on the beneficial uses. (See generally, 40 C.F.R. § Wat. Code, § 130.2.) In identifying such water quality limited segments, a state is required to “establish</p>	No

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		<p>“establish a priority ranking” for the waterways, also required by Section 303(d)(1)(A). In other words, California’s 303(d) list must provide a comprehensive list of all impairments. The state’s Listing Policy provides some mixed direction, stating on the one hand that the 303(d) list only covers impairments by “pollutants” (rather than also by “pollution,” such as flow), but on the other hand stating that Regional Water Board Fact Sheets supporting Section 303(d) listings “shall contain . . . Pollutant or type of pollution that appears to be responsible for standards exceedance.” The latter path is the appropriate course.</p> <p>No objection, further, can be made to including flow-impaired waterways on the Section 303(d) list on the basis that the state is not required to prepare TMDLs to address “pollution.” First, Section 303(d)(1)(A) makes no mention of limiting the 303(d) list to those waterways requiring Total Maximum Daily Loads (TMDLs). In fact, no mention of TMDLs is made until Section 303(d)(1)(C), which sets requirements on how to manage impaired waterways.</p> <p>Moreover, the state itself does not take this position for waterways impaired by pollutants. Instead, the state lists in Category 5 (what it deems its Section 303(d) list) pollutant impaired waterways that do, and do not, require TMDLs by state evaluation. Accordingly, the state must include hydrologically impaired waterways, including those impaired by altered flow, on its 303(d) list.</p>	<p>a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.” (Clean Water Act, 303(d)(1)(A).) The Clean Water Act also requires states to prepare and submit to U.S. EPA reports based on a description of the water quality of all navigable waters and an analysis of the extent to which those waters provide for the protection of fish and wildlife and provide for recreational activities in and on the water. (CWA § 305(b)(1)(A)-(B); 40 C.F.R. § 130.8, subd. (b)(1).) That report is commonly referred to as the 305(b) Report. The State Water Board satisfies its reporting obligations under sections 303(d) and 305(b) by submitting to U.S. EPA a combined “Integrated Report.”</p> <p>The Listing Policy does not provide the process or methodology for listing waters as hydrologically impaired. The Listing Policy’s express objective “is to establish a standardized approach for developing California’s section 303(d) list in order to achieve the overall goal of achieving water quality standards and maintaining beneficial uses in all of California’s surface waters.” However, the reporting obligations under 305(b) are also satisfied through reporting on data and information that is collected and evaluated during the listing process. For example, if data concerning a pollutant is insufficient to evaluate beneficial use support under the Listing Policy, a waterbody can be placed in Category 2 or 3 of the Integrated Report.</p> <p>Section 2 of the Listing Policy describes the categories of waters that are included in the section 303(d) List. Those include waters that have limited water quality due to non-attainment of water quality standards due to toxicity, a pollutant, or pollutants; and remediation of the non-attainment problem requires one or more total maximum daily loads (TMDLs). These waters, included in the section 303(d) List, are identified under Integrated Report Category 5. The Listing Policy continues by stating that water quality limited segments (pursuant to Section 3 of the Listing Policy) being addressed by an</p>	

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			<p>approved implementation plan or regulatory program are also considered part of the section 303(d) List until the water quality standard is attained. These include waters with a U.S. EPA approved TMDL in place, identified in Integrated Report Category 4a, and waters that are being addressed by an alternative regulatory program expected to result in the attainment of water quality standards within a reasonable amount of time, identified in Integrated Report Category 4b. By its express terms, the Listing Policy does not provide the process or methodology by which waters impaired by “pollution” are placed in Integrated Report Category 4c. (See 40 C.F.R. § 130.2 -defining “pollution” as “[t]he man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.”)</p> <p>The commenter is correct that in section 6.1.2.2 of the Listing Policy, which pertains to a Regional Water Board’s preparation of a fact sheet for a water quality standards listing, one of the twenty-six criteria is the “pollutant or type of pollution” that appears to be responsible for the standards exceedances. Commenter suggests that the Listing Policy’s inclusion of the “type of pollution” in the fact sheets used to develop the 303(d) list should be read to enlarge the scope of the Listing Policy to also contain the list of waters impaired by pollution (hydrologically impaired). Inclusion of pollution as a criterion to prepare a fact sheet does not enlarge the express purpose and scope of the Listing Policy. The requirement of providing a comprehensive description of the information in an assessment fact sheet, including the cause of the impairment, is to support each component of the weight of evidence approach for 303(d) listings. (See Clean Water Act, § 303(d)(1) - In identifying such water quality limited segments, a state is required to “establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.”)</p>	

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			<p>Impairments not caused by a pollutant and rather solely by pollution do not require a TMDL as described in the U.S. EPA Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Section 303(d), 305(b), and 314 of the Clean Water Act (page 56). California considers the 303(d) List to include waters in Integrated Report categories 4a, 4b, and 5. U.S. EPA only considers those waters in Integrated Report Category 5 as part of the federal 303(d) List. California does not and should not include waters impaired solely by pollution including those due to flow alterations, on the 303(d) List consistent with the Listing Policy and U.S. EPA guidance.</p>	
	2.03	<p>The state must also include hydrologically impaired waters in its broader, CWA Section 305(b) report. Section 305(b) requires states to submit biennial reports that “shall” describe the “water quality of all navigable waters,” including an analysis of the extent to which the waters protect fish and wildlife, for compilation and submission to Congress. Federal regulations describe this requirement and its purpose, stating that the Section 305(b) report “serves as the primary assessment of State water quality” and the basis of states’ water quality management plan elements, which “help direct all subsequent control activities.” States must use the Section 305(b) report to develop their annual work program under Sections 106 and 205(j). And must review the 305(b) report in developing the 303(d) list. California’s Integrated Report accordingly must include an adequate Section 305(b) report if the state is to develop meaningful 303(d) list and water quality plans that appropriately direct staff and</p>	<p>While it may be appropriate to assess flow alteration pursuant to section 305(b) to the extent it could be used to support water quality decision-making, the State Water Board is not required to assess, evaluate, and identify hydrologically-impaired waters to satisfy its 305(b) reporting obligations.</p> <p>Similar to the requirements applicable to a state developing its 303(d) list of impaired waters, waters placed in Category 4c should be done in accordance with a description of the method used for Category 4c placements, the data and information used and the rationale to support the decision. The State Water Board has not established such a methodology. Without a defined methodology for assessing non-pollutant related pollution, Regional Water Board and State Water Board staff does not have a consistent and transparent approach to analyzing the extent to which flow-related alterations cause or impact water quality standards. The decisions made by the State and Regional Water Boards must be based on a methodology that provides all stakeholders with the opportunity to understand exactly how assessment decisions are made. The State Water Board’s listing determinations must be supported by documentation that explains the analytical approaches used to infer true segment conditions. (See U.S. EPA’s 2006 Guidance for</p>	No

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		resources to the most important control activities. The Section 305(b) report must particularly include information regarding waterway flows to ensure that the fundamental purpose of Section 305(b) in guiding workplanning is met. The provision of information regarding waterway flow is also called for by CWA Section 101, which sets the national objective of restoring and maintaining the “chemical, physical, and biological integrity of the Nation’s waters.” (Emphasis added.) The U.S. Supreme Court itself explicitly affirmed the importance of addressing physical elements of waterway health such as flow, stating that the distinction between water quality and quantity under the CWA is “artificial.”	<p>Assessment and Listing, p. 29 (explaining what constitutes an assessment methodology and U.S. EPA’s review of a state’s methodology for consistency with the CWA and a state’s water quality standards).)</p> <p>On April 8, 2015, at the meeting at which the State Water Board approved the 2012 California 303(d) List portion of the Integrated Report, staff reported to the State Water Board on the numerous ways in which waterbodies adversely affected by flow issues are being addressed by State Water Board programs, most of which are within the Division of Water Rights. Benefits from including flow-related impairments within Category 4c of the Integrated Report were not enough to offset staff resources needed to develop a methodology for determining pollution impairments, particularly given the extent State Water Board staff are addressing flow-related issues across the other programs. Please see the Response to Comments from the Clean Water Act Section 303(d) List portion of the 2012 California Integrated Report and the video recording of the April 19, 2015 Board meeting for more detailed information.</p> <p>There are efforts underway to develop flow objectives for several waterbodies and once established staff will be able to use the existing Listing Policy methodology as guidance to support applicable Category 4c placements.</p> <p>Additionally, U.S. EPA’s Integrated Reporting Guidance itself recommends that segments be placed in Category 4c only should occur when the cause is solely due to pollution and not a pollutant: Segments should be placed in Category 4c when the states demonstrates that the failure to meet an applicable water quality standard is not caused by a pollutant, but instead is caused by other types of pollution. Segments placed in Category 4c do not require the development of a TMDL. [...] States should schedule these</p>	

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			<p>segments for monitoring to confirm that there continues to be no pollutant associated with the failure to meet the water quality standard and to support water quality management actions necessary to address the cause(s) of the impairment. Examples of circumstances where an impaired segment may be placed in Category 4c include segments impaired solely due to lack of adequate flow or to stream channelization. (U.S. EPA, Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act (July 29, 2005) (p.56).)</p> <p>Given that the identified waterbodies are currently identified as impaired by one or more pollutants on the 303(d) list, and the uncertainties associated with a lack of methodology to be used as a threshold for determining a hydrological impairment, placing segments in Category 4c of the Integrated Report is not appropriate or warranted. Neither is such a reporting format an appropriate use of its limited resources, particularly considering the State Water Board's broad authority to address flow issues through its other legal authorities, which unlike information provided in the Integrated Report, have the potential to result in flow improvements through voluntary or regulatory action.</p> <p>The delay in the submittal of the 2014 and 2016 Integrated Report has been unavoidable due to resource constraints across the Water Boards. In 2015 the Listing Policy was amended to include several methods for increasing the efficiency of the creation and submittal of the Integrated Report to U.S. EPA. Those methods will begin being utilized starting with the 2018 Integrated Report as directed by the State Water Board under Resolution 2015-0005.</p> <p>California complies with the federal requirements of the Clean Water Act for development and usage of the Integrated Report.</p>	

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			Work planning and programs supported by section 106 and 205(j) funds take into account the information provided within the Integrated Report. Nonpoint sources of pollution and recommendations for control of those sources are encompassed within the California Nonpoint Source Program Implementation Plan which is submitted to U.S. EPA on a six year basis. The Nonpoint source program is also considered during work plan development. See also response to comment 2.10.	
	2.04	By contrast with this direction, the draft Staff Report runs afoul of the CWA by ignoring Category 4C entirely for inclusion in either its 303(d) list or its 305(b) report, incredibly reporting that zero waterbodies amongst the 2014 and 2016 regions are impaired due to altered hydrology, with only three waterbodies listed under Category 4C at all. ¹⁰ The State Water Board appears to rely on the Listing Policy for this decision, which states that the 303(d) list only includes those water segments that require the development of a TMDL. Here, again, the draft Staff Report assumes an illegally narrow definition of its requirements under the CWA. The Integrated Report is supposed to include both a robust and legally adequate 303(d) list as well as a robust and legally adequate 305(b) report. These requirements are combined; they are not the same (see also sec. 8). If the State Water Board takes the position that pollution-impaired waterways (including flow-impaired waters) cannot be included in the Section 303(d) list, then the Listing Policy – which by definition applies only to the Section 303(d) list – is irrelevant. It cannot be used as an	<p>See responses to comments 2.02 and 2.03.</p> <p>U.S. EPA describes the section 305(b) reporting goals at: http://water.epa.gov/type/watersheds/monitoring/upload/2003_07_24_monitoring_305bguide_v1ch1.pdf, and provides Integrated Report Guidance here: https://www.epa.gov/tmdl/integrated-reporting-guidance.</p> <p>As provided in the above U.S. EPA reference material, the primary purpose of the 305(b) and 303(d) reporting requirements is to determine the extent waters are attaining standards, identify waters that are impaired and need to be added to the 303(d) list and placed in Category 5 for the development of a TMDL, and identify waters that can be removed from the list when standards are attained. The guidance U.S. EPA developed for states to implement the Integrated Report consistently provides that segments should be placed in Category 4c when “the [S]tates demonstrate that the failure to meet an applicable water quality standard is not caused by a pollutant, but instead is caused by other types of pollution” such as lack of adequate flow. (See Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Section 303(d), 305(b) and 314 of the Clean Water Act (July 29, 2005).</p> <p>In making decisions concerning standards assessment, it is imperative that the State Water Board undertakes a structured</p>	No

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		excuse to ignore flow impairments entirely. In that case, the State Water Board must then turn to its requirements under Section 305(b), which broadly require it to report on water quality, including as impacted by altered flow.	framework regarding its assessment and listing methodology and also provides information on the content of such methodologies.	
	2.05	Indeed, the draft Staff Report recognizes that it must consider flow-impaired waterways in its assessment, describing Category 4C as being applicable if “[t]he non-attainment of any applicable water quality standard for the waterbody segment is the result of pollution and is not caused by a pollutant.” No legitimate reason is given for entirely failing to comply with this requirement, however. A legally adequate Section 305(b) report must include waterways impaired by pollution, including hydrologically impaired waterways, whether or not the waterways are also impaired by a pollutant. This information is also critical for the state to set waterway protection priorities properly. Proper identification of hydrologically impaired waterways is also important if the state is to fully comply not only with Section 305(b), but with CWA Section 303(d) as well. This section not only calls for identification of impaired and threatened waterways, but also requires the state to prepare a “priority ranking” of such waters, “taking into account the severity of the pollution” and waterway uses. Flow and other hydrologic alteration data and information, which must be included in the 305(b) report and considered as part of the 303(d) list development, are critical to proper	See response to comment 2.02, 2.03, and 2.04.	No

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		prioritization of impaired waters for further staff and resource attention.		
	2.06	Finally, we reiterate that because Section 303(d)(1)(A) broadly requires identification of impairments regardless of whether TMDLs are needed, the state's Section 303(d) list should include a robust Category 4C set of listings. State law cannot weaken the requirements of the CWA by artificially limiting the scope of this list.	See response to comment 2.02, 2.03, and 2.04.	No
	2.07	2. U.S. EPA Guidance and Reports, and the State Water Board Itself, Have Called for Identification of Hydrologically Impaired Waterways in Category 4C of the Integrated Report. U.S. EPA issued formal Integrated Report Guidance (i.e., for the combined Sections 303(d) and 305(b) reports) to states and territories in August 2015; in it, EPA specifically addresses the topic of hydrological impairment. ¹⁴ The U.S. EPA Guidance clearly states that "If States have data and/or information that a water is impaired due to pollution not caused by a pollutant (e.g., aquatic life ¹⁵ use is not supported due to hydrologic alteration or habitat alteration), those causes should be identified and that water should be assigned to Category 4C. The Guidance specifically references hydrologic alteration as an example of a Category 4C listing. It further references EPA Guidance going back at least to 2006, which similarly said that flow-impaired waters should be identified in the Integrated Report under Category 4C (the 2010 CCKA et al. Letter references this 2006 Guidance	<p>See responses to comments 2.02, 2.03, and 2.04.</p> <p>The email communication between U.S. EPA and State Water Board staff fails to address the lack of a defined methodology to develop the strong lines of evidence that would be necessary for making an Integrated Report Category 4c determination. The communication between the State Water Board Executive Director to staff cited by the commenter was initial direction given by the Executive director. Pursuant to and subsequent to that direction, and upon further evaluation, staff concluded a defined methodology to assess for flow-related impairments was critical to support a consistent and transparent approach to analyzing the extent to which flow-related alterations cause or impact water quality standards. Without a defined methodology, an Integrated Report Category 4c determination would not appropriate for the waterbodies then being evaluated.</p> <p>U.S. EPA's 2015 guidance is not binding on the State Water Board and the assertion that guidance from EPA constitutes a "mandate" is inaccurate. U.S. EPA's guidance concerning appropriate placement in the Integrated Report categories are recommendations to the States and not requirements. U.S. EPA's 2015 guidance for the 2016 Integrated Reporting (Benita Best-Wong, Director, U.S. EPA, Office of</p>	No

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		<p>in support of flow listings; see attachment 4). U.S. EPA and USGS reinforced this mandate in a joint report in February 2016 on flow, stating in part that “EPA recommends reporting impairments due to hydrologic alteration in Category 4c, which are those impairments due to pollution not requiring a TMDL.”</p> <p>Even more specifically, U.S. EPA Region 9 has directly told the State Water Board that the Board is “well aware of [EPA’s] interest toward listing selected streams for ‘flow impairments’ (at least under 305(b)) where lines of evidence are strong.”</p> <p>Further, the State Water Board Executive Director himself decided that the state should identify flow-impaired waters in its Integrated Reports, stating that California “would now list for flow alterations” and that “[l]istings would be made under Category 4C for impaired [sic] by pollution not a pollutant, and be based on staff’s professional judgment as well as the evidence submitted by the data.”²⁰ Again, no reason is given in the Staff Report for ignoring the clear flow impairments throughout the region in light of the CWA, guidance, and state direction. Nor is the State Water Board’s conclusion that Category 4C and Category 5 listings are mutually exclusive legally justified. The Clean Water Act makes clear and the EPA Guidance accordingly instructs that these categories overlap.²² The State Water Board’s interpretation is overly narrow and is entirely</p>	<p>Wetlands, Oceans, and Watershed, to Water Division Directors, Regions 1-10 (August 13, 2015) cautions (p.1): This memorandum is not a regulation and does not impose legally binding requirements on EPA or the States. EPA recommends that the States prepare their 2016 IRs consistent with previous IR guidance including EPA’s 2006 IR Guidance, which is supplemented by EPA’s 2008, 2010, 2012 and 2014 memos.</p> <p>The 2006 U.S. EPA Integrated Report guidance states “A segment is considered impaired when WQS are not being supported and/or met, and is considered threatened when WQS are not expected to be fully supported and/or met in the next listing cycle. In classifying the status of water quality in 2006, states have the option to report each segment in one or more categories.” (U.S. EPA, Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act (July 29, 2005) (p.47, emphasis added.) The State Water Board looks to U.S. EPA’s guidance as the board evaluates its assessment decisions. In California, waterbody-pollutant combinations are assessed consistent with the Listing Policy to determine the overall beneficial use support rating. If a beneficial use is impaired by a pollutant, the waterbody/pollutant combination is placed on the 303(d) list. If data or information indicate that the waterbody may also be impaired due to pollution (hydrologic or habitat alteration), the waterbody would not be placed in Category 4c until after the pollutant impairment is addressed. That overall beneficial use support rating is used by the California Water Quality Assessment Database (CalWQA) to determine the overall Integrated Report Category for the waterbody as a whole. This methodology is described on page 22 and 23 of the Staff Report.</p> <p>It is not clear whether the waterbodies the Commenter identifies as hydrologically impaired are in fact impaired, because flow is variable</p>	

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		inconsistent with the EPA Guidance and the Clean Water Act.	in nature. Determining if a waterbody is impacted due to flow alterations would require a thorough analysis of historical flow and human related impacts to a defined and expected flow. If the flow is impacted is would then need to be determined at what level are the beneficial uses impaired beyond that naturally expected to occur in times of severe drought or storm events. This is a complex analysis and requires a consistent and transparent methodology.	
	2.08	3. The San Diego RWQCB Properly Adopted Numerous Listings for Hydrologic Impairment for Its Integrated Report, which the State Water Board Disregarded without Adequate Explanation The San Diego Regional Water Quality Control Board (SD RWQCB) adopted an Integrated Report and Staff Report that identified 30 waterway segments for listing in Category 4C, either with a Category 5 pollutant listing or alone. ²⁴ Consistent with U.S. EPA Guidance, the SD RWQCB recognized that identifying all pollutant and pollution impairments provides a far more accurate picture of the challenges before the state than ignoring key impairments. For example, the Staff Report found that “over 96 percent of streams that exhibited biological degradation had both an associated pollutant(s) and supporting information showing pollution from in-stream habitat/hydrologic alteration and/or watershed hydrologic alteration (hydromodification, Table 3).” If the Regional Water Board had ignored such pollution impairments, then virtually all of the impaired streams in the San Diego Region would have been under-assessed, likely resulting in	See responses to comments 2.01, 2.02, 2.03 and 2.04. The San Diego Regional Water Board’s recommendation to place 30 waterbodies in Category 4c is properly omitted from the State Water Board’s 305(b) Report portion of the 2014 and 2016 California Integrated Report because the 303(d) list and 305(b) report approved and submitted by the San Diego Regional Water Board to the State Water Board did not contain lines of evidence or decision fact sheets for waterway segments to be placed into Integrated Report Category 4c. The CalWQA is the database and system where water quality assessments, lines of evidence, and factsheets are developed by the Regional Water Boards and the State Water Board. The data and information in CalWQA is compared to applicable criteria, objectives or guidelines to support placement into the Integrated Report Categories consistent with the Listing Policy. There can be no placement in any Integrated Report Category for which there is no associated data and information in CalWQA, the database that provides the Integrated Report. Despite the San Diego Regional Water Board’s identification of 30 waterbodies in Integrated Report Category 4c in Table 3 of their regional Staff Report, CalWQA contains no analysis for such placement. As a result, the placement of those waterbodies in Category 4c never existed and the State Board did not remove the waterbodies from Category 4c. Without intending to create confusion, the State Water Board’s draft Staff	No

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		<p>misallocation of limited resources and attention. ELC commented to the San Diego Board in support of these listings; these comments are attached. Rather than integrating San Diego's approved list of impaired water segments into the statewide 2014 and 2016 Integrated Report, the State Water Board failed to list any of the 30 water segments that had been listed under Category 4C. Inexplicably and illegally, State Water Board staff failed to even offer a rationale for this omission.²⁶ While State Water Board staff may have relied upon its belief that water segments can be placed into only "one of five non-overlapping categories based on the overall beneficial use support of the water segment," this justification is misguided, as described above and further in Section 8. And at minimum, State Water Board staff could have noted the Category 4C listings within the list of Category 5 waterways. This is the very approach that was taken for the Ventura River Reach 4, for which the Category 5 list notes that "pumping" and "water diversion" are in fact Category 4C listings (impairment due to pollution that do not require a TMDL). However, as written, the public is left to guess whether those 30 waterways identified by the SD RWQCB are in fact impaired due to hydromodification according to the draft Staff Report – and if not, for what reason. The State Water Board's elimination of SD RQWCB's Category 4C listings is illegal, and cannot be justified even if the State Water Board offered</p>	<p>Report for the 2014-2016 Integrated Report does not explain the rationale for the omission because CalWQA was utilized to determine any changes the State Water Board would make to the reports submitted by the Regional Water Boards.</p> <p>Commenter correctly notes that the San Diego Regional Water Board's Staff Report (p.16) explains, "In the San Diego Water Board's evaluation of bioassessment data and stream segment information, over 96 percent of streams that exhibited biological degradation had both an associated pollutant(s) and supporting information showing pollution from in-stream habitat/hydrologic alteration and/or watershed hydrologic alteration (hydromodification, Table 3)." The Regional Water Board looked to U.S. EPA Guidance which provides that a waterbody could be placed in more than one Category. However, the State Water Board's approach is to place a waterbody in one Category only; see responses to comments 2.03 and 2.04. Additionally, the Regional Water Board Staff Report (p. 6) states, "Most fact sheets and overall beneficial use support determinations were developed in the California Water Quality Assessment (CalWQA) database" and (p. 5) "in the absence of quality assurance documentation, data is used only as supporting evidence and is not the basis of a listing decision." The Staff Report (p.14) also explains, "If a stream exhibited degradation at multiple sites or over multiple years but chemistry/toxicity data was not associated or was not collected, the stream was evaluated for inclusion under Category 4c."</p> <p>However, the Regional Water Board's Staff Report contains no documented fact sheet or line of evidence supporting the decision and CalWQA contains no analysis to support a decision that the waterbody's failure to meet an applicable water quality standard is not caused by a pollutant but instead caused by other types of pollution. In the absence of that information, placement in Category</p>	

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		an explanation—which it has not.	<p>4c is not warranted.</p> <p>Commenter’s assertion that the San Diego Regional Water Board determined the 30 waterbodies were impaired due to “hydrologic alteration” is not accurate. The regional Staff Report (p. 16) does not appear to render any specific determination on the possible type of pollution (i.e., flow impaired or habitat alteration) instead it generally concludes that in-stream habitat, hydrologic alteration, “and/or” watershed hydrologic alteration was associated with the waterbodies.</p> <p>Commenter cites to an inapplicable regulation (40 C.F.R. § 130.7(a)-(b)) to assert that the State Water Board removal of the San Diego Regional Water Board’s waterbody placements in Integrated Report Category 4c is “illegal.” (See Comment Letter, p.6, fn. 26 and accompanying text.) The assertion may be due to Commenter’s mistaken view that the Regional Water Board appropriately documented and justified placement in Category 4c or that identifying waterbodies in Table 3 as “4c placement” was sufficient even though no analysis for such a decision is contained in CalWQA. Additionally, the quoted regulation that requires each State to provide documentation and a description of the data and information to list or not to list waters pertains to the 303(d) list of waters impaired by pollutants and requiring a TMDL. (40 C.F.R. § 130.7(a)-(b).)</p> <p>With respect to the Category 4c placement of the Ventura River, the Los Angeles Regional Water Board evaluated several pollution related listings from the 1990’s when California lacked an official listing and delisting methodology. The decision fact sheets for this reporting cycle were revised in CalWQA to either delist or moved to Integrated Report Category 4c as appropriate.</p>	
	2.09	4. California Has Identified Hydrologically	The four listings on the 2012 303(d) List related to flow-related	Yes

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		<p>Impaired Waterways in the Past In California, “Pumping” and “Water Diversion” have been listed as the sole causes of impairment for Ventura River Reach 4, in the Los Angeles Region. Also in the Los Angeles Region, Ventura River Reach 3 has been listed for “Pumping” and “Water Diversion,” and Ballona Creek Wetlands has been listed as impaired by “Hydromodification,” among other impairments. All three waterbody segments have been listed for these specific flow-related impairments in Category 5. California’s history of identifying flow-related impairments under Section 303(d) is consistent with the Clean Water Act, and should be considered precedential.</p>	<p>alterations in the Ballona Creek and Ventura River watersheds were made in 2004 prior to the adoption of the Listing Policy. The Listing Policy provides listing factors based solely on pollutant impairments. As a result, any section 303(d) listings related to flow alterations are contrary to the Listing Policy and U.S. EPA guidance and would be appropriate for reconsideration. Because the four segments were included on the 303(d) list due to pollution-related impairments, and not a pollutant, the four listings are currently proposed for delisting.</p> <p>The Ventura River is one of five priority waterbodies in the State for which flow criteria is being developed per the California Water Action Plan. Once criteria are established, staff will likely be able to use the Listing Policy to determine if an impairment listing is appropriate.</p>	
	2.10	<p>5. Numerous Other States Have Identified Hydrologically Impaired Waterways in Categories 4C and 5 Many states around the country have followed U.S. EPA Guidance and the CWA by properly identifying flow-impaired waterways in their Integrated Reports. These include, but are not limited to, Western states such as Idaho, Montana, Wyoming, Washington and New Mexico. One listing methodology that may be of particular interest to the San Francisco Bay Region is that used by Ohio, which identifies waters impaired by flow alteration by linking biological community degradation with upstream dams. Notably, a number of these states regularly include flow-impaired waterways on their 303(d) list as well as their 305(b) Report. ELC has collected a significant</p>	<p>Comment noted. See responses to comments 2.01, 2.02, 2.03, and 2.04.</p> <p>While other states may rely on other strategies for placing waterbody-pollutant combinations into Category 4c, the State Water Board prefers utilizing an approach and methodology that is transparent and empirically justified such that it could be uniformly employed by all of the Regional Water Boards requires a more transparent and scientifically defensible process.</p> <p>Furthermore, state law recognizes the connection between flow and water quality. The Legislature specifically identified its intention to “combine the water rights and water pollution and water quality functions of state government to provide for consideration of water pollution and water quality, and availability of unappropriated water whenever applications for appropriation of water are granted or waste discharge requirements or water quality objectives are</p>	No

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		amount of information on other states' hydrologic impairment listings and processes (and provided this to the State Water Board); this can be made readily available to the San Francisco Bay RWQCB if desired.	<p>established" when it created the State Water Resources Control Board. (Wat. Code, § 174.) The State Water Board has broad authority to consider water quality and pollution when it makes water allocation determinations. (Wat. Code, §1258.) The State Water Board has significant experience both setting and implementing flow criteria through water right actions, including its Bay-Delta Program and its Policy for Maintaining Instream Flows in Northern California Coastal Streams. The State Water Board also has experience setting flow requirements as part of its responsibility to certify that the operation of hydropower facilities subject to Federal Power Act licensing meet water quality standards. Those actions are always controversial and frequently involve differences of opinion among scientists, who testify under oath, as to appropriate flow criteria in those proceedings.</p> <p>The State Water Board has previously recognized that its major rivers are over-allocated and adversely impacted by flow alterations (see for instance Strategic Plan Update 2008-2012, State Water Resources Control Board, September 2, 2008, p.10). However, the extent of the impact on instream beneficial uses of a stream depends on the unique circumstances of each situation and requires knowledge of other factors impacting the physical and biological integrity of the watercourse, including physical impediments to fish passage and sediment recruitment (dams and culverts, in addition to natural impediments such as waterfalls and landslides), the source of the water accreting to the stream (is it cool groundwater or is it warm runoff from open lands), the location and physical effect of diversions relative to habitat, and other factors that affect pollution. Pursuant to the above-cited state law, the State Water Board is expressly required to consider water quality and pollution when making water rights determinations. Unlike state law, federal law does not require the States to consider water flow requirements or impairments when developing the Integrated Report. The federal</p>	

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			statutory directives pursuant to CWA 303(d) and 305(b) require states to report on the water quality necessary to provide for fish, wildlife, and recreational opportunities and other beneficial uses. In fulfilling its reporting obligations pursuant to CWA 303(d) and 305(b), the federal statutes do not expressly require the states to consider flow, pollution, or allocation of water rights, when reporting on standards attainment.	
	2.11	6. Flow Standards Are Not Required to Identify Hydrologically Impaired Waterways in Category 4C Most, if not all, of the states that identify hydrologic (including flow) impairments make those listing decisions based on best professional judgment and the information before them. Flow standards are not required to be developed first. Even the State Water Board has stated that flow listings could be done “based on staff’s professional judgment as well as the evidence submitted by the data,” and that they “would likely be mostly narrative . . . unless there are specific numeric targets for flow in place.” ³¹ In other words, the state itself has recognized that flow criteria are not necessary for flow impairment listings. ELC has compiled significant information collected on various states’ hydrologic impairment listing strategies, which are attached hereto (see Attachment D).	See responses to comments 2.03, 2.07, and 2.10.	No
	2.12	U.S. EPA addresses the process of identifying hydrologically impaired waters in its 2015 EPA Listing Guidance, stating that: if States have data and/or information that a water is impaired due to pollution not caused by	Comment noted. See responses to comments 2.03, 2.04, and 2.07.	No

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		a pollutant (e.g., aquatic life use is not supported due to hydrologic alteration or habitat alteration), those causes should be identified and that water should be assigned to Category 4C. Examples of hydrologic alteration include: a perennial water is dry; no longer has flow; has low flow; has stand-alone pools; has extreme high flows; or has other significant alteration of the frequency, magnitude, duration or rate-of-change of natural flows in a water; or a water is characterized by entrenchment, bank destabilization, or channelization. Where circumstances such as unnatural low flow, no flow or stand-alone pools prevent sampling, it may be appropriate to place that water in Category 4C for impairment due to pollution not caused by a pollutant. In order to simplify and clarify the identification of waters impaired by pollution not caused by a pollutant, States may create further sub-categories to distinguish such waters. Note that this description of the process for identifying flow impairments does not require adoption of flow standards as a prerequisite for listing.		
	2.13	The SD RWQCB Staff Report also addressed this topic in their Staff Report and Integrated Report, similarly stating that: where a water segment exhibited significant degradation in biological populations and/or communities as compared to reference site(s) the San Diego Water Board assessed the segment for inclusion in Category 4c using data	See responses to comments 2.03 and 2.08.	No

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		<p>and information as prescribed in U.S. EPA's 2015 Guidance . . . Where in-stream data was lacking, stream segments were evaluated using desktop aerial reconnaissance for potential in-stream habitat and hydrologic alteration associated with channel modifications, stream diversion or augmentation, and to evaluate the level of associated development and use of best management practices to mitigate hydromodification.</p> <p>But, as detailed above, the State Water Board has impermissibly ignored this portion of the SD RWQCB Staff Report.</p>		
	2.14	7. Sound Public Policy Dictates that Flow-Impaired Waterways Must Be Identified States, including California, have identified and are identifying flow-impaired waterways in their Integrated Reports not only because the Clean Water Act calls for it and U.S. EPA Guidance reinforces it. They also do so because it makes smart policy sense. Why would a state limit the amount of information it releases, information that could help it make better decisions about how to prioritize its resources? If the main problem with a waterway is not temperature or dissolved oxygen but flow, for example, then that information should be available so the best permitting and resource allocation decisions can be made to protect affected waterways.	See responses to comments 2.02, 2.03, and 2.04.	No
	2.15	Identification of flow-impaired waterways is also important because those listings help the public exercise their own responsibility to help	The comment notes flow-impaired listings help the public exercise its responsibility to improve waterway health but does not elaborate. It also quotes from U.S. EPA guidance but provides no	No

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		improve waterway health. U.S. EPA agreed in its Guidance, stating that “a variety of watershed restoration tools and approaches to address the source(s) of the impairment” exist even in the absence of TMDLs, increasing the importance of full and complete identification for impaired waterways.	citation with which its context may be better understood, but insofar as 4c waterbody placement may prompt watershed restoration tools although a TMDL is not required, please see response to comment 2.01. Assuming the Integrated Report could be utilized by the public or the State in a manner broader than that envisioned by the Clean Water Act as commenter asserts, such goals are beyond the scope of the Integrated Reporting requirements and purpose of Clean Water Act sections 303(d) and 305(b) and the Listing Policy.	
	2.16	Hydrologic impairment listings also can and should be used in CEQA analyses of proposed projects that could further impact the flow of identified waterways, thus preventing additional damage to already-impacted waterways and fish. ELC has prepared and submitted extensive comments to the state on the numerous policy benefits of properly identifying flow-impaired waterways.	Comment noted. See responses to comments 2.03, 2.07, and 2.15.	No
	2.17	8. Waterbodies Can and Should Be Placed in All Relevant Categories of Identification The draft Staff Report states that “[t]o meet CWA section 305(b) requirements of reporting on water quality conditions, the Integrated Report places each assessed waterbody into one of five non-overlapping categories based on the overall beneficial use support of the waterbody.” This statement appears to limit the State Water Board to placing waterbodies in only one Category, an interpretation presumably reflected in the recommendation to include zero flow-impairment listings in Category 4C. This approach is simply illegal and incorrect. Consistent with the requirements of sections 303(d) and 305(b) of the Clean Water Act, the	See response to comment 2.07.	No

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		U.S. EPA has been quite clear that waterbodies can be placed into multiple categories, and in fact should be in order to provide the best available information to U.S. EPA and Congress. As explained by the SD RWQCB in its Staff Report: It is important to note that U.S. EPA recommended in its 2015 guidance that “States assign all of their surface water segments to one or more of five reporting categories” U.S. EPA reiterated this point in its joint report with USGS, stating that “EPA’s guidance has noted that assessment categories are not mutually exclusive, and waters may be placed in more than one Category (for example, categories 4C and 5).” ³⁹ Accordingly, flow impairments should be reflected in Category 4C whether or not there is a pollutant present, the approach taken recently by the SD RWQCB. Otherwise, the state is conflating the Section 303(d) and 305(b) reports rather than combining them, ignoring its Section 305(b) responsibilities in the process. ⁴⁰ Because the state must comply with both Sections 305(b) and 303(d), it must provide information relevant to all categories applicable to a single waterbody. ⁴¹ The Integrated Report does not meet these mandates.		
	2.18	Like the SD RWQCB, other states demonstrate the correct understanding in accordance with U.S. EPA Guidance by placing waterbodies (with U.S. EPA approval) in Category 4C for pollution, even when other impairing pollutants are identified for the same segment. For example, Tennessee lists Egypt Hollow Creek as impaired	See responses to comments 2.07, 2.08, and 2.10.	No

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		due to flow alterations under Category 4C and impaired due to low dissolved oxygen and manganese under Category 5. Further, Tennessee places both impairments on their 303(d) List. Idaho similarly lists waterway segments as impaired under both Category 4C and Category 5. Appendix I of the latest Idaho Integrated Report contains 36 pages (7,342 river/stream miles) of Category 4C impairments, including numerous waterways listed as impaired for “low flow alterations”; many of these are also dual-listed for pollutant impairments. In another example, Montana classifies waterways under Category 4C when there is only a pollution impairment. If there is a pollution and a pollutant impairment, then Montana lists the waterway under Category 5, and compiles all of the impairment causes in Appendix A (“Impaired Waters”) (see Figure 3). This is consistent with the “single-Category” approach described in the 2006 U.S. EPA Guidance. Montana develops TMDLs only for the pollutant impairments, but develops the full Impaired Waters list under Category 5 to provide the public and decision makers with a clear picture of the state of the health of its waterways – precisely what sections 303(d) and 305(b) require.		
	2.19	Even within California, as described above, there is precedent of dual listings under Category 4C and Category 5. First, the SD RWQCB listed waterways as impaired due to hydromodification and habitat alteration in	See response to comment 2.08.	No

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		Category 4C, whether with a Category 5 listing or alone. Explaining its decision, the SD RWQCB's Staff Report echoes the EPA's finding, stating that Category 4C listed waters "may be a priority for restoration by a Regional Water Board." Further, the 2014 and 2016 California Integrated Report itself notes the dual Category 5 and Category 4C listing for the Ventura River Reach 4. California's 303(d) list (or, alternatively, the 305(b) Report) in full similarly should accurately reflect all sources of impairment, regardless of dual pollutant/pollution listings.		
	2.20	9. Reasonably Available Data Exist and Have Been Provided in Support of the Listing of Waterways as Hydrologically Impaired As detailed in Attachment A, and as evident based on significant, readily available information, the lines of evidence for hydrologic impairment are strong for numerous California waterway segments, including but not limited to the Salinas River, Carmel River, San Clemente Creek, Big Sur River, and Santa Maria River (Region 3); the San Joaquin River, inflow to the Delta, and the San Francisco Bay-Delta, outflow to Suisun Bay and San Francisco Bay (Region 5); those 30 waterways already properly identified as Hydrologically-impaired in Region 9's approved Integrated Report (Region 9); the Napa River (non-tidal) (Region 2); the Ventura River (Reaches 3 and 4) and the Santa Clara River (Region 4); and the Santa Ana River (Reaches 3 and 4) (Region 4).	<p>See responses to comments 2.01, 2.02, 2.03, and 2.07.</p> <p>The information presented in Attachment A is a compilation of comments that were previously submitted to the Central Coast, Central Valley, San Francisco Bay, and Los Angeles Regional Water Boards. The comments were adequately addressed in the Regional Water Board responses to comments to which this response incorporates.</p>	No
	2.21	Federal regulations state that states must	See response to comment 2.03.	No

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		<p>evaluate “all existing and readily available information” in developing their 303(d) lists and prioritizations. Readily available data includes the 305(b) report. The SWRCB’s Executive Director reinforced the breadth of this requirement in a memorandum on the scope of listing regulations at 40 CFR § 130.7(b)(5).45 This information must include flow, a position recently reinforced by U.S. EPA, who stated that the integrated reporting format is key to “acknowledge the important role of flow in contributing to water-body impairments.” Attachment A provides summaries of such information, including in regards to the severe dewatering of waterways across California. The State Water Board has more than enough data needed to list waterways, at a minimum those listed above, which it may not ignore in its development of the Integrated Report.47 Proper, timely identification under the Clean Water Act of all hydrologically impaired waterways in California Integrated Report is required and critical to setting appropriate plans and priorities that will help reverse significant declines in aquatic species.</p>		
	2.22	<p>In sum, we once again urge the State Water Board to follow the lead of the SD RWQCB, as well as U.S. EPA and numerous other states, in identifying flow- and otherwise hydrologically-impaired waters in the region’s Integrated Report. Otherwise, California will not only fall behind as an environmental leader, but failing to comply with the Clean Water Act as detailed</p>	<p>See responses to comments 2.03, 2.07, 2.08, and 2.10.</p>	No

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		above will impede the state's ability to protect nature's right to thrive and adequately prepare for the next drought.		
Heal The Bay, Los Angeles WaterKeeper, and Ventura CoastKeeper Representative: Steven Johnson	3.01	We appreciate the opportunity to provide comments on the Integrated Report and reserve the right to submit additional comments both collectively and as individual entities. In addition, we reserve the right to seek judicial review regarding any and all of the issues raised. We are asking the State Water Resources Control Board ("State Water Board") and the Environmental Protection Agency ("EPA") not to delist any waterbodies on the Integrated Report and while we support the proposed listings we seek clarification on the process behind the listing decisions.	Comment noted. All delistings made consistently with the Listing Policy will be recommended for approval by U.S. EPA.	No
	3.02	The Clean Water Act Requires Completion of a Biennial Water Quality Report. Section 305(b) of the Clean Water Act ("CWA") requires that states submit a report every two years on the health of the waterbodies within the state. (See 33 U.S.C. § 313(d), 1315(b); 40 C.F.R. § 130.7(d)(1).) In addition to the text of the CWA, the 8th Circuit has held that since 1992 states have had a biennial requirement to submit the water quality report to the EPA. (Thomas v. Jackson 581 F.3d 658 (8th Cir. 2009.) The purpose of this requirement is to protect public health and welfare as well as "enhance the quality of water" to serve the goals of the CWA. (40 CFR § 130.3.) Since information from the Integrated Report is used to develop the "threatened and impaired waters" list it is vital	Comment noted.	No

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		that the report be accurate.		
	3.03	The Integrated Report contains the 303(d) list for both the 2014 and 2016 calendar years thus the requirements of the CWA, as well as public policy, have not been upheld. Water quality standards are weakened when required reports are not completed. In late 2014, Heal the Bay commented on the State Water Board's Proposed Amendment to the Water Quality Control Policy for Developing the Clean Water Act Section 303(d) List and inadequate responses were given to those comments. In those comments, the State Water Board deferred the remedy to a proposed Amendment of the Listing Policy, which has yet to provide a remedy. Since this timeliness issue is still occurring, we continue to have concerns regarding the new amendment and its effect on the Integrated Report.	<p>The delay in the submittal of the 2014 and 2016 Integrated Report has been unavoidable due to resource constraints across the Water Boards. In 2015 the Listing Policy was amended to include several methods for increasing the efficiency of the creation and submittal of the Integrated Report to U.S. EPA. Those methods will begin being utilized starting with the 2018 Integrated Report as directed by the State Water Board under Resolution 2015-0005. The combination of multiple Integrated Reports is not ideal but is a common practice across the nation when necessary to meet the biennial submittal requirement.</p> <p>The commenter has not indicated how the response to comments for the amendment to the Listing Policy were inadequate, but in any event, any comment to the amendment to the Listing Policy is beyond the scope of comments for the proposed 303(d) list portion of the 2014-2016 Integrated Report. Additionally, the amendment to the Listing Policy was approved by the Office of Administrative Law on May 15, 2015, and is effective law, see California Code of Regulation, title 23, section 2916. In approving the amendment to the Listing Policy, the Office of Administrative Law reviewed the State Water Board's completeness of responding to public comments. See Gov't Code, § 11353, subd. (b)(4).</p>	No
	3.04	First, Staff limitations do not justify the "Rotating Basin Approach" when coming into compliance with requests for biennial updates for the federal CWA's Section 303(d), which is a clear mandatory duty. This effectively reduces regional updates on impaired waters from every two to every six years, which is clearly contrary to the CWA's implementing regulations. The revised staff report, which seems to downplay the importance of the lists, does not include an	Any comment to the amendment to the Listing Policy is beyond the scope of comments for the proposed 303(d) list portion of the 2014-2016 Integrated Report. Additionally, the rotating basin approach to submitting the Integrated Report is a common practice used by many states. As detailed in a letter from the Deputy Director of the Division Water Quality to the Director of the Water Division at U.S. EPA Region 9, management from the State Water Board discussed the rotating basin approach" and other amendments to the Listing Policy with U.S. EPA representatives on June 14, 2013, and received verbal concurrence on the strategies including the rotating basin	No

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		appropriate justification for reducing the frequency of the updates by a factor of three.	approach. The justification for the rotating basin approach was discussed as part of the public process for the amendment to the Listing Policy in 2015 and is not part of the scope of the Staff Report for the 2014 and 2016 California Integrated Report.	
	3.05	Compounded upon this is the surprising discovery that the State Water Board is discussing either listing or delisting bodies of water in the San Francisco Bay, the Central Coast, the Central Valley, the Santa Ana, the San Diego, and the Los Angeles Regions with information and data collected prior to August 30, 2010 – almost seven years ago. It would have seemed more protective to have at least revised and appended further data and information and possibly re-solicited water quality data from regional stakeholders during the years-long interim with respect to whether waterbodies are placed on or removed from the Integrated Report.	<p>In 2015 the Listing Policy was amended to include several methods for increasing the efficiency of the creation and submittal of the Integrated Report to U.S. EPA. Those methods will have now started with the 2018 Integrated Report as directed by the State Water Board under Resolution 2015-0005. That includes soliciting for newer data. Data is now solicited for submittal to the California Environmental Data Exchange Network (CEDEN) on a consistent basis to allow for assessment of more current data and information for a given Integrated Report cycle.</p> <p>Due to the volume of data received during the 2010 data solicitation period, the Water Boards did not solicit for additional data until all of the data submitted in 2010 were assessed and considered for listing and delisting recommendations. The data received as part of the 2010 data solicitation resulted in over 50,000 new lines of evidence considered as part of the 2012, 2014, and 2016 Integrated Reports. The Water Boards have been transparent regarding the 2012, 2014, and 2016 Integrated Reports being developed based on data and information received as part of the 2010 data solicitation.</p> <p>EPA’s regulations require that “each State shall assemble and evaluate all existing and readily available water quality-related data and information to develop the [Section 303(d)] list.” 40 C.F.R. §130.7(b)(5). If a state decides not to rely on certain existing and readily available data or information, the state must provide EPA with documentation explaining the rationale for that decision. 40 C.F.R. §130.7(b)(6).</p> <p>To meet EPA’s requirement to provide EPA with documentation</p>	No

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			<p>explaining the rationale for the decision to not include all readily available data, State Water Board provided the following direction to Regional Water Boards for the data solicitation period: “Due to the volume of data received during the 2010 data solicitation period, the State Water Board will not solicit additional data until all of the current data is assessed and migrated to the California Water Quality Assessment Database (CalWQA) for Regional Water Board listing and delisting recommendations.” (Letter from Nick Martorano, Chief, Surface Water Quality Assessment Unit, Division of Water Quality, State Water Resources Control Board, to Interested Parties, California Integrated Report [Clean Water Act Sections 303(d) and 305(b)] Update (November 12, 2013)).</p> <p>On February 3, 2015, in its adoption of Resolution No. 2015-0005 to amend the Water Quality Control Policy for Developing California’s Clean Water Act Section 303(d) List (Listing Policy), the State Water Board reaffirmed that “[f]or the upcoming 2012, 2014 and 2016 Integrated Reports, the data and information submitted in response to the 2010 notice of solicitation shall be assessed and considered.” The data collected by the 27 monitoring stations as part of the Bay Delta Plan were not submitted as part of the 2010 solicitation period. The Central Valley Regional Water Board has committed to working with the U.S. EPA and sister agencies to ensure that past and future data not included in the 2014 and 2016 California Integrated Report will be assessed in a future cycle.</p>	
	3.06	Lastly, highly suspect, and unclear evidence is being used to reach seemingly arbitrary decisions. Please see the attached spreadsheet (derived from the Region 4 factsheets) with color-coding added. The spreadsheet includes delisting and listing information where we have highlighted potential reliance on highly suspect evidence that would seem to support an	The commenter does not provide specific information on what is suspect or lacking from the decisions highlighted in the attachment. The decisions were reviewed by the Regional and State Water Board staff, and they were made consistent with the requirements outlined in the Listing Policy.	No

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		opposite decision (coded in red); evidence that seems suspect and less than substantial; (coded in orange); or in some cases, evidence that is simply unclear and for which further explanation is warranted (coded in yellow).		
	3.07	Considering this discrepancy in timing from data submittal to listing and delisting proposals, waiting to delist until more current data is received will eliminate the possibility of delisting a waterbody that is currently impaired, as there is no way to know the condition of the waters in question using data solely from 2010 or before. To err on the side of caution when dealing with our state waters will be in the best interest of our water quality standards and beneficial uses. The severity of these delisting decisions are even further accentuated by the fact that these bodies of water will not be evaluated again until 2020 or 2022.	Recommended delistings were made using Section 4 of the Listing Policy. If data submitted as part of the 2018 solicitation indicates that waters should be re-listed, then the applicable Regional Water Board can make a priority listing or delisting off-cycle consistent with Section 6 of the Listing Policy.	No
	3.08	Why is more current data not required and obtained in order to make listing and delisting decisions?	See response to comment 3.05.	No
	3.09	Why is the proper amount of evidence not being provided? (See the copper and lead findings for Echo Park Lake that list the required amount of evidence as “two lines of evidence” but then a single line of evidence is provided)	The commenter is mistaking missing evidence with clerical and typographical errors. In the case of the two decisions identified by the commenter, the Los Angeles Water Board did not consider the original lines of evidence from pre-2006 and relied on current data to support the proposed delistings. Therefore only one line of evidence was relied upon for Decisions 33998 and 34700. The decision relationships have been updated accordingly.	No
	3.10	Why is “zero of zero samples” being listed as an outcome? If no evidence exists to support a decision, why is that decision being made?	Using “zero of zero of samples” provides transparency regarding the data being analyzed at a level that is inadequate to assess. For example, if a data collector is using a lab with equipment that cannot report on data at a fine enough level compared to an applicable	No

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			objective, criteria, or guideline, then the data collector, public, and regulator should be made aware of it. Furthermore, the assessment is used and identified under Integrated Report Category 2 as insufficient information to assess beneficial use support.	
	3.11	Why are conclusions being made without evidence being provided? (See the delisting of Los Angeles River Reach 1 for Diazinon and instead of listing lines of evidence so that the strength of the decision can be determined, a conclusion that the “weight of the evidence indicates attainment” is being offered as an explanation). We request more than the say-so of the Water Boards staff.	The commenter is referring to decision 32542. There are two lines of evidence listed in support of the recommended delisting. 2 of 58 samples exceeded the criteria for Diazinon and based on Section 4.1 of the Listing Policy, this evidence is sufficient to recommend delisting this waterbody-pollutant combination. The decision has been updated to reflect that the delisting recommendation was made based on Section 4.1 of the Listing Policy.	No
	3.12	Even though decisions made prior to 2006 were not recorded, why has new data not been obtained and assessed so that an accurate decision can be made?	See response to comment 3.05. Additional data has not been submitted as part of the solicitation process outlined in Section 6.1 of the Listing Policy. Once new data is made readily available the decisions will be updated consistent with the Listing Policy.	No
	3.13	What is the rationale behind citing to an Administrative Record for lines of evidence instead of providing the evidence on the fact sheet? This makes reviewing the documents and commenting that much more difficult.	The commenter has not provided enough information to investigate the comment and respond accordingly. Lines of evidence are included with the decisions, and in some cases, supporting documents have been uploaded as references which are linked within the Lines of Evidence. The fact sheets are developed so the decisions are as transparent as possible.	No
	3.14	How is it determined what evidence goes on the fact sheet and what evidence is only located in the administrative record? No standards are provided.	See response to comment 3.13.	No
	3.15	Why are waterbodies with as many fifty-eight exceedances being delisted? (See Promenade Park Beach in Ventura County which has as many as fifty-eight exceedances in a single line of evidence)	The original listing for Promenade Park Beach was made prior to the Listing Policy based on 58 exceedances of 395 samples. Application of Table 3.2 or 4.2 of the Listing Policy indicates this does not exceed the allowable frequency necessary to list. Therefore the original listing was flawed. Data collected from the more recent cycles supports this determination.	No

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	3.16	While we agree with the proposed retention of Compton Creek, why are waterbodies with only one exceedance remaining listed, while others with multiple exceedances are proposed for delisting? (See Compton Creek which is not being removed from the 303(d) list based on one sample that showed an exceedance according to one line of evidence regarding lead, compared to the previously highlighted Promenade Park Beach.)	A minimum of 28 samples is needed to support a delisting for lead in Compton Creek and determine if a beneficial use is fully supported using Table 4.1 of the Listing Policy. Only 18 samples are available to assess, and this sample size is insufficient to determine with the power of the confidence of the Listing Policy if a beneficial use is supported. See also response to comment 3.15.	No
	3.17	Is the decision to delist and list based on a written set of rules based on the specific pollutant at issue and a scientifically determined number of exceedances?	Decisions to list and delist are based on Sections 3 and 4 of the Listing Policy, respectively. The Listing Policy and the binomial tables are based on a statistical approach that is scientifically defensible.	No
	3.18	For listings or delistings involving pollutants for which WERs have been promulgated, has an accurate WER analysis based on the critical WER been used? Are listing based on the unadjusted (i.e., default WERs of 1.0) or the WER-adjusted standards?	If a waterbody specific Water Effects Ratio (WER) has been established in a regional basin plan, then it is used in the calculation of a site-specific objective for assessment purposes. If a WER has been applied within the context of a permit, the WER only applies to the specific discharger and cannot be used for determining an objective for the receiving water. In cases where a waterbody-specific WER has not been adopted into a basin plan, the default value from the California Toxics Rule is used.	No
	3.19	Does section 2.4 of the June 2017 revision to the Integrated Report attempt to defer the remedy of any issues in the current evaluation period by claiming that the 2022 list will be more accurate?	The commenter is referring to section 2.4 of the Los Angeles Regional Water Board's revised staff report. Section 2.4 recognizes that the 2016 regional 303(d) list is based on data from 2010 and that the next complete assessment of data and information in 2022 will be based on more recent data and could result in many changes to the currently proposed 303(d) list. As such the Los Angeles Regional Water Board will not rely solely on the 2016 303(d) list for TMDL development and prioritization. Section 2.4 does not assert that the Los Angeles Regional Water Board will defer action.	No
	3.20	What is the CEQA status of the approval of the Integrated Report?	The State Water Board's fulfillment of its reporting obligations under sections 303(d) and 305(b) of the Clean Water Act is not subject to	No

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			the California Environmental Quality Act (CEQA). Please see response to comment 3.27.	
	3.21	Based on continued concerns and numerous questions surrounding the evidence, not delisting bodies of water is a reasonable, precautionary request and is in fact supported by the State Water Board itself in policy language that has been adopted as well as in discussion during past State Water Board hearings concerning adoption of delisting policy. From a policy language perspective, this point is represented in the State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List itself. Adopted on Sept. 30, 2004 and Amended February 3, 2015, Section 4.11 states, "When making a delisting decision based on the situation-specific weight of evidence, the Regional Water Board must justify its recommendation by [Bullet 1] Providing any data or information including current conditions supporting the decision." We argue that there is no way to demonstrate current conditions with information and data that is aged seven years or more. Because of this it seems in-line with State Listing Policy that no waterbodies be delisted for the current 303(d) List. During the next listing/delisting cycle, which will be depending on region in either 2020 or 2022, staff will be able to make a more accurate judgment on impairment simply because their information will be more up to date.	<p>Simply not delisting any waterbody ignores those areas where water quality may have improved albeit only as demonstrated with pre-2010 data. The Los Angeles Water Board anticipates that there may be waterbodies that are listed one listing cycle and delisted the next, perhaps to be re-listed in a later cycle. The Integrated Report and the 303(d) list should remain the State's best assessment based on water quality data evaluated, even as we recognize the limitations to the 2014-2016 listing cycle.</p> <p>Delisting a waterbody/pollutant combination from the 303(d) list does not result in any change to existing TMDLs. Nor does a delisting negate requirements to implement TMDL wasteload allocations (WLAs) and load allocations in NPDES permits, Waste Discharge Requirements (WDRs), waivers of WDRs, or any other State or Regional Water Board orders (e.g., Time Schedule Orders, Clean-up and Abatement Orders). TMDLs developed to address the previously listed impairment remain as regulations in the Region's Basin Plan. NPDES permits must include effluent limitations to implement available WLAs from TMDLs, and NPDES permits, WDRs and waivers of WDRs must be consistent with applicable state and regional water quality control plans, including the Region's basin plan.</p> <p>Section 4.11 of the Listing Policy is utilized when all other Delisting Factors outlined in Section 4 do not result in the delisting of a water segment but information indicates attainment of standards. The current delistings being proposed are based on either Section 4.1 or 4.2 of the Listing Policy and do not require the use of Section 4.11.</p>	No
	3.22	The intent of the policy in regard to maintaining	The Regional and State Water Boards strive to make listing and	No

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		ecological standards of California's waterbodies is reiterated in language that is taken from a prior State Water Board Hearing Transcript from Sept. 30, 2004, in which former State Water Board Member Nancy H. Sutley states, "If it's on the list . . . then you have to have some information that says that they [fish] are not dying now and the waterbody is not currently impaired . . ." Though Board Member Sutley is referring to listings that were made by mistake, the principle behind her words should still hold true. The intent was to say that information and data on waters should currently show that water quality standards are met and that the body of water is not currently impaired before being removed from the list. Board Member Sutley goes further to suggest that boards should affirm a lack of current impairment before delisting bodies of water by stating she was "Okay with not adding [additional] language [to the Listing Policy] as long as we're all in agreement and that's the direction of the Regional Water Boards that you have to look at the current conditions as well [before de-listing]."	delisting decisions based on the data and information available from the applicable solicitation period which is consistent with Section 6.1 of the Listing Policy. Additionally, see the response to comment 3.05.	
	3.23	We know that this multi-year process has been demanding for all agencies involved from the regional to the state level. Still we implore the State Water Board to err on the side of caution in regards to California's water resources. This is especially true when confronted with the fact that the next listing/delisting for some regions will be, at its earliest, five years in the future.	The State Water Board recognizes the currently proposed delistings and listings are based on data and information received as part of the 2010 data solicitation, which is consistent with the Listing Policy. Any decision that may be later deemed appropriate for revision based on subsequent data shall be revised accordingly. Regional Water Boards are encouraged to make high priority listings and delistings while off-cycle consistent with Section 6.1.2 of the Listing Policy.	No

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	3.24	<p>It is Misleading to Entitle this Current Edition the “2014 and 2016 California Integrated Report.” It seems off-track and misleading to title this Integrated Report the 2014 and 2016 California Integrated Report Clean Water Act Section 303(d) List of Impaired Waters when it is based on information from 2010. Since the State Water Board’s original 2010 solicitation for data was intended for the 2012 list we think it would be much more constructive and accurate to have the current list in question labeled exactly as such and be a revised 2012 California Integrated Report. Considering compliance with state and federal law, we could find no mention within the Federal Clean Water Act or the State Listing Policy of how the Integrated Report should be named, only how often it should be submitted. Since the EPA is aware of the new “rotating basin approach” following California successfully amending its own State Listing Policy in February 3, 2015, we believe there to be no compliance issues for the more accurate renaming. This renaming is also consistent with the original notice and request for data, titled “Notice of Public Solicitation of Water Quality Data and Information for 2012 California Integrated Report—Surface Water Quality Assessment and List of Impaired Waters.” Further advantages of this approach to titling are that future inspection researchers who are unfamiliar with past reports would know that the listings would correspond much closer to the data from 2010. Looking towards the future,</p>	<p>The title of the 2014 and 2016 California Integrated Report is consistent with the memo circulated to interested parties on November 12, 2013. The State Water Board has been transparent and consistent in stating that data from the 2010 data solicitation would be used for the 2012, 2014 and 2016 California Integrated Reports. While this is not ideal, it allowed for staff and stakeholders to implement the new processes adopted as part of the 2015 amendments to the Listing Policy. In 2015 the Listing Policy was amended to include several methods for increasing the efficiency of the creation and submittal of the Integrated Report to U.S. EPA. Those methods will begin being utilized starting with the 2018 Integrated Report as directed by the State Water Board under Resolution 2015-0005. All updates and historical documents related to this process are posted on the program webpage located at: http://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/#impaired. Any researcher or stakeholder can contact State or Regional Water Board staff with any questions or clarifications.</p>	No

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		this more accurate labeling could also help in clarifying reporting methods. It signifies when regional agencies made a clean break from when small windows of data were analyzed in favor of the current California Environmental Data Exchange Network (CEDEN) system. While this system is still not perfect, the new system will use a constant, up-to-date stream of information and allows for a more thorough, accurate, and up to date 303(d) list for the state going forward. This would also make it crystal clear when the State of California “changed over” to the new “Rotating Basin Approach” in regards to fulfilling their obligations to Section 305(b) of the Clean Water Act.		
	3.25	CEDEN Provides Optimistic Possibilities that 303(d) Listings Decisions will be Improved Upon. As mentioned above, the State Water Board does have an opportunity going forward with CEDEN concerning waterbodies in California. We are heartened to see that despite the fact that Heal the Bay’s own Region 4’s 303(d) list will not be revised until 2022, that the list will be based on information up until 2021. This reduced lag time will only work to benefit the waters and beneficial uses of California’s bodies of water.	Comment noted.	No
	3.26	Further, as the State Water Board mentions in its Comment Summary and Responses for the Proposed Amendment to the Water Quality Control Policy for Developing California’s Clean Water Act Section 303(d) List from January 26, 2015, “Requiring the use of CEDEN will ensure the data used for the 303(d) listing process is of	Comment noted. Training on the use of CEDEN has occurred continuously since 2015 via the CEDEN user group managed by the Office of Information Management and Analysis. Stakeholders have been continuously encouraged to participate in the workgroup which meets on a monthly basis by submitting an email to ceden@waterboards.ca.gov .	No

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		a high quality and includes the necessary information for efficient assessments.” It is true that the use of this database is likely to streamline the process for the staff of the Regional Water Boards, the State Water Board, the EPA, and any agency that wants to submit pertinent data, assuming the database is properly created, revised, and managed. While the State Water Board has scheduled CEDEN workshops in 2015 to “facilitate greater understanding of the needs of CEDEN users, develop tools to enhance the utility of CEDEN, and provide training on using the CEDEN system,” we ask that the State Water Board provide more workshops now and in the coming years in anticipation of the current and future use of CEDEN by all regional stakeholders. The people and water environment of California only stand to gain from thorough instruction given to invested stakeholders and the data they will provide.		
	3.27	Approval of 303(d) Listings Might be a Project Based on the California Environmental Quality Act (CEQA). We are concerned that the State Water Board’s approval of the 303(d) List specific to the waters in the Los Angeles region and the consolidated 303(d) List portion of the Integrated Report is a “project” subject to CEQA because the approval of the 303(d) list is “an activity directly undertaken by any public agency.” And that activity may cause either a direct physical change in the environment, or a reasonably foreseeable indirect change in the	<p>See response to comment 3.20.</p> <p>CEQA generally applies to “discretionary projects” “approved” by a public agency. The State Water Board’s approval of the 303(d) List portion of the Integrated Report and submission of the Integrated Report (sections 303(d) and 305(b)) to U.S. EPA does not constitute an “approval” of a “project” subject to CEQA. The CEQA Guidelines define “approval” as:</p> <p>[T]he decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. The exact date of approval of</p>	No

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		<p>environment (Pub. Res. Code §21065, subd. (a).) The Supreme Court of California has held that approval of a plan is a project subject to review under CEQA. (Muzzy Ranch Co. v. Solano County Airport and Land Use Com’n 41 Cal.4th 372 (Cal. S.C. 2007.) In rejecting the argument that approval of a plan was not a project the Court held that approval “was an essential step leading to potential environmental impacts.” (Ibid. at 383.) The approval of the proposed 303(d) listings and delistings is undoubtedly an essential step in the protection of our waters that can lead to potential environmental impacts if the proper level of protection is not assured.</p>	<p>any project is a matter determined by each public agency according to its rules, regulations, and ordinances. Legislative action in regard to a project often constitutes approval. (Cal. Code Regs., tit. 14, § 15352, subd. (a).)</p> <p>The State Water Board’s approval of a resolution of the 303(d) listing recommendations to the U.S. EPA is not an “approval” because it does not commit the State Water Board to any “definite course of action” “regarding a project” within the meaning of the CEQA Guidelines. The Clean Water Act requires the states to prepare and submit a proposed list of impaired waters to the U.S. EPA every two years. The State Water Board’s proposed 303(d) list, while formally “approved” by resolution, constitutes a recommendation to U.S. EPA of the water quality limited segments within its boundaries, and a priority ranking of such waters, taking into account the severity of pollution and the beneficial uses to be made. (Clean Water Act, § 303(d)(1)(A).) U.S. EPA then conducts an independent review of the state’s recommendations and either approves, or disapproves, the state’s proposed listings. (Id., § 303(d)(2).) When a 303(d) list is approved, it becomes part of the state’s water quality management plan. When the EPA disapproves a state’s proposed 303(d) list, the EPA must promulgate its own list of impaired water segments, which must be incorporated into the state’s water quality management plan. (Id.) Upon the State Water Board’s approval of the 303(d) list, no rights vest and the State Water Board is not bound to any definite course of action.</p> <p>The State Water Board’s 303(d) listing recommendations to U.S. EPA also does not constitute a “project” under CEQA because such action has no potential to result in a “direct physical change in the environment, or a reasonably foreseeable indirect physical change on the environment.” (Pub. Res. Code § 21065). While upon final action by U.S. EPA, the state must establish a TMDL for pollutants</p>	

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			<p>identified by U.S. EPA's final 303(d) list for California, the proposed action considered by the State Water Board at this time does not make any commitment to any particular TMDL or implementation development, which will be determined at a later date, by the Regional Water Board having water quality control planning jurisdiction over the particular impaired waterbody. Upon the State Water Board's 303(d) listing approval, such action is an uncertain future project that may or may not be undertaken by a Regional Water Board.</p> <p>Commenter's citation to Muzzy Ranch Co. v. Solano County Airport and Land Use Com'n, 41 Cal.4th 372 (Cal. S.C. 2007) does not have any bearing on the State Water Board's consideration of the 303(d) listing recommendations. In that case, the supreme court held the county airport land use commission's adoption of land use compatibility plan for area surrounding Air Force base was a "project" under CEQA because it guided subsequent land use that have the potential for causing changes to the physical environment but the "common sense" exemption applied because it could be seen with certainty that there was no possibility that the action at issue would have a significant effect on the environment. Unlike the air force base's land use compatibility plan, the State Water Board's approval of the 303(d) list does not carry with it binding regulatory consequences for the Regional Water Boards or any other agency. (41 Cal.4th at 385-88.)</p>	
<p>Wishtoyo Federation and Ventura CoastKeeper</p> <p>Representative: Jason Weiner</p>	4.01	In reviewing the 303(d) List, it has come to our attention that almost all of the proposed 303(d) listings (See Attachment A) and accompanying supporting data timely submitted on August 30, 2010 by Wishtoyo Foundation's Ventura Coastkeeper Program ("VCK") were not assessed for inclusion in the 303(d) List.	The data submitted by the Wishtoyo Foundation's Ventura Coastkeeper was assessed for the 2014 and 2016 California Integrated Report.	No
	4.02	We thus respectfully request the Board assess	See response to comment 4.01.	No

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		all of VCK's proposed 303(d) Listings and accompanying data submitted in 2010, and ensure VCK's proposed listings are included in the 303(d) List.		
	4.03	Furthermore, we ask the Board to include on the list, the dissolved oxygen ("DO") data submitted by VCK that supports the Santa Clara River Estuary ("Estuary") being included on the 303(d) List for DO impairment.	The purpose for the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List, Adopted September 30, 2004, and Amended February 3, 2015 (Listing Policy) is to evaluate whether water quality standards are being achieved and beneficial uses are supported. Santa Clara River Estuary is designated with the estuarine beneficial use and not with the cold freshwater habitat or warm freshwater habitat beneficial use. The dissolved oxygen objectives in the Los Angeles Basin Plan only apply to waters designated with the warm or cold freshwater habitat beneficial uses. As a result, the dissolved oxygen data was not been assessed for the Santa Clara River Estuary.	No
	4.04	It is without second thought that the Los Angeles Regional Water Board assessing our proposed 303(d) Listings and accompanying data from August 30, 2010, and ensuring these proposed listings are included in the 2016 303(d) List, is critical to the protection of Ventura County's waters for all the people, wildlife, communities, and the Chumash Native American Peoples that depend upon clean and healthy waters to sustain their health, wellbeing, and life ways.	Comment noted. See response to comment 4.01.	No
	4.05	In addition, we note that based on VCK's submitted watershed monitoring program data indicates that on 5 out of 7 VCK monitoring events on Nicholas Canyon Creek (San Nicolas Canyon Creek) downstream of PCH, the presence of trash pollution exceeded the numeric target for trash as derived in the Los	From the Los Angeles Regional Water Board's Revised Response to Comments on the Draft 2016 303(d) List (response to comment 1.1): "For trash in Nicholas Canyon Creek, trash was assessed as 4 out of 6 exceedances and the recommended decision is "do not list" due to insufficient information per Table 3.2 of the Listing Policy. Data collected the same week from site NC-1 were averaged per the Listing Policy 6.1.5.6."	No

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		Angeles River Trash TMDL, that San Nicolas Canyon Creek should be included on the 303(d) List for trash. The Board Staff report is in error that there were only 4 out of 6 monitoring events where this trash exceedance was demonstrated. Of note, the Chumash People use this creek (and specifically the sampled segment) for cultural practices and ceremonial use. There is Chumash ceremonial REC-1 water contact uses and non water contact uses here. In addition, the QAQC and minimum number of exceedances was met, which further requires the 303(d) Listing for trash.	<p>This response adequately addresses determination of samples and exceedances because Section 6.1.5.6 of the Listing Policy provides, "If the averaging period is not stated for the standard, objective, criterion, or evaluation guideline, then samples collected less than 7 days apart shall be averaged."</p> <p>In addition, the State Water Board has adopted the Tribal Tradition and Culture beneficial use. This beneficial use may be used for water quality assessments after a Regional Water Board designates the use as applicable to a waterbody. At this time, the Tribal Tradition and Culture beneficial use has not been designated for Nicholas Canyon Creek.</p>	
	4.06	Nicholas Canyon Creek Trash: VCK's attached watershed monitoring program data indicates that on 5 out of 7 VCK monitoring events on Nicholas Canyon Creek downstream of PCH, the presence of trash pollution exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL.	See response to comment 4.05.	No
	4.07	San Jon Barranca / Creek Trash: VCK's attached watershed monitoring program data indicates that on 8 out of 8 VCK monitoring events on San Jon Barranca downstream of Harbor Boulevard , the presence of trash pollution in San Jon Barranca exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL	The trash data for San Jon Barranca Creek has been assessed and 6 of the 6 samples exceed the target derived for trash. Data at the same location collected less than seven days apart were averaged per the Listing Policy 6.1.5.6. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)". The trash related impairment is being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California."	No
	4.08	San Jon Barranca / Creek E. Coli: VCK's attached watershed monitoring program data indicates	The E. coli data for San Jon Barranca Creek has been assessed and 5 of the 8 samples exceed the objective for E. coli. Data at the same	No

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		that on 5 out of 8 VCK monitoring events on San Jon Barranca downstream of Harbor Boulevard, the presence of E. Coli exceeded the Water Quality Control Plan for the Los Angeles Region ("Basin Plan") single sample numeric water quality standard for E. Coli density of 235/100ml for Fresh Waters Designated for Water Contact Recreation (REC-1).	location collected less than seven days apart were averaged per the Listing Policy 6.1.5.6. The recommended decision is "List on 303(d) list (TMDL required list)."	
	4.09	Ormond Beach Lagoon. Trash: VCK's attached watershed monitoring program data indicates that on 9 out of 9 VCK monitoring events in the Ormond Beach Lagoon, the presence of trash pollution in the Ormond Beach Wetlands Lagoon exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL.	The trash data for Ormond Beach Lagoon (Ormond Beach Wetlands) has been assessed and 8 of the 8 samples exceed the target derived for trash. Data collected less than 7 days apart from site OB-1 were averaged per the Listing Policy 6.1.5.6. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)." The trash related impairment is being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California."	No
	4.10	Ormond Beach Lagoon b. E. Coli: VCK's attached watershed monitoring program data indicates that on 6 out of 32 VCK monitoring events on the Ormond Beach Lagoon, the presence of E. Coli exceeded the Basin Plan single sample numeric water quality standard for E. Coli density of 235/100ml for Fresh Waters Designated for Water Contact Recreation (REC-1).	The E. coli objective is applicable to freshwater. Ormond Beach Wetlands (Ormond Beach Lagoon in the comment letter) is designated as estuarine and thus the E. coli objective is not applicable. The total coliform objective is applicable and Ormond Beach Wetlands total coliform data has been assessed following the single sample total coliform objective of 10,000/100 ml. Eight of the 16 samples exceeded the objective. The recommended decision is "List on 303(d) list (TMDL required list)."	Yes
	4.11	Ormond Beach Lagoon c. pH: VCK's attached watershed monitoring program data indicates that on 6 out of 8 VCK monitoring events in the Ormond Beach Wetlands Lagoon, pH levels in the Ormond Beach Wetlands Lagoon water	The pH data for Ormond Beach Lagoon (Ormond Beach Wetlands) has been assessed and 6 of the 8 samples exceed the objective for pH. The recommended decision is "List on 303(d) list (TMDL required list)."	No

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		column exceeded the Basin Plan single sample numeric water quality standard of 8.5 for Fresh Waters Designated for Water Contact Recreation (REC-1).		
	4.12	<p>Ormond Beach Lagoon Nitrate: VCK's attached watershed monitoring program data indicates that on 11 out of 14 VCK monitoring events in the Ormond Beach Lagoon, the concentration of Nitrate in the Ormond Beach Wetland Lagoon water column exceeded the numeric targets for Nitrate at 1 mg/l as derived in the Los Angeles Regional Water Quality Control Board's Machado Lake TMDL and the Nutrient TMDL for Malibu Creek, adopted by U.S. EPA in 2003. In addition, it should be noted that the U.S. EPA guidance value for CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) is 0.38 mg/l total nitrogen and 0.022 mg/l total phosphorus for protection of aquatic life and recreation.</p> <p>The Regional Water Board Staff, in its 2008 update of the Los Angeles Regional Integrated Report for Clean Water Act Section 305(b) Report and Section 303(d) List of Impaired Waters, verified its determinations in their comment for the Machado Lake TMDL by stating: "The Basin Plan contains a specific nitrogen (nitrate nitrite) water quality objective, which is established at 10 mg/L nitrogen as nitrate-nitrogen plus nitrite-nitrogen. This objective is specifically set to protect drinking water beneficial uses and is consistent with the</p>	<p>The Los Angeles Water Board's Revised Response to Comments on the Draft 2016 303(d) List (response to comment 1.3): "Nitrate was not assessed because the Ormond Beach Wetlands do not have an MUN beneficial use and no evaluation guideline is available for nitrate for other beneficial uses."</p> <p>While nitrate correctly was not assessed for the MUN use, Ormond Beach Wetlands has been assessed for nitrate for the non-contact water recreation beneficial use. One of 13 samples exceeded the objective. The recommended decision is "Do Not List on 303(d) list (TMDL required list)." In addition, the numeric targets for nitrate derived in the Machado Lake TMDL and the Malibu Creek Nutrient TMDL are not applicable to Ormond Beach Lagoon (Ormond Beach Wetlands). It is stated in the Total Maximum Daily Loads for Nutrients for the Malibu Creek Watershed: "EPA stresses that these numeric target values are proposed only for waters in the Malibu Creek watershed. The inclusion of these numeric target values for Malibu watershed is not intended to reflect any judgements about the numeric targets needed for other nutrient TMDLs needed in California." It is noted that the U.S. EPA guidance value for CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) is 0.38 mg/l total nitrogen and 0.022 mg/l total phosphorus for protection of aquatic life and recreation. The Los Angeles Water Board is aware of the nutrient criteria, however this criteria is applicable to rivers and streams and not to estuarine waters such as Ormond Beach Wetlands.</p>	No

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		California Department Public Health nitrate drinking water standard. This nitrogen water quality objective does not protect waterbodies from impairments related to biostimulatory substances and eutrophication.”		
	4.13	While, the Basin Plan’s water quality objective for nitrogen is that: “Waters shall not exceed 10 mg/l nitrogen as nitrate-nitrogen plus nitrite-nitrogen, 45 mg/l as nitrate, 10 mg/l as nitrate-nitrogen, or 1 mg/l as nitrite-nitrogen or as otherwise designated in Table 3-8,” during the promulgation of the Machado Lake TMDL, the Regional Water Board determined that the Basin Plan’s water quality objective for nitrogen as applied to aquatic life: “is not supportive of the narrative biostimulatory substance water quality objective. The nitrogen objective (10 mg/L) in the Basin Plan is based on criteria acceptable for drinking water and not appropriate to address eutrophic conditions in the lake. A review of available data and scientific literature demonstrates that the numeric objective of 10 mg/L for nitrogen is not sufficiently protective for controlling excessive algal/macrophyte growth and the symptoms of eutrophication in the lake. Therefore, the numeric target for total nitrogen will be more stringent than the existing numeric nitrogen objective in the Basin Plan to ensure attainment of the narrative biostimulatory substances water quality objective. The TMDL and its numeric targets must be developed to ensure protection of all the beneficial uses and	Comment noted. See response to comment 4.12.	No

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		attainment of nutrient related water quality objectives specified in the Basin Plan.”		
	4.14	The Regional Water Board Staff, in its 2008 update of the Los Angeles Regional Integrated Report for Clean Water Act Section 305(b) Report and Section 303(d) List of Impaired Waters, verified its determinations in their comment for the Machado Lake TMDL by stating: “The Basin Plan contains a specific nitrogen (nitrate nitrite) water quality objective, which is established at 10 mg/L nitrogen as nitrate-nitrogen plus nitrite-nitrogen. This objective is specifically set to protect drinking water beneficial uses and is consistent with the California Department Public Health nitrate drinking water standard. This nitrogen water quality objective does not protect waterbodies from impairments related to biostimulatory substances and eutrophication.”	Comment noted. See response to comment 4.12.	No
	4.15	Bubbling Springs Trash: VCK’s attached watershed monitoring program data indicates that on 9 out of 9 VCK monitoring events at Bubbling Springs, the presence of trash pollution in Bubbling Springs exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL	The trash data for Hueneme Drain (Bubbling Springs in the comment letter) has been assessed and 9 of the 9 samples exceed the target derived for trash. The recommended decision for trash is “List on 303(d) list (being addressed by action other than TMDL).” The trash related impairment is being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 “Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California.”	No
	4.16	Bubbling Springs E. Coli: VCK’s attached watershed monitoring program data indicates that on 5 out of 11 VCK monitoring events at Bubbling Springs, the presence of E. Coli	The E. coli data for Hueneme Drain (Bubbling Springs in the comment letter) has been assessed and 5 of the 11 samples exceed the objective for E. coli. Data at the same location collected less than seven days apart were averaged per the Listing Policy 6.1.5.6.	No

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		exceeded the Basin Plan single sample numeric water quality standard for E. Coli density of 235/100ml for Fresh Waters Designated for Water Contact Recreation (REC-1).	The recommended decision is "List on 303(d) list (TMDL required list)."	
	4.17	J-Street Drain Trash: VCK's attached watershed monitoring program data indicates that on 9 out of 9 VCK monitoring events at J St. Drain, the presence of trash pollution in the J. Street Drain exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL.	The trash data for J Street Drain (Ventura County) has been assessed and 9 of the 9 samples exceed the target derived for trash. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)." The trash related impairment is being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California."	No
	4.18	Oxnard Industrial Drain (OID) a. Trash: VCK's attached watershed monitoring program data indicates that on 8 out of 8 VCK monitoring events at the OID, the presence of trash pollution in the OID exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL.	The trash data for Oxnard Drain (Oxnard Industrial Drain in the comment letter) has been assessed and 10 of the 10 samples exceed the target derived for trash. Data at the same location collected less than seven days apart were averaged per the Listing Policy 6.1.5.6. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)." The trash related impairment is being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California."	No
	4.19	Oxnard Industrial Drain (OID) b. E. Coli: VCK's attached watershed monitoring program data indicates that on 5 out of 11 VCK monitoring events at the OID, the presence of E. Coli exceeded the Basin Plan single sample numeric water quality standard for E. Coli density of 235/100ml for Fresh Waters Designated for	The E. coli data for Oxnard Drain (Oxnard Industrial Drain in the comment letter) has been assessed and 7 of the 12 samples exceed the objective for E. coli. Data at the same location collected less than seven days apart were averaged per the Listing Policy 6.1.5.6. The recommended decision is "List on 303(d) list (TMDL required list)."	No

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		Water Contact Recreation (REC-1).		
	4.20	Oxnard Industrial Drain (OID) c. pH: VCK's attached watershed monitoring program data indicates that on 6 out of 7 VCK monitoring events in the OID, pH levels in the OID water column exceeded the Basin Plan single sample numeric water quality standard of 8.5 for Fresh Waters Designated for Water Contact Recreation (REC-1).	The pH data for Oxnard Drain (Oxnard Industrial Drain in the comment letter) has been assessed and 5 of the 9 samples exceed the objective for E. coli. Data at the same location collected less than seven days apart were averaged per the Listing Policy 6.1.5.6. The recommended decision is "List on 303(d) list (TMDL required list)."	No
	4.21	Oxnard Industrial Drain (OID) Nitrate: VCK's attached watershed monitoring program data indicates that on 8 out of 8 VCK monitoring events at the OID, the concentration of Nitrate in the OID water column exceeded the numeric targets for Nitrate at 1 mg/l as derived in the Los Angeles Regional Water Quality Control Board's Machado Lake TMDL10 and the Nutrient TMDL for Malibu Creek, adopted by U.S. EPA in 2003. In addition, it should be noted that the U.S. EPA guidance value for CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) is 0.38 mg/l total nitrogen and 0.022 mg/l total phosphorus for protection of aquatic life and recreation.	<p>From the Los Angeles Water Board's Revised Response to Comments on the Draft 2016 303(d) List (response to comment 1.6): "Nitrate was not assessed because Oxnard Drain does not have an MUN beneficial use and no evaluation guideline is available for nitrate for other beneficial uses."</p> <p>While nitrate correctly was not assessed for the MUN use, Oxnard Drain has been assessed for nitrate for the non-contact water recreation beneficial use. Two of 10 samples exceeded the objective. The recommended decision is "List on 303(d) list (TMDL required list)." In addition, the numeric targets for nitrate derived in the Machado Lake TMDL and the Malibu Creek Nutrient TMDL are not applicable to Oxnard Drain. It is stated in the Total Maximum Daily Loads for Nutrients Malibu Creek Watershed: "EPA stresses that these numeric target values are proposed only for waters in the Malibu Creek watershed. The inclusion of these numeric target values for Malibu watershed is not intended to reflect any judgements about the numeric targets needed for other nutrient TMDLs needed in California". It is noted that the U.S. EPA guidance value for CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) is 0.38 mg/l total nitrogen and 0.022 mg/l total phosphorus for protection of aquatic life and recreation. The Los Angeles Water Board is aware of the nutrient criteria, however this criteria is applicable to rivers and streams and not to</p>	No

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			estuarine waters such as Oxnard Drain.	
	4.22	Santa Clara River Estuary a. Trash: VCK's attached watershed monitoring program data indicates that on 8 out of 8 VCK monitoring events at the Santa Clara River Estuary, the presence of trash pollution in the Santa Clara River Estuary exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL.	Based on the latitude and longitude information submitted with the data, the only site associated with the Santa Clara River Estuary is site SC-01 Vent WRF located at (34.23652778, -119.2595528). Data collected from that site resulted in 1 out of 5 exceedances of the trash guideline which is below the allowable exceedance frequency under Table 3.2 of the Listing Policy. The data collected at sites SC-01, SC-01b and SC-02 are all associated with Santa Clara River Reach 1 (Estuary to Hwy 101 Bridge) and decision 66631 which shows 13 out of 13 exceedances of the trash guideline which is above the allowable exceedance frequency of Table 3.2 of the Listing Policy and supports the recommendation to List on the 303(d) list.	No
	4.23	Santa Clara River Estuary b. Dissolved Oxygen: The City of Ventura's Dissolved Oxygen recordings recorded for 24 hour periods by the City's North Sonde (SCR Sonde #1) and South Sonde (SCR Sonde #2) stationed in the Santa Clara River Estuary, when converted to mg/l from % saturation based on additional water quality parameter recordings obtained by the City's sondes, violated the Basin Plan numeric water quality standard for Dissolved Oxygen of 5 mg/l for surface waters designated as WARM and 6mg/l for surface waters designated as COLD on over 40 days between 2009 and 2010.	See response to comment 4.03.	No
	4.24	Santa Clara River Estuary Nitrate: VCK's attached watershed monitoring program data indicates that on 8 out of 10 VCK monitoring events at the Santa Clara River Estuary, the concentration of Nitrate in the Santa Clara River Estuary water column exceeded the numeric targets for Nitrate at 1 mg/l as derived in the Los Angeles Regional Water Quality Control	Santa Clara River Estuary has been assessed for nitrate for the non-contact water recreation beneficial use. Zero of 5 samples exceeded the objective. The recommended decision is "Delist from 303(d) list (TMDL required list)." In addition, the numeric targets found in the Machado Lake and Malibu Creek Nutrient TMDLs only apply to the waters specifically identified within the TMDLs. Furthermore, the nutrient specific criteria recommended by EPA under CWA section 304(a) does not apply to estuarine waters.	No

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		Board's Machado Lake TMDL and the Nutrient TMDL for Malibu Creek, adopted by U.S. EPA in 2003. In addition, it should be noted that the U.S. EPA guidance value for CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) is 0.38 mg/l total nitrogen and 0.022 mg/l total phosphorus for protection of aquatic life and recreation.		
	4.25	Santa Clara River Estuary Phosphate: VCK's attached watershed monitoring program data indicates that on 10 out of 10 VCK monitoring events at the Santa Clara River Estuary, the concentration of Phosphate in the Santa Clara River Estuary water column exceeded the numeric targets for Phosphate at .1 mg/l as derived in the Los Angeles Regional Water Quality Control Board's Machado Lake TMDL and the Nutrient TMDL for Malibu Creek, adopted by U.S. EPA in 2003. In addition, it should be noted that the U.S. EPA guidance value for CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) is 0.38 mg/l total nitrogen and 0.022 mg/l total phosphorus for protection of aquatic life and recreation.	There is no criteria, objective, or evaluation guideline for phosphate at this time to assess for support of the estuarine habitat beneficial use. The numeric target for phosphate derived in the Machado Lake TMDL and the Malibu Creek Nutrient TMDL is not applicable to Santa Clara River Estuary. It is stated in the Total Maximum Daily Loads for Nutrients for the Malibu Creek Watershed: "EPA stresses that these numeric target values are proposed only for waters in the Malibu Creek watershed. The inclusion of these numeric target values for Malibu watershed is not intended to reflect any judgements about the numeric targets needed for other nutrient TMDLs needed in California." It is noted that the USEPA guidance value for CWA section 304(a) nutrient criteria specific to the Los Angeles Region (Ecoregion III) is 0.38 mg/l total nitrogen and 0.022 mg/l total phosphorus for protection of aquatic life and recreation.	No
	4.26	Santa Clara River Estuary. pH: VCK's attached watershed monitoring program data indicates that on 2 VCK monitoring events, and on greater than 60 City of Ventura pH recordings taken on separate days in the Santa Clara River Estuary via the City's North and South Sondes, pH levels in the Santa Clara River Estuary water column exceeded the Basin Plan single sample numeric	Santa Clara River estuary has been assessed for pH and 0 of 5 samples exceeded the basin plan objective. The listing recommendation is Do Not List. A QAPP was not submitted for the Sondes data and as a result the data was not included in the assessment.	Yes

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		water quality standard of 8.5 for Fresh Waters Designated for Water Contact Recreation (REC-1).		
	4.27	<p>Santa Clara River Estuary Low Flows: As discussed in the City of Ventura Estuary Special Studies One Year Assessment (attached) and the July 23, 2008, National Marine Fisheries Service, Southwest Region Final Biological Opinion (BIOP) concerning the operation of the Vern Freeman Diversion and Fish-Passage Facility (attached), due to diversions at the Vern Freeman Diversion Dam by United Water Conservation District, the Santa Clara River Estuary, Santa Clara River Reach 1, and Santa Clara River Reach 2 are deprived of sufficient flows during the wet season for Southern California Steelhead smolt and migrating adults to migrate up and down the Santa Clara River, and the Estuary does not receive sufficient flows during the dry season when the Estuary is closed as a lagoon to sustain aquatic life. Additionally, flow data indicates that reduced flows below the Vern Freeman Diversion Dam alters the natural flow regime needed to sustain aquatic life and vegetation that evolved with the River's natural flows. Attached daily flow data obtained from United Water Conservation District from 1993-2010, and monthly flow dating back to the 1956, above and below the Vern Freeman Diversion Dam, with the quantity of flows diverted by United included, demonstrates the flow impairments in the Santa Clara River Estuary, Santa Clara River Reach 1,</p>	<p>See responses to comments 2.02 through 2.04, and 2.07.</p> <p>In making decisions concerning standards assessment, it is imperative that the State Water Board undertakes a structured framework regarding its assessment and listing methodology and also provides information on the content of such methodologies. It may be appropriate to assess flow alteration pursuant to section 305(b) to the extent it could be used to support water quality decision-making. However, without a defined methodology for assessing non-pollutant related pollution, Water Board staff does not have a consistent and transparent approach to analyzing the extent to which flow-related alterations cause or impact water quality standards. The decisions made by the State and Regional Water Boards must be based on a methodology that provides all stakeholders with the opportunity to understand exactly how assessment decisions are made. The State Water Board's listing determinations must be supported by documentation that explains the analytical approaches used to infer true segment conditions. (See U.S. EPA's 2006 Guidance for Assessment and Listing, p. 29 - explaining what constitutes an assessment methodology and U.S. EPA's review of a state's methodology for consistency with the CWA and a state's water quality standards.) In addition to recognizing U.S. EPA's recommendation that segments be placed in Category 4c when the cause is solely due to pollution, and given the uncertainties associated with determining appropriate flow criteria to be used as a threshold for determining impairment, placing segments in Category 4c of the Integrated Report is not warranted. Neither is such a reporting format an appropriate use of its limited resources, particularly considering the State Water Board's broad authority to address flow issues through its other legal authorities, which unlike information provided in the Integrated Report, have</p>	No

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		and Santa Clara River Reach 2.	the potential to result in flow improvements through voluntary or regulatory action. There are efforts underway to develop flow objectives for several waterbodies and once established staff will be able to use the existing Listing Policy methodology to support applicable Category 4c recommendations.	
	4.28	Santa Clara River Reach 1 Low Flows: As discussed in the City of Ventura Estuary Special Studies One Year Assessment (attached) and the July 23, 2008, National Marine Fisheries Service, Southwest Region Final Biological Opinion (BIOP) concerning the operation of the Vern Freeman Diversion and Fish-Passage Facility (attached), due to diversions at the Vern Freeman Diversion Dam by United Water Conservation District, the Santa Clara River Estuary, Santa Clara River Reach 1, and Santa Clara River Reach 2 are deprived of sufficient flows during the wet season for Southern California Steelhead smolt and migrating adults to migrate up and down the Santa Clara River, and the Estuary does not receive sufficient flows during the dry season when the Estuary is closed as a lagoon to sustain aquatic life. Additionally, flow data indicates that reduced flows below the Vern Freeman Diversion Dam alters the natural flow regime needed to sustain aquatic life and vegetation that evolved with the River's natural flows. Attached daily flow data obtained from United Water Conservation District from 1993-2010, and monthly flow dating back to the 1956, above and below the Vern Freeman Diversion Dam, with the quantity	See responses to comments 2.01 through 2.04, 2.07, and 4.27.	No

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		of flows diverted by United included, demonstrates the flow impairments in the Santa Clara River Estuary, Santa Clara River Reach 1, and Santa Clara River Reach 2. Additionally, VCK attached watershed monitoring program data indicates no flow or trickle flow in the Santa Clara River at SC-02 below Highway 101, which would otherwise be of greater magnitude or sufficient magnitude to support aquatic life absent a diversion at the Vern Freeman Diversion Dam.		
	4.29	Santa Clara River Reach 1 Trash: VCK's attached watershed monitoring program data indicates that on 9 out of 9 VCK monitoring events at Santa Clara Reach 1, the presence of trash pollution in the Santa Clara River Reach 1 exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL.	The trash data for Santa Clara River Reach 1 has been assessed and 13 of the 13 samples exceed the guideline for trash. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)." The trash related impairment is being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California."	No
	4.30	Santa Clara River Reach 2 Low Flows: As discussed in the City of Ventura Estuary Special Studies One Year Assessment (attached) and the July 23, 2008, National Marine Fisheries Service, Southwest Region Final Biological Opinion (BIOP) concerning the operation of the Vern Freeman Diversion and Fish-Passage Facility (attached), due to diversions at the Vern Freeman Diversion Dam by United Water Conservation District, the Santa Clara River Estuary, Santa Clara River Reach 1, and Santa Clara River Reach 2 are deprived of sufficient	See responses to comments 2.01 through 2.04, 2.07, and 4.27.	No

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		flows during the wet season for Southern California Steelhead smolt and migrating adults to migrate up and down the Santa Clara River, and the Estuary does not receive sufficient flows during the dry season when the Estuary is closed as a lagoon to sustain aquatic life. Additionally, flow data indicates that reduced flows below the Vern Freeman Diversion Dam alters the natural flow regime needed to sustain aquatic life and vegetation that evolved with the River's natural flows. Attached daily flow data obtained from United Water Conservation District from 1993-2010, and monthly flow dating back to the 1956, above and below the Vern Freeman Diversion Dam, with the quantity of flows diverted by United included, demonstrates the flow impairments in the Santa Clara River Estuary, Santa Clara River Reach 1, and Santa Clara River Reach 2.		
	4.31	Santa Clara River Reach 2 Fish Passage: As discussed in the July 23, 2008, National Marine Fisheries Service, Southwest Region Final Biological Opinion (BIOP) concerning the operation of the Vern Freeman Diversion and Fish-Passage Facility (attached), the Vern Freeman Diversion Dam with its current fish ladder are a fish barrier to migrating Southern California Steelhead in Santa Clara River Reach 2 and 3.	Dam and fish passage facilities are pollution impairments and not pollutant impairments and therefore may not be placed on the 303(d) list. Impairments not caused by a pollutant and rather solely by pollution do not require a TMDL as described in U.S. EPA Guidance. California considers the 303(d) List to include waters in Integrated Report categories 4a, 4b, and 5. U.S. EPA only considers those waters in Integrated Report Category 5 as part of the federal 303(d) List. California does not and should not include waters impaired solely by pollution on the 303(d) List consistent with the Listing Policy and U.S. EPA guidance. Waterbodies impaired for pollution may be placed in Category 4c. U.S. EPA's Integrated Reporting Guidance recommends that segments be placed in Category 4c only when the cause is solely due to pollution and not a pollutant: Segments should be placed in Category 4c when the states	No

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			<p>demonstrates that the failure to meet an applicable water quality standard is not caused by a pollutant, but instead is caused by other types of pollution. Segments placed in Category 4c do not require the development of a TMDL. [...] States should schedule these segments for monitoring to confirm that there continues to be no pollutant associated with the failure to meet the water quality standard and to support water quality management actions necessary to address the cause(s) of the impairment. Examples of circumstances where an impaired segment may be placed in Category 4c include segments impaired solely due to lack of adequate flow or to stream channelization. (U.S. EPA, Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act (July 29, 2005) (p.56).)</p> <p>Similar to the requirements applicable to a state developing its 303(d) list of impaired waters, waters placed in Category 4c should be done in accordance with a description of the method use for Category 4c placements, the data and information used and the rationale to support the decision. The State Water Board has not established such a methodology. Without a defined methodology for assessing non-pollutant related pollution, Regional Water Board and State Water Board staff does not have a consistent and transparent approach to analyzing the extent to which alterations cause or impact water quality standards. The decisions made by the State and Regional Water Boards must be based on a methodology that provides all stakeholders with the opportunity to understand exactly how assessment decisions are made. The State Water Board's listing determinations must be supported by documentation that explains the analytical approaches used to infer true segment conditions. (See U.S. EPA's 2006 Guidance for Assessment and Listing, p. 29 -explaining what constitutes an assessment methodology and U.S. EPA's review of a state's methodology for</p>	

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			consistency with the CWA and a state's water quality standards.)	
	4.32	Santa Clara River Reach 3 a. E. Coli: VCK's attached watershed monitoring program data indicates that on 5 out of 27 VCK monitoring events at Santa Clara River Reach 3 on the Santa Clara River below the Santa Paula Creek confluence, on the Santa Clara River below the Sespe Creek Confluence, and on the lower segments of Sespe Creek and Santa Paula Creek, the presence of E. Coli in the water column of these waterbodies exceeded the Basin Plan single sample numeric water quality standard for E. Coli density of 235/100ml for Fresh Waters Designated for Water Contact Recreation (REC-1). Additionally, water monitoring on 11/26/08, 12/15/08, 2/6/2009, and 3/5/2009 at ME-SCR (attached), the mass emissions station sampling station operated by the Ventura County Watershed Protection District just above the Vern Freeman Diversion Dam, indicated E.Coli concentrations of 820/100ml, 4884/100ml, 12033/100ml, and 3873/100ml respectively (attached). All of these samples exceeding Basin Plan numeric water quality standards were taken by the county during wet weather events (see Ventura Annual Stormwater Report Appendix F starting at PDF pg 108).	<p>This comment applies to three separate waterbodies. The assessment of information and the decision for the individual waterbodies are as follows:</p> <p>Santa Clara River Reach 3 (Freeman Diversion to A Street): The E. coli data has been assessed and 1 of the 12 samples exceed the E. coli objective. The E. coli exceedances that occurred at the mass emissions station sampling station operated by the Ventura County Watershed Protection District just above the Vern Freeman Diversion Dam (ME-SCR) are captured within LOE 88671. The combination of the samples and exceedances results in the recommended decision to "List on 303(d) list (TMDL required list)".</p> <p>Santa Clara River Reach 10 (Sespe Creek, from confl with Santa Clara River Reach 3 to above gaging station - 500 ft downstream from Little Sespe Cr): The E. coli data has been assessed and 1 of the 7 samples exceed the E. coli objective. The recommended decision is "Do Not List on 303(d) list (TMDL required list).</p> <p>Santa Paula Creek Reach 1 (confluence w Santa Clara River to Diversion Dam): The E. coli data has been assessed and 1 of the 5 samples exceed the E. coli objective. Data on collected on 8/19/2010, 8/20/2010 and 8/25/2010 from the same site were averaged per the Listing Policy 6.1.5.6.</p>	No
	4.33	Santa Clara River Reach 3b. Trash: VCK's attached watershed monitoring program data indicates that on 26 out of 31 VCK monitoring events at the Santa Clara River Reach 3 on the Santa Clara River below the Santa Paula Creek	<p>This comment applies to three separate waterbodies. The assessment of information and the decision for the individual waterbodies are as follows:</p> <p>Santa Clara River Reach 3 (Freeman Diversion to A Street): The trash</p>	No

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		confluence, on the Santa Clara River below the Sespe Creek confluence, and on the lower segments of Sespe Creek and Santa Paula Creek, the presence of trash pollution in these waterbodies exceeded the numeric target for trash as derived in the Los Angeles River Trash TMDL.	<p>data has been assessed and 10 of the 14 samples exceed the target derived for trash. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)".</p> <p>Santa Clara River Reach 10 (Sespe Creek, from confl with Santa Clara River Reach 3 to above gaging station - 500 ft downstream from Little Sespe Cr): The trash data has been assessed and 7 of the 8 samples exceed the target derived for trash. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)".</p> <p>Santa Paula Creek Reach 1 (confluence w Santa Clara River to Diversion Dam): The trash data has been assessed and 5 of the 5 samples exceed the target derived for trash. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)." The trash related impairments are being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California."</p>	
	4.34	Santa Clara River Reach 3 Fish Passage: As discussed in the July 23, 2008, National Marine Fisheries Service, Southwest Region Final Biological Opinion (BIOP) concerning the operation of the Vern Freeman Diversion and Fish-Passage Facility (attached), the Vern Freeman Diversion Dam with its current fish ladder are a fish barrier to migrating Southern California Steelhead in Santa Clara River Reach 2 and 3.	See response to comment 4.31.	No
	4.35	Santa Clara River Reach 4a Trash: VCK's	The trash data for Santa Clara River Reach 4a (A Street, Fillmore to	No

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		attached watershed monitoring program data indicates that on 7 out of 8 VCK monitoring events in the Santa Clara River Reach 4 below the Santa Clara River's confluence with Piru Creek, the presence of trash pollution exceeded the numeric target for trash in Santa Clara Reach 4 as derived in the Los Angeles River Trash TMDL.	Piru Creek) has been assessed and 8 of the 9 samples exceed the target derived for trash. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)." The trash related impairment is being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California."	
	4.36	Santa Clara River Reach 5 or 6 Trash: VCK's attached watershed monitoring program data indicates that on 5 out of 7 VCK monitoring events at the Santa Clara River Reach 5 or 6 in Santa Clarita (see attached long lat coordinates), the presence of trash pollution exceeded the numeric target for trash in Santa Clara River Reach 5 or 6 as derived in the Los Angeles River Trash TMDL.	The trash data for Santa Clara River Reach 5 has been assessed and 5 of the 6 samples exceed the target derived for trash. The recommended decision for trash is "List on 303(d) list (being addressed by action other than TMDL)." The trash related impairment is being addressed by implementation actions required under State Water Resources Control Board Resolution 2015-0019 "Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California."	No
City of Escondido Representative: Helen Davies	5.01	The Category assignment process should be transparent and revised with each new Integrated Report, and reflect the RWQCB's regulatory approach to restoring beneficial uses. The RWQCB should establish a defined procedure for assigning and/or reassigning 303(d) listings of Category 4b or 4c (where no TMDL is required), instead of defaulting to Category 5 (TMDL required). Specifically, when pollutants are being addressed through regulatory measures aside from TMDLs, including Water Quality Improvement Plans (WQIPs) as appropriate, the Regional Water Board should ensure this is reflected in the	Clear descriptions of the Integrated Reporting categories can be found in Table 2 (page V) of the Draft Staff Report released on June 9, 2017. The Listing Policy's express objective "is to establish a standardized approach for developing California's section 303(d) list in order to achieve the overall goal of achieving water quality standards and maintaining beneficial uses in all of California's surface waters." However, the reporting obligations under 305(b) are also satisfied through reporting on data and information that is collected and evaluated during the listing process. For example, if data concerning a pollutant is insufficient to evaluate beneficial use support under the Listing Policy, a waterbody can be placed in Category 2 or 3 of the Integrated Report. Pages 18 – 23 of the revised Draft Staff Report details how beneficial use support and Integrated Report Categories are determined. The Los Angeles	No

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		assigned Category, and the categories should be assessed and revised with each new Integrated Report. This will support the Water Quality Improvement Planning process.	Water Board evaluates the appropriateness of WQIPs as TMDL alternatives on a case by case basis, taking into consideration potential differences in pollutant sources and hydrologic conditions of different watersheds, as well as levels of success of historical management actions including restoration activities at each watershed. The decision to place a waterbody in Category 4b is reflected in the final listing recommendations, evaluated by the Regional Water Board, State Water Board, and submitted to U.S. EPA for final approval.	
	5.02	Total Maximum Daily Load (TMDL) scheduling should be transparent and revised with each new Integrated Report, and reflect the RWQCB's regulatory approach to restoring beneficial uses. The results of assessment of criteria for TMDL scheduling (Section 5 of the Listing Policy) should be transparent in the draft Integrated Report, and revised with each new Integrated Report to reflect the true realities of state resources and priorities, including the availability of data; this will reduce uncertainty for municipalities like the City of Escondido and support the Water Quality Improvement Planning process.	<p>The TMDL scheduling currently shown in the 2014 draft Integrated Report is based on an anticipated scheduling time of 11 to 13 years. The San Diego Water Board is working on an effort to identify key beneficial uses and areas/waterbodies in the San Diego Region. This strategy is part of their Practical Vision. The key use(s)/key area(s) project was adopted by the San Diego Board on March 15, 2017 (Resolution R9-2017-0030) and includes a staff report.</p> <p>Resolution: http://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2017/R9-2017-0030.pdf</p> <p>Staff Report: http://www.waterboards.ca.gov/sandiego/board_info/agendas/2017/Mar/item12/02_Item_12_SD2_Staff_Report.pdf</p> <p>The San Diego Water Board's adoption of that resolution and staff report provides a basis for transparency in the evaluation of TMDL scheduling based on the level of impact to multiple beneficial use categories. The San Diego Board endorsed using this approach moving forward as part of their evaluation of regulatory actions.</p>	No
	5.03	The City of Escondido supports the County of San Diego's efforts to delist Escondido Creek and San Marcos Creek for selenium, as data	See response to comment 3.05. Data submitted after the August 30, 2010, deadline is not evaluated for the 2014/2016 listing cycle. These data (if submitted in CEDEN) will be included as high	No

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		collected in each creek support de-listing based on the Listing Policy. In May 2014, the County of San Diego submitted five comment letters to the RWQCB related to the 2010 §303d listings for selenium in five creeks; the letters and data are referenced and included in the County of San Diego's comment letter for this decision. Additional data were collected by the County of San Diego for use in the de-listing evaluation and compared to the California Toxics Rule (CTR) Freshwater Criterion of 0.005 mg/L. In Escondido Creek, 0 of 32 samples exceeded the criterion; in San Marcos Creek, 0 of 31 samples exceeded the criterion. Based on the age of the exceedances (each major Line of Evidence was based on samples collected in 2002) and significantly decreasing trend results (step six of section 3.10 of the Listing Policy) this pollutant is not likely to exceed the criterion in the future.	priority data in the next cycle. If deemed appropriate by the San Diego Regional Water Board, these data can be evaluated for a potential delisting during the "off-cycle." From the Listing Policy, page 17, section 6.1.2.1: "If a Regional Water Board is "off cycle" pursuant to the State Water Board's notice of solicitation, that Regional Water Board or State Water Board may administer the process for one or more water segments that would result in a direct listing change from the previous listing cycle pursuant to section 6.2. In accordance with the listing cycle, the State Water Board and the Regional Water Boards shall seek all readily available data and information on the quality of surface waters of the State. Readily available data and information shall be solicited from any interested party, including but not limited to, private citizens, public agencies, state and federal governmental agencies, non-profit organizations, and businesses possessing data and information regarding the quality of the Region's waters."	
	5.04	Remove new §303(d) listings for Benthic Community Effects (Escondido Creek -Decision ID 46213, San Marcos Creek – Decision ID 43723) and clarify expectation for TMDLs for this "pollutant".	The listing recommendations captured under Decision 46213 and 43723 for benthic community effects are appropriate and made in accordance with Section 3.9 and 6.1.5.8 of the Listing Policy with biological data and impairment related to associated pollutants and/or pollution. If a waterbody has a designated aquatic life Beneficial Use (such as WARM), it is appropriate to evaluate whether or not that Beneficial Use is being supported as part of the Listing process. Pursuant to the Listing Policy, the Benthic Community Effects listings are associated with other pollutant listings, so waterbodies with Benthic Community Effects listings are appropriately in Category 5 or 4a. Once any associated pollutants is moved to one of the "Being Addressed" categories (4a, 4b), the Benthic Community Effects listings will also move to the "Being Addressed" Category. A separate TMDL may not be developed for	No

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			Benthic Community Effects by themselves, but for the associated pollutants which are resulting in the beneficial use not being supported once a causal assessment analysis has been performed.	
	5.05	Although we appreciate the reasons for assessing biological criteria, listing waterbodies in the San Diego region for Benthic Community Effects before establishing Biological Objectives in the Basin Plan (a currently ongoing process) is premature. The Biological Objective would be the standard against which data would be assessed to establish whether there a listing required.	See responses to comments 5.04 and 12.02. Per Section 6.1.3 of the Listing Policy, in the absence of an approved numeric water quality objective, an acceptable Evaluation Guideline can be used to interpret narrative water quality objectives. The California Stream Condition Index (CSCI) and the Regional Indices of Biological Integrity (IBIs) meets the Listing Policy requirements for acceptable Evaluation Guidelines for interpreting a narrative objective for the protection of aquatic life. If a waterbody has a designated aquatic life Beneficial Use (such as WARM), it is appropriate to evaluate whether or not that Beneficial Use is being supported as part of the listing process.	No
	5.06	Furthermore, based on information communicated in the RWQCB workshop on July 19, 2016, Benthic Community Effects listings are "co-listed" as Category 4C and therefore TMDLs are not required, but all appendices and related information of the new Benthic Community Effects listings state a TMDL date of 2025. It is unclear how a TMDL could even be established for Benthic Community Effects.	See response to comment 2.08. It is up to the Regional Water Boards to determine which program of implementation will appropriately address water quality impairments. Also, when a waterbody is first listed, a default TMDL completion target date is selected for 13 years from the year listed. This date is per U.S. EPA's guidance which states: "The TMDL development schedule must identify high-priority waters that will be "targeted for TMDL development in the next two years" (40 CFR 130.7(b)(4)). While there is no time frame established by statute or the regulations for completion of TMDL development, EPA guidance recommends an 8-to-13 year time frame that runs from the water's initial listing as impaired or threatened. This target completion date can be adjusted accordingly if needed at the discretion of the Regional Water Board.	No
	5.07	These listings should be removed.	Listings for benthic community effects is appropriate in accordance with Section 3.9 and 6.1.5.8 of the Listing Policy with biological data and impairment related to associated pollutants and/or pollution. See the response to comment 21.02 for additional discussion of the	No

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			appropriateness of using CSCI and Southern California IBI as evaluation guidelines.	
	5.08	The State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy) that is used to evaluate waterbody/pollutant combinations needs to be revised. The Listing Policy was adopted in 2004, and since then there have been numerous changes to the way regulated parties address pollutants, as well as improved science and methods. It would be beneficial for the State and Regional Water Boards to collaborate and seek comments from interested parties to update the Listing Policy to reflect current science and methods, and provide up-to-date guidance. Recommended updates include re-assessed definitions for toxicants and conventional pollutants, changes to the criteria tables and policies for listing and delisting, more transparent decisions for categories and TMDL development dates, and updates to the types of pollutants and/or conditions that are addressed by the Listing Policy.	Comment noted. Additionally, the Listing Policy was amended as recently as 2015. The State Water Board updates the Listing Policy when necessary to comply with current regulatory practices when a conflict exists. The Regional Water Boards participate in the internal Integrated Roundtable during which potential updates to the Listing Policy are discussed.	No
Orange County CoastKeeper Representative: Sarah Spinuzzi	6.01	Orange County Coastkeeper ("Coastkeeper") appreciates the opportunity to comment on the proposed revisions to the Clean Water Act Section 303(d) List of Impaired Waterbodies in Region 8 and Region 9. Coastkeeper is a nonprofit clean water organization whose mission is to promote and restore water resources that are drinkable, fishable, swimmable, and sustainable. Overall,	Comment noted.	No

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		Coastkeeper is in support of the proposed revisions and newly listed waterbodies added to the 303(d) List of Impaired Waterbodies. We wish to begin this letter by taking this opportunity to voice our strong support for the efforts of the State Water Resources Control Board ("State Water Board") that have led to the inclusion of current and new listing decisions in Region 8 and Region 9.		
	6.02	Our comments below offer support for several components of the 2014 and 2016 California Integrated Report, and Clean Water Act Sections 303(d)/305(b) Draft Report ("Draft Report"). Specifically, Coastkeeper would like to voice its support for the State Water Board's Recommendation to keep the following waterbodies on the 303(d) list. Santa Ana Delhi Channel The Santa Ana Delhi Channel ("Channel") is located within the Newport Bay watershed and drains into the far northwestern portion of Upper Newport Bay. It is home to the Santa Ana Channel Diversion Project, which aims to construct a facility that will capture, treat, and divert urban runoff from the Channel by pumping the effluent into the Orange County Sanitary Sewer System. However, until that project is completed Coastkeeper suggests the Channel should continue to be on the 303(d) list. Coastkeeper disagrees with Santa Ana Regional Water Quality Control Board's ("Regional Water Board") recommendation to delist the Santa Ana Delhi Channel for Indicator Bacteria. The Santa Ana Delhi Channel requires	Comment noted. See responses to comments 12.02 and 12.03.	Yes

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		that the REC-2 beneficial use objective of 409 cfu/ml be maintained. This objective has not been met; therefore, the waterbody must remain on the 303(d) list. Coastkeeper aligns with the State Water Board recommendation not to delist the Santa Ana Delhi Channel, citing the outdated form of testing for Indicator Bacteria.		
	6.03	Cucamonga Creek Reach 1 (Valley Reach) Cucamonga Creek is located just upstream of Chino-Corona Road in the City of Corona. ⁵ Reach 1 extends from this confluence to the point where 23rd Street crosses the channel into the City of Upland. Baseflow in Cucamonga Creek consists primarily of effluent from IEUA RP-1, and nuisance runoff resulting in its original addition to the 303(d) list in 1998. This waterbody requires the REC-2 beneficial use objective of 409 cfu/100 mL be maintained. ⁶ From the research conducted by the Regional Water Board, this objective has not yet been met. For this reason, Coastkeeper disagrees with Regional Water Board's conclusion to delist Cucamonga Creek Reach 1, and supports the State Water Board Recommendation not to delist this waterbody.	Comment noted. See responses to comments 12.02 and 12.03.	No
	6.04	Chino Creek Reach 1B Chino Creek Reach 1B extends from the convergence of Mill Creek, to the beginning of the concrete-lined channel south of Los Serranos Road. Coastkeeper supports the State Water Board's determination that it is inappropriate to delist this waterbody for chemical oxygen demand without further	Comment noted.	No

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		analysis of more recent data. Specifically, evidence is needed supporting the Regional Water Board's assertion that closing a nearby sewage treatment plant changed the environment to such a degree that the beneficial uses are no longer impaired. At this time, the most current samples show that the applicable water quality standards for the pollutant are exceeded. Therefore, it is improper to delist Chino Creek Reach 1B, and Coastkeeper aligns with the State Water Board in its recommendation to not delist this waterbody.		
	6.05	Newport Bay (Lower)Lower Newport Bay ("Lower Bay") consists of the lower half of the Newport Bay watershed. The Newport Bay Watershed, in total, drains approximately 152.02 square miles into the Pacific Ocean within Southern Orange County. The Lower Bay includes all stormwater drains and natural creeks, therefore its protection is vital to many of Orange County's natural resources. For this reason, Coastkeeper disputes the Regional Water Board's recommendation to remove the Lower Bay from the 303(d) list. Although some areas of the Lower Bay were dredged in 2012, the Regional Water Board has not conducted the appropriate new tests to support its determination to delist this waterbody. This point is supported by the fact that there are four distinct lines of evidence available in the administrative record that show samples exceeding the CTR criteria set forth for the	Comment noted. See response to comment 24.10.	No

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		pollutant, copper. The Regional Water Board further concluded that there are a sufficient number of samples collected that exhibit sediment and water toxicity. Therefore, Coastkeeper aligns with the State Water Board Recommendation to keep the Lower Bay on the 303(d) list.		
	6.06	<p>Newport Bay (Upper) Upper Newport Bay ("Upper Bay") makes up the upper half of the Newport Bay watershed. Beginning at the PCH bridge and extending across the bay, it includes all drainage systems within Canyon Wash, the Costa Mesa Channel, and the Santa Isabella Channel.¹⁷ Similar to its counterpart, the Upper Bay also suffers from concerns over toxicity. According to the Regional Water Board, there are four clear lines of evidence available in the administrative record proving that an abundant amount of the sediment and water samples showed exceedances of toxicity.¹⁸ Coastkeeper cannot support this recommendation as it stands, and agrees with the State Water Boards conclusion that the Upper Bay should not be delisted for toxicity.</p> <p>It is also inappropriate for this waterbody to be delisted for the pollutant, copper, because there is no new data for the Regional Water Board to support this decision. From 2004 through 2011, there has been evidence that the water and sediment exceed the CTR criteria needed for a waterbody to be delisted.¹⁹ It would be unwise for this waterbody to be</p>	Comment noted. See responses to comments 24.08 through 24.10.	No

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		delisted without the proper testing needed to make this important decision. For these reasons, Coastkeeper sides with the State Water Board in its recommendation to keep Upper Newport Bay on the 303(d) list.		
	6.07	Santa Ana River, Reach 3 The Santa Ana River, Reach 3 ("Reach 3") is approximately 3.5 miles long, beginning at Prado Dam and continuing to the Mission Boulevard bridge in Riverside. This waterbody was 303(d) listed following monitoring results showing high bacteria levels throughout the waterbody. Baseflow in Reach 3 consists of nuisance runoff, rising groundwater, and discharges from several publicly owned treatment works. Coastkeeper disputes Regional Water Board's recommendation to delist Reach 3 for copper and lead. According to their own conclusion, new data was collected for both copper and lead and the findings for both pollutants were insufficient to support a delisting. Therefore we agree with the State Water Board Recommendation to not delist Reach 3 for copper and lead.	Comment noted.	No
	6.08	Prima Deshecha Creek Located in Region 9, Prima Deshecha Creek is made up of several small unnamed drainages, as well as larger tributaries that make their way through the San Clemente Coastal Streams Watershed. Originating near the Prima Deshecha landfill, the waterbody eventually drains into the Pacific Ocean at Poche Beach in San Clemente. The State Water Board found that the selenium and chlorpyrifos levels in the Prima Deshecha Creek	Comment noted. See response to comment 24.11.	No

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		exceeded the applicable water quality standards for the pollutants, and therefore recommended keeping the Prima Deshecha Creek on the 303(d) list. As this position is supported by the weight of evidence and the data quantity requirements of section 6.1.5 and 6.1.4, Coastkeeper is aligned with the State Water Board in support of keeping the Prima Deshecha Creek on the 303(d) list.		
City of San Buenaventura Representative: Joe McDermott	7.01	The City previously submitted comment letters to the Los Angeles Regional Water Quality Control Board ("Regional Water Board") in March of this year, and the points raised in those letters are not repeated herein. Because of the importance of the Ventura River to the City's water supply needs, the City's comments focus on the "pumping" and "water diversions" components of the proposed 303(d) list for Reaches 3 and 4 of the Ventura River.	Comment noted.	No
	7.02	The City supports the proposal to delist Reach 3 of the Ventura River from the 303(d) list for "pumping" due to flaws in the original listing. As the Regional Water Board staff has properly concluded, the purported impairment listing for "pumping" was not based on any data. In addition to the lack of data supporting the original listing, the City believes that Reach 3 should be delisted for "pumping" because, as explained more fully below, a list for "pumping" is not legally appropriate in the first instance.	Comment noted.	No
	7.03	The City requests that the State Water Board also delist Reach 4 of the Ventura River from the 303(d) list for "pumping" and "water	The waterbody-pollutant combinations of pumping and water diversion in Reach 4 of the Ventura River should be removed from the section 303(d) list due to a lack of defined methodology for	Yes

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		diversions". In accordance with the State Water Board's Listing Policy, waters shall be listed as water quality limited segments if a water quality standard is not attained, if the standards nonattainment is due to toxicity, a pollutant or pollutants, and if remediation of the standards attainment problem requires one or more TMDLs. Pumping and water diversions are not pollutants nor toxicity as defined in the Clean Water Act. (33 U.S.C. section 1313(d)(1).) As such, listing a waterbody as impaired for "pumping" and "water diversions" is not a proper listing, and delisting is legally required.	determining impairment due to pollution. The original basis for the decision cannot be determined and no new information has become available therefore, the listing recommendation has been revised from List to Delist. This update is reflected in Table 5 of the Revised Staff Report.	
	7.04	Moreover, development of a TMDL is not required to address pumping and water diversions in the Ventura River. In fact, the Environmental Protection Agency has already concluded that a TMDL for pumping and water diversions is not required. On June 28, 2013, EPA determined that it was not necessary to establish a separate TMDL for pumping and water diversions for the Ventura River. In making this determination, EPA concluded that the Ventura River Nutrient TMDL more properly addressed the conditions of concern in the Ventura River.	Comment noted.	No
	7.05	As the State Water Board is aware, flow conditions in the Ventura River Watershed are already being considered as part of Action 4 of the California Water Action Plan. Currently, both the Department of Fish and Wildlife and the State Water Board are actively engaged in a multi-year effort to assess flow conditions in the	Comment noted.	No

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		Ventura River. The City as well as other interested parties are participating in this effort.		
	7.06	Coupled with the existing Ventura River Nutrient TMDL, the California Water Action Plan provides an alternative path to considering flow issues in the Ventura River. Therefore, in addition to being an improper basis for a listing, the conditions of concern, if any, are being addressed already through other processes.	Comment noted.	No
	7.07	For these reasons, the City requests delisting of both Reach 3 and 4 of the Ventura River from the 303(d) list for both "pumping" and "water diversions".	See response to comment 7.03.	No
California Farm Bureau Federation Representative: Kari Fisher	8.01	Due to specific concerns with the listing of five waterbodies located within the Stanislaus National Forest in Tuolumne County as impaired, Farm Bureau formally requested the State Water Resources Control Board ("State Water Board") to review the Central Valley Regional Water Board's listing recommendations pursuant to section 6.2 of the State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List ("Listing Policy").	<p>The raw data submitted by the Central Sierra Environmental Resource Center (CSERC) was reviewed and reassessed independently of the report they submitted along with the data.</p> <p>The Division of Water Quality coordinated with the Office of Information Management and Analysis to determine if the data was sampled and analyzed in an appropriate manner consistent with current QA/QC procedures including not using Split Samples as part of the assessment process.</p> <p>The data and information submitted by CSERC supports the listing recommendations in four of the five waterbodies. However, and as explained in the State Water Board's draft staff report, the data submitted for Jawbone Creek, unnamed tributary (Tuolumne County) indicates that there is insufficient information to make a listing recommendation but that the impairment may be probable because four of the nine samples exceed the objectives for bacteria. Consequently the listing recommendation for Jawbone Creek, unnamed tributary (Tuolumne County) is Do Not List based on</p>	No

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			insufficient information due to lack of samples, but the evidence does indicate that impairment may be probable.	
	8.02	Although Farm Bureau appreciates and supports the State Water Board's decision to not list Jawbone Creek, unnamed tributary due to insignificant information, Farm Bureau's concerns with the recommendation to list four other waterbodies located within the Stanislaus National Forest in Tuolumne County as impaired due to indicator bacteria, specifically Bull Meadow Creek, Rose Creek, Bell Creek, and Niagara Creek, remain. Farm Bureau respectfully requests that the Bull Meadow Creek, Rose Creek, Bell Creek, and Niagara Creek not be listed at this time in order to provide the Central Valley Regional Water Board with the opportunity to review and utilize more recent information, and thus prevent unnecessary and inappropriate listing of these streams.	See response to comment 8.01. The data submitted by CSERC complied with the requirements of the 2012 Notice of Solicitation and it is appropriate to utilize the data and information available to support listing recommendations consistent with the Listing Policy	No
	8.03	At its December 5, 2016 Board meeting, the Central Valley Regional Water Board approved adding the following waterbodies to the CWA Section 303(d) list due to positive indicator bacteria assessments, including fecal coliform and/or Escherichia coli (E. coli) bacteria data: Bull Meadow Creek: Waterbody ID CAR5364003220101020160009 Rose Creek: Waterbody ID CAR5342201020101020155327 Bell Creek: Waterbody ID CAR5364001020150625035202	The Central Valley Water Board's response to the General Comment 2 adequately addresses this comment as follows: "Staff agrees that grazing should not be considered the sole source of bacteria to these streams since there are wildlife species and other potential sources. The proposed 303(d) listings for indicator bacteria in the subject waterways have been modified to add "natural sources" and "source unknown" to the potential sources. However, since the available data and information indicate that grazing animals are a likely potential source of indicator bacteria to these streams, "grazing related source" also remains identified in the proposed 303(d) listings for these waterbodies."	No

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		<p>Niagara Creek: Waterbody ID CAR5343001020150624053105</p> <p>For each of the four waterbodies, livestock grazing is identified as the contributing factor for impairment. The listing of these waterbodies as impaired due to livestock grazing will impact livestock producers and private landowners, as well as community members. Many livestock producers are dependent on summer grazing on National Forests, such as the Stanislaus National Forest in Tuolumne County. However, livestock grazing and the ability to use National Forest lands may be hindered by a 303(d) Listing which identifies livestock grazing as the contributing factor for impairment.</p>	<p>The Central Valley Water Board's response to the General Comment 3 adequately addresses this comment as follows:</p> <p>"The addition of the six waterbodies to the federal Clean Water Act 303(d) List of impaired waterbodies requires approval first by the State Water Board and then by the U.S. EPA. If approved, the impairments would need to be addressed via a Total Maximum Daily Load (TMDL) or other approved regulatory program. Timing for the development of such an effort is at the discretion of the Water Boards. Any proposed TMDL or other regulatory program would undergo public notice and be made available for public comment prior to adoption. Any such program would require a detailed source analysis to identify the cause of impairment. If that analysis did show that private landowners were contributing to the impairment, load allocations and implementation requirements could be assigned to them as part of the TMDL development process. On the other hand, the source analysis could show that the impairment is due to natural sources or other localized factors. In addition, any proposed TMDL or other regulatory program would include an assessment of potential environmental and economic impacts and potential mitigation methods that would also undergo public notice and be made available for public comment."</p>	
	8.04	<p>In addition to the negative impacts associated with listing these waterbodies as impaired, Farm Bureau is concerned that the data submitted by the Central Sierra Environmental Resource Center in support of adding these four waterbodies to the 303(d) List is neither objective nor complete enough to appropriately support a listing recommendation. Oral and written comments before the Regional Water Board raised serious issues with the quality of the data provided by the entity that conducted</p>	<p>The Central Valley Water Board's response to the General Comment 6 adequately addresses this comment as follows:</p> <p>"The data submitted by the Central Sierra Environmental Resource Center met minimum requirements for quality control and assurance, temporal and spatial characteristics, and minimum samples sizes established by the Listing Policy and are therefore appropriate for use in the listing process."</p> <p>The Central Valley Water Board's response to the General Comment 7 adequately addresses this comment as follows:</p>	No

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		the single source study urging listing these waterbodies.	<p>“The data assessed were collected during the critical season for the pollutant and applicable water quality standard (spring/summer for recreational beneficial uses). Further, the data assessed met minimum requirements for number of sampling events. Consequently the data are appropriate for use in the Integrated Report.</p> <p>CSERC submitted 2009 and 2010 Quality Assurance Project Plans (QAPPs) 2 and field data sheets along with their data, all of which are included in the online administrative record for the assessments.³ The QAPPs provide the flow conditions required to collect samples and the field data sheets describe flow conditions at the time of sampling. The 2009 and 2010 QAPPs indicate that sampling was to occur only when there was flow. The QAPPs state:...The field data sheets note when sites were moved farther downstream to ensure samples were collected where there was flow. Further, the field data sheets and May 2010 report⁴ indicate that sampling was not continued throughout the summer at several sites due to low flow conditions, indicating that CSERC samplers complied with the QAPP. Consequently the data are appropriate for use.”</p> <p>The Central Valley Water Board’s response to the Crook Family Letter Comment 6 adequately addresses this comment as follows:</p> <p>The “dbase” on the CSERC field data sheets refer to the CSERC database. The standard laboratory method for multiple tube fermentation used for CSERC bacteria analyses requires only two to four days to complete. Consequently, samples collected in August could be analyzed and assessed by the end of the month without bringing the validity of the data into question.</p> <p>Exhibit 1 attached to this appendix provides the archived emails that document when CSERC submitted their data and supporting QAPP</p>	

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			documentation files. Because of their number and size, the files were submitted by six emails from CSERC. All files were received by the Water Board on 30 August 2010 between 1:31 p.m. and 2:30 p.m. and therefore comply with the data solicitation deadline. The data and information received by the Board from CSERC during solicitation are available on the State Water Board's website, and are also available as references which are linked to the appropriate assessment Fact Sheets. Staff have reviewed the quality of the CSERC data as suggested by the commenter and found it meets the Listing Policy criteria for being of sufficient quality to make determinations of water quality standards attainment.	
	8.05	Further, the results within this single source data are not in line with a more recent peer-reviewed and published study conducted by the University of California, Davis. In 2013, researchers from the University of California, Davis published a peer-reviewed research study titled "Water Quality Conditions Associated with Cattle Grazing and Recreation on National Forest Lands." (See Attachment A.) The research concluded that "[n]utrient concentrations observed throughout the grazing-recreation season were at least one order of magnitude below levels of ecological concern, and were similar to U.S. Environmental Protection Agency (U.S. EPA) estimates for background water quality conditions in the region." (Roche, et al., Water Quality Conditions Associated with Cattle Grazing and Recreation on National Forest Lands (June 2013), p. 1.)	<p>The Central Valley Water Board's response to the General Comment 5 adequately addresses this comment as follows:</p> <p>The data submitted was the only information received for the waterbodies in question during the last data solicitation, which had a submittal deadline of August 30, 2010. Data assessed meet minimum requirements for quality control and assurance, temporal and spatial characteristics, and minimum samples sizes established by the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List of Impaired Waterbodies (Listing Policy) and are therefore appropriate for use in the listing process.</p>	No

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	8.06	Further, “relative to U.S. EPA’s national E. coli FIB benchmarks—the most contemporary and relevant standards for this study—over 90% of the 743 samples collected were below recommended criteria values.” (Ibid.) In conclusion, the “results suggest cattle grazing, recreation, and provisioning of clean water can be compatible goals across these national forest lands.” (Ibid.) Notwithstanding these concerns, the Regional Water Board accepted this single source supplier’s data and approved the listing of the four waterbodies.	Comment noted. See response to comment 8.05.	No
	8.07	In conclusion, the “results suggest cattle grazing, recreation, and provisioning of clean water can be compatible goals across these national forest lands.” (Ibid.) Notwithstanding these concerns, the Regional Water Board accepted this single source supplier’s data and approved the listing of the four waterbodies.	Comment noted. See response to comment 8.04.	No
	8.08	In addition to concerns about the data that was used to list the four waterbodies, Farm Bureau is concerned with the State Water Board’s procedures that prevent the consideration of more current data when making listing determinations. Although the approval of the Central Valley Regional Water Board’s Section 303(d) List and 2014 Integrated Report did not occur until December 5, 2016, the solicitation of data for consideration in the Integrated Report closed on August 30, 2010. Because the data solicitation period for this Integrated Report closed over six years prior to the listing approvals, the assessment of water quality	See responses to comments 1.01 and 8.01. The 2013 study identified in the comment occurred after the data solicitation cutoff date of August 30, 2010 for the 2014 and 2016 Integrated Report cycles and therefore was not considered.	No

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		conditions does not properly reflect the current status of each surface waterbody within the region, especially the current status of Bull Meadow Creek, Rose Creek, Bell Creek, and Niagara Creek. This is evident given the 2013 peer-reviewed research study conducted by the University of California, Davis. In order to properly assess waterbodies based on timely and quality data, Farm Bureau respectfully asks the State Water Board to refrain from listing Bull Meadow Creek, Rose Creek, Bell Creek, and Niagara Creek in light of the additional quality data produced after the closure of the data solicitation period.		
	8.09	Allowing review of the 2013 data prior to listing these waterbodies would also allow for the water quality partnership made up of local stakeholders, the U.S. Forest Service, state and regional water board staff, University of California, Davis, and University of California Cooperative Extension to convene and address site-specific management practices designed to protect and enhance water quality. Such an approach will provide the Central Valley Regional Water Board with the ability to consider all relevant data and information, and to find a solution based on a scientific and collaborative approach.	See response to comment 8.08.	No
	8.10	Given the concerns expressed herein, Farm Bureau respectfully requests the State Water Board to refrain from approving the addition of Bull Meadow Creek, Rose Creek, Bell Creek, and Niagara Creek as impaired due to indicator	See response to comment 8.08.	No

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		bacteria to the 303(d) List in order to allow for further review of more current scientific studies, specifically the 2013 peer-reviewed study published by the University of California, Davis. Farm Bureau looks forward to further involvement and discussion with both the State Water Board and Central Valley Regional Water Board on the CWA 303(d) List and 2014 Integrated Report.		
City of Burbank Representative: Daniel Rynn	9.01	This letter incorporates by reference Attachment 1, which provides the City's comments to said amendments. CWA Section 303(d) requires each state to list waters not meeting water quality standards and prioritize those waters for Total Maximum Daily Load (TMDL) development. The Los Angeles Regional Water Quality Control Board (LARWQCB) did not approve 303(d) List recommendations for waterbodies within its region. After a written public comment period and board workshop, the LARWQCB made revisions to its 303(d) List. Because the Los Angeles Regional Water Board did not formally approve the revised regional 303(d) List, the State Water Resources Control Board will consider and approve the proposed 303(d) List pertaining to waterbodies within the Los Angeles region, after providing an opportunity to comment and responding to comments.	Comment noted.	No
	9.02	Indicator Bacteria: LOE 2535: 11/8/2002 - 4/30/2003, County of Los Angeles Stormwater Monitoring Report 2003/2004LOE 28228: Monitoring Report (MS4 Data) for storm year	From the Listing Policy, page 4, Section 3.3: "In the absence of a site-specific exceedance frequency, a water segment shall be placed on the section 303(d) list if bacteria water quality standards in California Code of Regulations, Basin Plans, or statewide plans are exceeded	No

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		2003-2004 LOE 28222: Jan 2002 - Apr 2007 BWRP monitoring dataFor Decision ID 44606, the Fact Sheet presents three lines of evidence (LOE) for "indicator bacteria". LOE 2535 states that one of six samples exceeded the fecal coliform water quality objective (WQO) for the beneficial use "Water Contact recreation (REC-1); LOE 28228 states that five of six samples exceeded the basin plan objective for indicator bacteria in fresh waters; and LOE 28222 states that ten of twelve samples exceeded the Basin Plan Objective for fecal coliform in REC-1 waters. Data for the proposed listing are between 10 and 15 years old and some LOEs are based on a very small data set (1 data point).	using the binomial distribution as described in section 3.2." Also from the Listing Policy, page 10, table 3.2: If the sample has 5 exceedances out of 30 or less samples, the waterbody will be listed. The age of the data is not pertinent as the listing is based on all available data as a whole. All data assessed in prior listing cycles are combined into a dataset for the current listing cycle and decision. Delisting conditions can be found on page 15, table 4.2 of the Listing Policy. Please also see response to comment 1.01.	
	9.03	Cyanide LOE 2532: 11/8/2002 - 4/30/2003, Data source not indicated and referenced as "Placeholder reference 2006 303(d)"For Decision ID 32817, the Fact Sheet presents one LOE for listing cyanide. LOE 2532 states two of six samples exceeded the CTR Criteria for freshwater aquatic life protection. Data for the proposed listing is between 14 and 15 years old and the proposed listings is based on a very small data set (2 data points). Current listings for impaired waterbodys should be based on more current data and presently, the limited data does not describe the current conditions in the Burbank Western Channel.	<p>The LOE associated with this decision is based on placeholder data references meaning data that were collected prior to 2006 are not in the electronic database. The relevant information (exceedances out of samples) was transferred to the LOE to aid in the future assessment of this waterbody.</p> <p>From the Listing Policy, page 4, Section 3.1: "Numeric water quality objectives for toxic pollutants, including maximum contaminant levels where applicable, or California/National Toxics Rule water quality criteria are exceeded as follows:</p> <ul style="list-style-type: none"> • Using the binomial distribution, waters shall be placed on the section 303(d) list if the number of measured exceedances supports rejection of the null hypothesis as presented in Table 3.1." Also from the Listing Policy, page 10, table 3.2: If the sample has 2 exceedances out of 36 or less samples, the waterbody will be listed. <p>The age of the data is not pertinent as the listing is based on all available data as a whole. See also response to comment 1.01. . All</p>	No

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			data assessed in prior listing cycles are combined into a dataset for the current listing cycle and decision. Delisting conditions can be found on page 14, table 4.1 of the Listing Policy.	
	9.04	<p>Selenium LOE 28229: January 2002 to April 2007; BWRP monitoring data</p> <p>For Decision ID 43271, the Fact Sheet presents two LOEs for listing selenium. LOE 28229 states twelve of forty eight samples exceeded the the CTR Criteria for freshwater aquatic life protection.</p> <p>Data for proposed listings are between 10 and 15 years old. Current listings for impaired waterbodys should be based on more current data and presently, the limited data does not describe the current conditions in the Burbank Western Channel.</p>	<p>From the Listing Policy, page 4, Section 3.1: "Numeric water quality objectives for toxic pollutants, including maximum contaminant levels where applicable, or California/National Toxics Rule water quality criteria are exceeded as follows:</p> <ul style="list-style-type: none"> • Using the binomial distribution, waters shall be placed on the section 303(d) list if the number of measured exceedances supports rejection of the null hypothesis as presented in Table 3.1." Also from the Listing Policy, page 10, table 3.2: If the sample has 8 exceedances out of 43-48 samples, the waterbody will be listed. <p>The age of the data is not pertinent as the listing is based on all available data as a whole. See also response to comment 1.01. All data assessed in prior listing cycles are combined into a dataset for the current listing cycle and decision. Delisting conditions can be found on page 14, table 4.1 of the Listing Policy.</p>	No
	9.05	<p>CopperLOE 2539: Five samples taked during wet season, 11/08/2002-03/15/2003, 1 sample taken during the dry season; 04/30/2003. Data source not indicated and referenced as "Placeholder reference 2006 303(d)"</p> <p>For Decision ID 32764, the Fact Sheet presents one LOE for listing copper. LOE states states three of six samples exceeded the CTR Criteria for freshwater aquatic life protection.</p> <p>Data for proposed listings are between 10 and 15 years old. Current listings for impaired waterbodys should be based on more current data and presently, the limited data does not describe the current conditions in the Burbank Western Channel.</p>	Please see response to comment 9.03	No

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	9.06	<p>Lead LOE 2541: Zero of six samples exceeded the CTR dissolved lead criterion for continuous concentration in water .. 11/8/2002 - 4/30/2003.</p> <p>For Decision ID 32764, the Fact Sheet presents one LOE for listing lead. Zero of six samples exceeded the CTR dissolved lead criterion for continuous concentration in water and data for proposed listings are between 14 and 15 years old.</p> <p>On this basis the new listing decision should be "Do Not List." The reason for listing is referenced as "because of the data review and the targets and allocations for lead included in the Los Angeles River metals TMDL which was approved by U.S. EPA on 12/22/2005." The existence of the approved LA River Metals TMDL seems an insufficient basis for listing as no water quality criterion were exceeded.</p>	<p>Decision 32764 is for copper. Decision 32882 is for lead. The LOE associated with the decision for lead is based on placeholder data references meaning the data that was collected prior to 2006 is not in the electronic database. The relevant information (exceedances out of samples) was transferred to the LOE to aid in the future delisting of this waterbody.</p> <p>This waterbody-pollutant combination was added to the 'being addressed by U.S. EPA approved TMDL' portion of the 303(d) List by U.S. EPA during final approval of the 2006 303(d) List. The addition was based on the findings and data review included in the Los Angeles River metals TMDL which was approved by U.S. EPA on 12/22/2005 (U.S. EPA, 2007).</p> <p>This listing will remain in place until sufficient information is collected for delisting as stated in 4.1 of the Listing policy.</p>	No
	9.07	<p>Trash LOE 28088: Zero of Zero exceeded the Water Quality Control, Los Angeles Region R4 Basin Plan For Decision ID 34265, the Fact Sheet presents one LOE for listing trash. It appears that no evidence was provided to support the decision to place the pollutant in the "Being Addressed" portion of the 303(d) list. The existence of the approved LA River Trash TMDL seems an insufficient basis for listing</p>	<p>The LOE associated with this decision is based on placeholder data references meaning the data that was collected prior to 2006 is not in the electronic database. The relevant information (exceedances out of samples) was transferred to the LOE to aid in the future delisting of this waterbody.</p> <p>This waterbody-pollutant combination was added to the 'being addressed by U.S. EPA approved TMDL' portion of the 303(d) List by U.S. EPA during final approval of the 2006 303(d) List. The addition was based on the findings and data review included in the Los Angeles River metals TMDL which was approved by U.S. EPA on 12/22/2005 (U.S. EPA, 2007).</p> <p>This listing will remain in place until sufficient information is</p>	No

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City of Los Angeles and Los Angeles Sanitation Representative :Enrique Zaldivar	10.01	Ballona Creek Toxicity The Fact Sheet for Decision ID 34253 presents two lines of evidence that indicate the presence of sediment toxicity (83019 and 83020). LOE 83019 references a Statewide Stream Pollution Trends Study 2008 and LOE 83020 references Statewide Project Urban Pyrethroid Status Monitoring. When reviewing the station locations (404SUP093 and 404BLNAXx) associated with these two LOEs in an August 2012 Surface Water Ambient Monitoring (SWAMP) report titled "Toxicity in California Waters: Los Angeles Region", the sampling locations are identified as (page 11) "approximately one kilometer downstream from the confluence with Sepulveda Channel." In a 2014 SWAMP report titled "Trends in Chemical Contamination, Toxicity and Land Use in California Watersheds: Stream Pollution Trends (SPoT) Monitoring Program Third Report - Five-Year Trends 2008-2012", the site 404BLNAXx is identified as Ballona Creek Downstream of Centinela (33.986 -118.417). In the Ballona Creek Toxics TMDL Staff Report, Ballona Creek Reach 2 and Estuary are defined as follows (page 5): Ballona Creek to Estuary (Reach 2) is the longest segment of the creek (approximately 4 miles) continuing on from National Boulevard and ending at Centinela Avenue where the Estuary begins. The sediment monitoring sites are located within the tidal prism which is a little over one mile downstream of the historical	collected for delisting as stated in 4.7.2 of the Listing policy. The commenter is correct that the two stations fall within Reach 2 of Ballona Creek as described in the Los Angeles Region Basin Plan. Decision 34253 (Do Not Delist from 303(d) list) will not be removed but the State Water Board has made a clarifying note regarding the spatial applicability within the Fact Sheet for Decision 34253 as follows: "The sediment toxicity data collected to support this listing decision were collected from Reach 2 of Ballona Creek as identified in the Los Angeles Regional Basin Plan. The waterbodies listed within the Los Angeles Basin Plan have been segmented during recent updates and those changes have not been reflected within the assessment database. Water Board staff will work to update the waterbodies within the database to ensure consistency with the Los Angeles Basin Plan while off-cycle."	No

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		mass emission station at Sawtelle Boulevard (specifically located above tidal influence). As such, the sites identified in LOEs 83019 and 83020 are in the Ballona Creek Estuary as defined by the Ballona Estuary Toxics TMDL, rather than in Ballona Creek, and addressed by the Ballona Estuary Toxics TMDL. Requested Action: Remove Decision ID 34253 for toxicity for Ballona Creek as there are no data to assess the waterbody pollutant combination.		
	10.02	Compton Creek Iron The Fact Sheet for Decision ID 62052 states that one LOE (83798) is available in the administrative record to assess iron in Compton Creek. LOE 83798 lists the following as the Evaluation Guideline used as the basis for the listing: "National Recommended Water Quality Criteria Continuous Concentrations are intended to protect freshwater aquatic organisms from chronic exposures and are expressed as 4-day average concentrations. The City has several concerns with this listing: • The only two exceedances are associated with wet-weather samples collected on October 13, 2009. The Evaluation Guideline used as the basis is Criteria Continuous Concentrations (i.e., chronic criterion). It is inappropriate to use a chronic criterion as it is meant to protect aquatic life against chronic exposure and the samples were taken during a wet-weather event not representative of chronic conditions. U.S. EPA does not recommend a Criteria Maximum Concentration (acute criterion) for iron within	<p>The criteria continuous concentration is the appropriate evaluation guideline for assessment of the chronic impacts of a pollutant on aquatic life and is consistent with Section 6.1.3 of the Listing Policy. As the commenter states U.S. EPA does not recommend the use of a criteria maximum concentration for the assessment of iron for protection of aquatic life.</p> <p>The State Water Board has reassessed the data using the dissolved measure of iron because the dissolved fraction of iron is the most bioavailable to aquatic life. The resulting reassessment has changed the decision recommendation for Decision 62052 from List to Do Not List. Table 4 and Appendix H of the draft Staff Report been revised accordingly.</p> <p>The commenter's interpretation of temporal independence is incorrect. Samples were collected across several sites that are spatially independent and should be considered independently of one another consistent with Section 6.1.5.2 of the Listing Policy. If the majority of samples were collected on the same day they must be noted in the lines of evidence and cannot be used as primary evidence to support a listing. However, samples were collected across several days, events, and years.</p>	Yes

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		<p>its National Recommended Water Quality Criteria. • The National Recommended Water Quality Criteria Continuous Concentration for iron does not specify whether the criterion applies to the total recoverable or dissolved fraction. None of the dissolved iron results associated with the samples used to assess the waterbody exceeded the criterion. • Section 6.1.5.3 of the Listing Policy states that “Samples used in the assessment must be temporally independent. If the majority of samples were collected on a single day or during a single short-term natural event (e.g., a storm, flood, or wildfire), the data shall not be used as the primary data set supporting the listing decision.” However, multiple samples were collected on the same day during the same storms and each was considered separately. Samples collected on the same day during the same storm (as was the case with the two exceedances) should not be considered independently from one another as they are clearly not temporally independent and do not meet the Listing Policy requirements. Averaging samples collected on the same day results in 1 of 5 exceedances, which does not meet the requirements of the Listing Policy for placing a waterbody segment on the 303(d) list.</p> <p>Requested Action: Revise the decision for Decision ID 62052 for the iron listing for Compton Creek to Do Not List on 303(d) list (TMDL required list) and remove from Category 5 (Appendix B) due to an inappropriate</p>		

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		evaluation guideline being used as the basis for the listing, the observed exceedances were not temporally independent, and none of the dissolved results exceeded the evaluation guideline.		
	10.03	Dominguez Channel Estuary (unlined portion below Vermont Ave) Copper The Fact Sheet for Decision ID 33751 states that five LOEs are available to assess copper in the Dominguez Channel Estuary, four of which correspond to sediment and one of which corresponds to water. The sole LOE (83984) that presents water data states that 3 of 3 samples exceeded the dissolved California Toxics Rule (CTR) saltwater chronic criterion. However, these sample results were all collected on the same day and appear to be for total copper associated with a wet-weather event. Section 6.1.5.3 of the Listing Policy states that "Samples used in the assessment must be temporally independent." However, LOE 83984 considers the three samples collected on the same day during the same storm separately. Samples collected on the same day during the same storm should not be considered independently from one another. Additionally, when using the total copper CTR acute criterion (rather than the dissolved CTR chronic criterion), the samples do not exceed. As such, all LOEs that support a listing correspond to the sediment matrix. Requested Action: Remove LOE 83984, revise LOE 83984 to state 0 of 3 exceedances, or revise the pollutant for Decision ID 33751 for the copper listing for	Line of evidence 83984 was adjusted to take into account the spatial and temporal independence requirements of Sections 6.1.5.2 and 6.1.5.3 of the Listing Policy. The update resulted in a finding of one sample and one exceedance of the water column guideline for copper. Furthermore Decision 33751 for copper is being recommended for placement under Integrated Report Category 4a as being addressed by a U.S.EPA approved TMDL. The decision relationships language has also been clarified to show that beneficial uses are not supported due to the exceedances associated with the sediment evaluation guideline for copper. It is important to note that Dominguez Channel Estuary as a whole will remain in Integrated Report Category 5 until all of the pollutant impairments are being addressed. This methodology is described on page 22 and 23 of the draft Staff Report. The revisions to the line of evidence and decision did not result in a change to the 303(d) List beyond clarification.	No

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		Dominguez Channel Estuary to “Copper (sediment)” given that the LOEs supporting a listing correspond to the sediment matrix and move the listing to Category 4a (Appendix).		
	10.04	Ballona Creek Cyanide The Fact Sheet for Decision ID 32970 states that two LOEs are available to assess cyanide in Ballona Creek. Both LOEs (2339 and 82989) contain dry and wet weather data collected as part of the MS4 monitoring program. However, the LOEs state that only the CTR Criterion Continuous Concentration (i.e., chronic criterion) of 0.0052 mg/L for the protection of aquatic life was applied to the entire dataset rather than considering the application of the chronic CTR criterion during dry-weather and the CTR Criterion Maximum Concentration (i.e., acute criterion) during wet-weather as is traditionally done when assessing data in the Los Angeles region (particularly in the context of TMDL development). Section 6.1.3 of the Listing Policy allows for the selection of evaluation guidelines that represents water quality objective attainment or protection of beneficial uses. As such, selecting chronic and acute CTR criteria to evaluate dry and wet-weather data, respectively, would be consistent with the Listing Policy. When using the chronic and acute CTR criteria to evaluate dry and wet-weather data, respectively, the number of exceedances is 4 out of 45, meeting the delisting requirements. Maintaining the listing would require a TMDL even though applicable	See response to comment 10.02. When assessing for impacts to aquatic life beneficial use it is important to utilize an evaluation guideline that is most protective. The Los Angeles Water Board may utilize separate measures for dry versus wet weather during the development of a TMDL or other regulatory action.	No

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		objectives are being meet at a level that supports delisting, resulting in unnecessary efforts by the Los Angeles Regional Water Quality Control Board (Regional Water Board or LARWQCB) and Permittees. Requested Action: Revise the decision for Decision ID 32970 to Do Not List on 303(d) list (TMDL required list) and remove from Category 5 (Appendix B).		
	10.05	Lincoln Park Lake Ammonia The 28 data points utilized to develop the original listing in 1998 (as described in U.S. EPA's Los Angeles Area Lakes TMDL report) were reported as ammonium, without corresponding ammonia, pH, or temperature measurements making it impossible to compare these data to ammonia criteria. Only ammonia data collected with corresponding pH and temperature data should be used to determine if criteria were exceeded. However, based on the ammonium data presented in Appendix G of the U.S. EPA TMDL report (Table G-29), only 2 of 28 samples exceeded the chronic ammonia criterion. Note that the two samples that exceeded were collected at the same location on the same day. In 2008, the Regional Water Board collected eight ammonia samples all of which were below the reporting limit of 0.1 mg/L and the chronic criterion. In 2009, the City of Los Angeles and U.S. EPA/Regional Water Board conducted monitoring and collected 15 and three samples, respectively, all of which were below the chronic criterion. As stated in the TMDL report (pg. 5-10): "There were no exceedances of the	<p>The commenter made a similar comment to the Los Angeles Water Board. The Los Angeles Water Board's revised response adequately responded as follows:</p> <p>"The Water Quality Assessment Report (LARWQCB, 1996) includes ammonia as not supporting beneficial uses. Twenty-eight ammonium samples were reported ranging from non-detect to 1.14 mg-N /L which is less than the acute target, but greater than the chronic target for total ammonia N (assuming the analytical method converted all ammonia to ammonium). Data from lines of evidence developed prior to 2006 are not included in the CalWQA database. While the EPA TMDL for the Los Angeles Area Lakes did review data from 2008 and 2009, which did not exceed criteria, unlike for lead, the EPA TMDL for the Los Angeles Area Lakes did not make a finding of non-impairment for ammonia and instead established targets." (Response to comment 11.16.)</p> <p>The State Water Board will maintain the listing under Integrated Report Category 4a until such a time that the Los Angeles Water Board and U.S. EPA have found that the impairment due to ammonia has been remedied by the TMDL and applicable beneficial uses are supported.</p>	No

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		acute or chronic ammonia criteria during any recent sampling events with associated pH and temperature measurements.” n summary, 1) only 2 of 54 samples exceeded the chronic criterion, which meets the delisting requirements, and 2) there are no ammonia data with corresponding pH and temperature measurements available to support the original listing and all available recent data demonstrate there are no exceedances. Requested Action: Revise Decision ID 35004 for the ammonia listing for Lincoln Park Lake to Delist from 303(d) list and remove from Category 5 (Appendix B).		
	10.06	Los Angeles (LA) River Reach 2 (Carson to Figueroa Street) and Los Angeles River Reach 5 (within Sepulveda Basin) Oil The source of oil seeping into the River was found to be naturally-occurring crude oil. This conclusion is supported by the results of investigations completed by various agencies, which are summarized as follows:• An investigation was conducted following seeps of petroleum hydrocarbons into the LA River in June 2001. Based on lab results and borings, it was concluded that the source of the LA River channel oil seeps is naturally-occurring crude oil from Puente formation sands. Oil was visible in Puente formation seams, partings and fractures, as well as sand lenses, and appeared to have migrated upward into sandy alluvial soils. Gasses encountered included hydrogen sulfide, commonly sources from crude oil reservoirs. The hydrocarbon seeps appeared to be	<p>The commenter made a similar comment to the Los Angeles Water Board. The Los Angeles Water Board revised response adequately responded as follows:</p> <p>“The State and Regional Water Boards are currently exploring options to address pollutants that may be naturally elevated in waterbodies. Until the natural sources of pollutants are addressed by either an exclusion policy as adopted by the State Water Board or a natural sources exclusion (or other site-specific objective) is developed by the Los Angeles Water Board, oil in the Los Angeles River is an impairment and appropriately on the 303(d) list. There is no alternative regulatory program identified that will reduce oil in the Los Angeles River so the Category cannot be 4b. However, the factsheet has been revised to include “natural sources” as the potential source.” (Response to comment 11.17.)</p> <p>Application of the delisting factors in the Listing Policy do not support removal from the list because information does not suggest attainment of standards. The State Water Board will maintain the listing in Category 5 until the standard is revised and such revision supports a delisting decision or a natural source exclusion for oil is</p>	No

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		<p>concentrated where the Puente formation contacts with younger, less permeable units or layers. • The U.S. EPA On-Scene Coordinator (OSC) conducted subsurface investigations of the oil seeps in the LA River during August and September 2001. The OSC found that the oil did not discharge as a result of a spill, leak, or discharge from any facility and that the oil has been discharging to the river since at least 1943 and there is no practical means of preventing this oil seep from discharging to the River. • On April 19, 2002, an email was sent to Steven Pedersen of City of Los Angeles /Watershed Protection Division (WPD) by Steven Poole of the US Coast Guard/National Pollution Funds Center (USGC/NPFC). Mr. Poole stated that City of Los Angeles cannot submit to USGC/NPFC a claim for reimbursement for cost incurred by the City associated with May 2001 oil clean-up efforts in the LA River because Title 1 of the Oil Pollution Act does not allow for reimbursement for naturally-occurring oil (natural seepage). In summary, the reports and correspondence discussed herein, indicate that multiple agencies believe that the oil found in the listed reaches of the LA River is associated with naturally-occurring seepage suggesting that a 303(d) listing is not warranted. Studies Used in the Analysis The following studies/correspondences were used in the analysis: • Pollution Report (2002), U.S. EPA Region IX • Correspondence (2002) from Michael P. Brown, Manager, Geotechnical Engineering Division, Bureau of</p>	<p>adopted in Reaches 2 and 5 of the Los Angeles River.</p>	

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		<p>Engineering, City of Los Angeles•</p> <p>Correspondence (2002) from Steven Poole, Claims Manager, USGC/NPFCDespite repeated efforts by WPD to obtain the historical information utilized to develop the original listing, the Regional Water Board has not provided the information for inclusion in the analysis. Therefore, the analysis is based solely on recent information available to WPD.</p> <p>Summary of Findings The source of oil seeping into the River was found to be naturally-occurring crude oil. This conclusion is supported by the results of investigations completed by various agencies, which are summarized below.</p> <p>Investigations of the Geotechnical Engineering Division, Bureau of Engineering, City of Los Angeles – June 2001 An investigation was conducted following seeps of petroleum hydrocarbons into the engineered channel of the LA River across from the Piper Technical Center in June 2001. This study concluded that the source of the LA River channel oil seeps is naturally-occurring crude oil from Puente formation sands, based on lab results and borings. The samples of the oil seeps and associated bacterial-growth scums revealed that the seeps were predominantly in the oil or heavy-hydrocarbon range. This supports the conclusion that the LA River oil seeps are natural crude oil as opposed to fuel leaks.</p> <p>Drilling of wells along Mission St. (east of the river channel) confirmed that oil-bearing Puente formation sands and fractures are the source of</p>		

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		<p>crude oil and gases that migrate into the shallow alluvial soils. The hydrocarbons, visible oil and PID readings generally increased with depth toward the Puente formation. Oil was visible in Puente formation seams, partings, and fractures, as well as sand lenses, and appeared to have migrated upward into sandy alluvial soils. Gasses encountered included hydrogen sulfide, commonly sources from crude oil reservoirs. The hydrocarbon seeps appeared to be concentrated where the Puente formation contacts younger, less permeable units or layers. Pollution Report, U.S. EPA – January 2002</p> <p>The U.S. EPA OSC conducted extensive subsurface investigations of the oil seeps in the LA River during August and September 2001. The OSC found that the oil did not discharge to the River as a result of a spill, leak, or discharge from any facility based on the investigation. The oil has been discharging to the river since the least 1943 and there is no practical means of preventing this oil seep from discharging to the LA River. The OSC also evaluated the use of epoxy or urethane sealants on the seeps to reduce the flow of oil. However, it was concluded that the use of sealants on the seeps would cause the oil to get into the subdrain system and eventually enter the LA River. In summary, WPD attempted to evaluate the original listing information in light of the currently available information. Although the Regional Water Board did not provide the information, the reports and correspondence</p>		

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		discussed herein, and attached to this letter, indicate that multiple agencies believe that the oil found in the listed reaches of the LA River is associated with naturally-occurring seepage. Requested Action: Revise Decision IDs 34118 and 34203 for the oil listings for LA River Reaches 2 and 5 to Delist from 303(d) list and remove from Category 5 (Appendix B) given that the oil found in the listed reaches of the LA River is associated with naturally-occurring seepage. Alternatively, move the listing to Category 4b as other regulatory programs are reasonably expected to result in attainment of the water quality standard.		
	10.07	Various waterbodies, Various pollutants Section 2.1 of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy) titled "Water Quality Limited Segments" states (pg. 3): "Waters shall be placed in this Category of the section 303(d) list if it is determined, in accordance with the California Listing Factors that the water quality standard is not attained; the standards nonattainment is due to toxicity, a pollutant, or pollutants; and remediation of the standards attainment problem requires one or more TMDLs." As such, all listings that do not identify either toxicity or a pollutant as the impairment do not meet the requirements for being placed in the water quality-limited segments Category. This is supported by current listing decisions in Burbank Western Channel for excess algal growth, scum/foam-unnatural, and taste and	The commenter's assertion that a listing "associated with," rather than "due to," toxicity or pollutants does not meet the requirements for placement in Integrated Report Category 5 as discussed in Section 2.1 of the Listing Policy is premised on an incorrect interpretation of that section. Section 2 explains the structure of the 303(d) list and provides that the list shall, at a minimum, identify waters where standards are not met, pollutants or toxicity "contributing to the standards exceedance," (emphasis added) and the TMDL completion schedule. While Section 2.1 provides that waters shall be placed on the 303(d) list if it is determined that the standards nonattainment is "due to" a pollutant or toxicity, the sentence begins with "if it is determined, in accordance with the California Listing Factors [...]." (Emphasis added.) Section 1 (the Introduction) to the Listing Policy clearly states, "The methodology to be used to develop the section 303(d) list [...] is established by this Policy and includes: California Listing Factors and Delisting Factors [...]." Accordingly, the language in the Listing Factor 3.9 satisfies the Category of waters described in Section 2.1 for appropriate placement in Category 5. The decisions identified by the commenter	Yes

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		<p>odor and Calleguas Creek Reach 13 for excess algal growth that state the following (emphasis added): “Based on the readily available data and information, the weight of evidence indicates that there is sufficient justification in favor of removing these listing from the 303(d) Water Quality Limited Segment list because the segment pollutant combinations is not a pollutant.” In addition, given that the Listing Policy states that the standards nonattainment must be “due to” either toxicity or a pollutant, listings that are simply “associated with” toxicity or pollutants do not meet the requirements for being placed in the water quality-limited segments Category. Furthermore, given that the Listing Policy uses an “and” statement and not an “or” statement when listing the requirements for being placed in the water quality-limited segments Category, requiring a TMDL (or other regulatory program) to attain standards is insufficient in and of itself for being placed in the water quality-limited segments Category. Lastly, the Clean Water Act definition for a pollutant makes no mention of the presence or absence of a water quality objective. As such, the presence of an objective (as is the case within the Los Angeles region for pH and dissolved oxygen) does not necessarily signify that a constituent is a pollutant. The following table presents waterbody segments and listings that correspond to instances where there is not a pollutant.</p> <p>44553 Arroyo Seco Reach 1 (LA River to West</p>	<p>in Burbank Western Channel are legacy decisions that were made prior to the development of the Listing Policy. The original basis for listing has been determined to be flawed by the Los Angeles Water Board because the listing was based on a condition rather than a specific pollutant. Finally, commenter’s reference to the prior delisting decisions pertaining to the Burbank Western Channel and Calleguas Creek Reach 13 is unpersuasive because those involved initial 303(d) listing decisions that occurred prior to the development of the Listing Policy. The waterbodies were delisted because the Los Angeles Water Board determined that the original listing was based on a condition rather than a specific pollutant.</p> <p>Dissolved oxygen and pH are identified as conventional pollutants in the Listing Policy and as such subject to Section 3.2 of the Listing Policy. The presence of an objective is not used in determining if a constituent is a pollutant.</p> <p>Decision 44553 has been revised from Do Not Delist from Category 5 to Delist based on insufficient information and lack of an associated pollutant.</p> <p>Decision 44498 is associated with pollutant impairments due to aluminum and zinc which is consistent with Section 3.9 of the Listing Policy.</p> <p>Decision 32967 is consistent with Section 3.2 of the Listing Policy.</p> <p>Decision 38511 is a legacy listing that requires new data to remove from the 303(d) List consistent with Section 4.9 of the Listing Policy. The Decision has been revised with associated pollutant impairments and moved to Integrated Report Category 4a as it is expected that the TMDLs in place will result in attainment of the aquatic life uses.</p>	

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		<p>Holly Ave.) Benthic Community Effects 44498 Compton Creek Benthic Community Effects 32967 Compton Creek pH 38511 Dominguez Channel Estuary (unlined portion below Vermont Ave) Benthic Community Effects 35168 Los Angeles Harbor - Consolidated Slip Benthic Community Effects 66232 Los Angeles River Reach 4 (Sepulveda Dr. to Sepulveda Dam) Benthic Community Effects 34208 Los Angeles/Long Beach Inner Harbor Benthic Community Effects 61605 Marina del Rey Harbor - Back Basins Oxygen, Dissolved</p> <p>Requested Action: Revise the decision for the segments listed in the preceding table to Delist from 303(d) list or Do Not List on 303(d) list, whichever is applicable, and remove from Category 5 (Appendix B) or Category 4a (Appendix E).</p>	<p>Decision 35168 is a legacy listing that requires new data to remove it from the 303(d) List consistent with Section 4.9 of the Listing Policy. The Decision has been revised to include the associated pollutant impairments and moved to Integrated Report Category 4a as it is expected that the TMDLs in place will result in attainment of the aquatic life uses.</p> <p>Decision 66232: LOE 96220 for Benthic-Macroinvertebrate Bioassessments is based on data collected in Los Angeles River Reach 5 and so was moved to Decision 67520 for Los Angeles River Reach 5. The Benthic Community Effects Decision for Los Angeles River Reach 4 (Decision 66232) has been deleted. The decision recommendation for Los Angeles River Reach 5 for Benthic Community Effects is to list.</p> <p>Decision 34208 is a legacy listing that requires new data to remove from the 303(d) List consistent with Section 4.9 of the Listing Policy. The Decision has been revised to include the associated pollutant impairments and moved to Integrated Report Category 4a as it is expected that the TMDLs in place will result in attainment of the aquatic life uses.</p> <p>Decision 61605 is consistent with Section 3.2 of the Listing Policy.</p>	
	10.08	<p>Ballona Creek Wetlands Hydromodification The Regional Water Board response to comments states that the Ballona Creek Wetlands "hydromodification listing has been deleted." In addition, the Fact Sheet for Decision ID 34699 states "After review of the available data and information, RWQCB staff concludes that the impairment is due to a non-pollutant or pollution. This impairment therefore falls under</p>	<p>The Los Angeles Water Board revised response to comments is incorrect. The factsheet language for decision 34699 has been clarified. Hydromodification falls under the definition of pollution and would normally fall under Category 4c. However, the Ballona Creek Wetlands Sediment and Invasive Exotic Vegetation TMDL was approved by EPA on March 26, 2012 and the resulting actions are expected to address the impacts related to pollution. Therefore, the waterbody as a whole is placed within Category 4a.</p>	No

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		Integrated Report Category 4c.” Despite this information, this listing still appears in Appendix E (Category 4a). Requested Action: Remove the hydromodification listing for Ballona Creek Wetlands consistent with the Regional Water Board’s response to comments or move the listing from Category 4a to Category 4c to be consistent with the Fact Sheet for Decision ID 34699.		
	10.09	Various waterbodies, Various pollutants There are numerous listings that include waterbody segments which are in nonattainment due to pollution that is not caused by a pollutant. The 2016 Clean Water Act Sections 305(b) and 303(d) Integrated Report for the Los Angeles Region Staff Report (Staff Report) states the following (pg. 9): “Impaired waters are placed in Category 4c if the impairment is not caused by a pollutant, but rather caused by pollution, such as flow alteration or habitat alteration.” Impairments for benthic community effects, exotic vegetation, habitat alterations, hydromodification, and reduced tidal flushing are caused by either flow and/or habitat alteration (not by a pollutant or combination of pollutants) and; therefore, waterbody segments under these listings should instead be moved to Category 4c. In addition, given that the Staff Report states that the impairment must be “caused by” a pollutant, listings that are simply “associated with” pollutant listings do not meet the requirements for not being placed in Category 4c. Decision ID Waterbody Segment	See responses to comments 10.08 and 10.07. In California, waterbody-pollutant combinations are assessed consistent with the Listing Policy to determine the overall beneficial use support rating. If a beneficial use is impaired by a pollutant, the waterbody-pollutant combination is placed on the 303(d) List. If data or information indicate that the waterbody may also be impaired due to pollution (hydrologic or habitat alteration), the waterbody would not be placed in Category 4c until after the pollutant impairment is addressed. That overall beneficial use support rating is used by the California Water Quality Assessment Database (CalWQA) to determine the overall Integrated Report Category for the waterbody as a whole. This methodology is described on page 22 and 23 of the Staff Report. The fact sheets for Decisions 44746, 34697, 34699, and 44747, associated with Ballona Creek Wetlands, have been identified as associated due to pollution and the individual waterbody-pollution combinations are within Integrated Report Category 4c. However, Ballona Creek Wetlands as a whole will remain in Integrated Report Category 4a until all of the pollutant impairments are remediated and delisted.	No

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		<p>Listing 44553: Arroyo Seco Reach 1 (LA River to West Holly Ave.) Benthic Community Effects</p> <p>44746 Ballona Creek Wetlands Exotic Vegetation</p> <p>34697 Ballona Creek Wetlands Habitat alterations</p> <p>34699 Ballona Creek Wetlands Hydromodification</p> <p>44747 Ballona Creek Wetlands Reduced Tidal Flushing</p> <p>44498 Compton Creek Benthic Community Effects</p> <p>38511 Dominguez Channel Estuary (unlined portion below Vermont Ave) Benthic Community Effects</p> <p>35168 Los Angeles Harbor - Consolidated Slip Benthic Community Effects</p> <p>66232 Los Angeles River Reach 4 (Sepulveda Dr. to Sepulveda Dam) Benthic Community Effects</p> <p>Requested Action: Notwithstanding the previous comment that supports revising the decision for the segments listed in the preceding table to Delist from 303(d) list or Do Not List on 303(d) list, whichever is applicable, move all segments listed in the preceding table with impairments caused by pollution to Category 4c and revise Appendix B or E as appropriate. 34207 Los Angeles/Long Beach Inner Harbor Benthic Community Effects</p>		
	10.10	The Fact Sheet for Decision ID 67208 presents two lines of evidence related to arsenic in Santa Monica Bay (88949 and 88950). LOE 88949	The commenter made a similar comment to the Los Angeles Water Board. The Los Angeles Water Board revised response adequately responded as follows:	No

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		<p>presents information related to sediment and found that 0 of 32 samples exceeded the sediment goals utilized in the assessment. LOE 88950 presents information related to fish tissue and indicates that 19 of 19 samples collected as part of Hyperion Water Reclamation Plan NPDES Permit during August of 2006, and August, September, October, and November of 2007 exceeded the evaluation guideline with the presumption that results were reported on a wet-weight basis and 10% of the total arsenic result represented the amount of inorganic arsenic in the sample for comparison to the guideline. In reviewing LOE 88950, no information/citation can be found supporting the assumption that 10% of the total arsenic result represented the amount of inorganic arsenic in the sample. It is appropriate to utilize inorganic arsenic in assessing potential risk; however, either measured inorganic arsenic or a conversion factor developed from actual measured ratios from Santa Monica Bay should be utilized. In U.S. EPA's 2000 Guidance for Assessing Chemical Contaminant Data for Use in Fish Advisories Volume 1 Fish Sampling and Analysis Third Edition (EPA 823-B-00-007), U.S. EPA recommends that, in both screening and intensive studies, total inorganic arsenic tissue concentrations be determined for comparison with the recommended screening value for chronic oral exposure. Scientific literature demonstrates that a range of total to inorganic arsenic ratios exist. For example, a</p>	<p>"The arsenic decision has been reviewed. The listing has been corrected to the finfish guideline (0.0034 ppm instead of 0.0052 ppm for shellfish) and the applicable reference added. The guideline, 0.0034 ppm, is the screening guideline from Guidance for Assessing Chemical Contaminant Data for Use in Fish Advisories Volume 1: Fish Sampling and Analysis (CalWQA ref 3756) and assumes an average body weight of 70 kg and a consumption rate of 32 g/day for a 30 year exposure over a 70-year lifetime. The assessment used an assumption that 10% of the arsenic would be inorganic. Even if a 0.05% inorganic to total ratio was used in the assessment, the number of exceedances would be 14 out of 19 and sufficient to list." (Response to Comment 11.21.)</p> <p>Decision 67208 is consistent with Section 3.1 of the Listing Policy and the evaluation guideline was selected and applied consistent with Section 6.1.3 of the Listing Policy. In addition, while the Listing Policy requires that samples be spatially and temporally independent, fish are not static; they move throughout a waterbody and accumulate pollutants in tissue over time. Therefore, the data are, by their nature, spatially and temporally independent. Lastly, the fact that tissue concentrations represent the accumulation of pollutants over a time period of years, and each fish is a different age and will have moved differently through the environment, provides independence of the tissue sample.</p>	

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		<p>2008 study specifically looking at arsenic speciation in 383 samples of marine fish and shellfish, showed that the inorganic fraction of arsenic is typically <0.5% with a few of the highest samples ranging from 1-5%1. The City's concern with the approach has been expressed in other regions of California as well. The Port of San Diego in an August 11, 2016 comment letter to the San Diego Regional Water Quality Control Board regarding a 303(d) arsenic listing, noted the high level of variability of the proportion of inorganic arsenic across species (typically <10%) as measured in a number of other studies, as well as a methodology that could be used to ground truth the applied proportion through actual sample data. In response to the Port of San Diego's comment the San Diego Regional Water Board removed an arsenic listing from their draft 303(d) list and stated: "... there is a high level of uncertainty in the levels of inorganic arsenic in shellfish tissue. The assumption regarding the percent of total arsenic in shellfish tissue is likely conservative, and the San Diego Water Board agrees that a listing based on those assumptions has a high probability of mischaracterizing the results as an impairment. The San Diego Water Board supports the Port's suggestion that future monitoring of shellfish incorporate a measurement of both total and inorganic arsenic."The City also has concerns with the approach to utilizing the data in comparison to the guidelines. Section 6.1.5.3 of the Listing</p>		

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		<p>Policy states that “Samples used in the assessment must be temporally independent.” However, each individual sample was considered on its own without consideration for temporal representation. Samples collected on the same day (i.e., October 2007, November 2007, and September 2008) should not be considered independently from one another as they are clearly not temporally independent. Furthermore, given tissue concentrations represent the accumulation of pollutants over a time period of years and the risk endpoint relates to a carcinogenic effect over a 30-year period, considering samples collected within months of each other (October and November 2007 and August and September 2008) also does not provide the required temporal independence. Data should be aggregated across appropriate temporal timeframes, which should be assessed on a case-by-case basis, but should be no less than annually. Lastly, in assessing tissue data, consideration should be given to the fact that multiple samples and species are collected and the range of concentrations within those samples and across species represents exposure and potential risk. Considering each individual sample separately from one another or across species results in an assumption that an individual sample is representative of the exposure condition. Data should not only be aggregated on an appropriate temporal scale, but also across species, potentially weighted</p>		

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		based on likely consumption patterns. In summary, the lack of inorganic arsenic data and use of an unsupported conversion factor in combination with the approach to comparing tissue data that does not appropriately meet the requirements of temporal independence or reflect actual exposure conditions does not support listing arsenic in Santa Monica Bay. The City welcomes the opportunity to discuss approaches to develop inorganic arsenic data for use in future evaluations, as well as an approach to consider tissue data to properly evaluate arsenic in Santa Monica Bay. Requested Action: Remove Decision ID 67208 from the 303(d) list. However, if the Regional Water Board feels it is necessary to categorize the information within the Integrated Report, place the waterbody pollutant combination in Category 3 as there is insufficient data and information to make a beneficial use support determination, but information and/or data indicates beneficial uses may be potentially threatened.		
	10.11	The Fact Sheet for Decision ID 67209 presents three lines of evidence related to mercury in Santa Monica Bay (4165, 88894, and 88891). LOE 4165 and 88891 presents information related to sediment toxicity and sediment chemistry, respectively. LOE 88894 presents information related to fish tissue and indicates that 2 of 19 samples collected as part of Hyperion Water Reclamation Plan NPDES Permit during August of 2006, and August, September,	See response to comment 10.10. Fish collected on the same day, in the same zone, and of the same species, could be aggregated, but this data set represents fish collected on different days or in different zones or they are different species and therefore cannot be aggregated. In addition, tissue concentrations represent the accumulation of pollutants over a time period of years, and each fish is a different age and will have moved differently through the environment, provides independence of the tissue sample.	No

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		<p>October, and November of 2007 exceeded the evaluation guideline with the presumption that results were reported on a wet-weight basis. Section 6.1.5.3 of the Listing Policy states that "Samples used in the assessment must be temporally independent." However, each individual sample was considered on its own without consideration for temporal representation. Samples collected on the same day (i.e., October 2007, November 2007, and September 2008) should not be considered independently from one another as they are clearly not temporally independent. Furthermore, given tissue concentrations represent the accumulation of pollutants over a time period of years, considering samples collected within months of each other (October and November 2007 and August and September 2008) also does not provide the required temporal independence. Data should be aggregated across appropriate temporal timeframes that should be assessed on a case-by-case basis, but should be no less than annually. Lastly, in assessing tissue data, consideration should be given to the fact that multiple samples and species are collected and the range of concentrations within those samples and across species represents exposure and potential risk. Considering each individual sample separately from one another or across species results in an assumption that an individual sample is representative of the exposure condition. Data should not only be</p>		

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		aggregated on an appropriate temporal scale, but also across species, potentially weighted based on likely consumption patterns. The City welcomes the opportunity to discuss an approach to appropriately consider tissue data to properly evaluate mercury in Santa Monica Bay. Requested Action: Remove Decision ID 67209 from the 303(d) list. However, if the Regional Water Board feels it is necessary to categorize the information within the Integrated Report, place the waterbody pollutant combination in Category 3 as there is insufficient data and information to make a beneficial use support determination, but information and/or data indicates beneficial uses may be potentially threatened.		
	10.12.a	Notwithstanding the City's comments related to removing all listings that do not identify either toxicity or a pollutant as the impairment, the City identified the following listings for Benthic Community Effects (summarized in the following table) that are inappropriate: · LA River Reach 4 (Sepulveda Dr. to Sepulveda Dam): Decision ID 66232 · Arroyo Seco Reach 1 (LA River to West Holly Ave.): Decision ID 44553 · Compton Creek: Decision ID 44498 The City believes the listings are inappropriate, based on the following issues that are described in more detail below	Comment noted. See the responses below.	No
	10.12.b	· Listings for concrete-lined channels using current metrics are inappropriate. Reference reaches for concrete-lined channels in highly	See responses to comments 21.03 and 21.08. California surface waters are designated with beneficial uses to	No

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		urbanized catchments are lacking. Physical habitat conditions were apparently not considered during data evaluation. The State Water Resources Control Board (State Water Board) is planning to develop expectations for benthic community condition for developed landscapes using the California Stream Condition Index (CSCI) and a new AlgalStream Condition Index (ASCI). TMDL development for benthic community effects in concrete-lined channels based on unofficial Index of Biotic Integrity (IBI) thresholds is premature.	protect against quality degradation. (Wat. Code, § 13050, subd. (f) (defining beneficial uses).) The Listing Policy provides guidance on assessing and interpreting data and information as they are compared to applicable beneficial uses. (Listing Policy, p.1.) Accordingly, the California section 303(d) List must include waters for which applicable water quality standards have been promulgated and may be assessed to determine whether standards are met.	
	10.12.c	· Impairment of the reaches was not demonstrated using an appropriate metric for benthic community condition. The listing decisions were based on Southern California Coastal Index of Biotic Integrity (SCIBI). The State Water Board has rejected the use of the SCIBI in favor of the CSCI. The Regional Water Board Staff Conclusions (Staff Conclusions) for the listing decisions do not acknowledge that the data used to support the decisions were SCIBI scores, not CSCI scores. Instead, the Staff Conclusions imply that the decisions are based on CSCI scores.	See responses to comments 21.02 and 21.08. Both the California Stream Condition Index (CSCI) and the Regional Indices of Biological Integrity (IBIs) meet the requirements set forth under section 6.1.3 of the Listing Policy as acceptable evaluation guidelines for interpreting a narrative objective. In certain areas of low elevation and low gradient the southern California IBI was determined to be insufficient to be a primary line of evidence and therefore has been used as ancillary evidence when applicable. In certain cases the southern California IBI scores can be translated into CSCI scores in which case the data can be used as primary evidence for listing purposes even in areas of low elevation and low gradient.	No
	10.12.d	· There is no established water quality criteria for benthic community condition. Use of a SCIBI score of 40 (or other “cutoffs” promulgated by the authors of the SCIBI) as a listing threshold is not consistent with the State Water Board’s current approach for identifying impairment thresholds for benthic community data. The	See responses to comments 10.12.c, 21.02, and 21.08.	No

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		Regional Water Board use of a CSCI score of 0.79 in other listing decisions (and implied to be appropriate for Ballona Creek) is also not consistent with the State Board's current approach for identifying impairment thresholds for benthic community data.		
	10.12.e	· Insufficient data are available to meet the listing requirements. Notwithstanding the previous issues, several of the listings rely on a single site for data as a basis of the listing inconsistent with the Listing Policy.	<p>Section 3.9 of the Listing Policy states:</p> <p>"Bioassessment data used for listing decisions shall be consistent with section 6.1.5.8. For bioassessment, measurements at one stream reach may be sufficient to warrant listing provided that the impairment is associated with a pollutant(s) as described in this section."</p> <p>Listing recommendations based on bioassessment data measured at a single site are associated with a pollutant impairment consistent with Section 3.9 of the Listing Policy.</p>	No.
	10.12.f	<p>Listings for concrete-lined channels using currently available metrics are inappropriate. Application of the SCIBI to concrete-lined channels is especially inappropriate given the lack of a reference population for low gradient streams in coastal southern California, in general, much less for modified channels, in specific. Section 6.1.5.8 of the listing policy states:</p> <p>"When evaluating biological data and information, RWQCBs shall evaluate all readily available data and information and shall evaluate bioassessment data from other sites, and compare to reference condition. Evaluate physical habitat data and other water quality data, when available, to support conclusions</p>	See response to comment 21.03.	No

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		about the status of the water segment.” U.S. EPA’s causal assessment manual cites physical habitat as a leading cause of impairment in streams on 303(d) lists and recommends that, in all cases where physical habitat is evaluated, stream size and channel dimensions, channel gradient, channel substrate size and type, habitat complexity and cover, vegetation cover and structure, and channel-riparian interactions should all be considered before making a decision. Physical habitat conditions are not referenced in the LOEs for the benthic community effects listings in the preceding table, although physical habitat data collection is a standard part of bioassessment monitoring and reporting.		
	10.12.g	Ultimately, benthic community impairments in concrete-lined channels should be evaluated for potential listing in Category 4c of the 305(b) integrated report, instead of on the 303(d) list of segments requiring a TMDL. The U.S. EPA Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act (IRG) states: “Circumstances where an impaired segment may be placed in Category 4c include segments impaired solely due to lack of adequate flow or to stream channelization.”	U.S. EPA’s guidance concerning appropriate placement in the Integrated Report categories are recommendations with which the State Water Board has discretion. Impairments that cause degradation to biological populations and communities are properly captured under Section 3.9 in the Listing Policy. Any listing recommendations made using Section 3.9 of the Listing Policy are appropriately identified on the 303(d) List.	No
	10.12.h	As part of its statewide Biostimulatory-Biointegrity Project, in recognition that it may not be appropriate or productive to apply a	See response to comment 21.08. The technical work referenced by the commenter is taken as support	No

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		<p>single set of benthic community condition expectations to streams in pristine and developed landscapes, the State Water Board is currently employing SCCWRP and CDFW to develop expectations for benthic community condition for developed landscapes using the CSCI and the ASCI. The probability that concrete-lined channels in highly urbanized settings will be candidates for alternative benthic community endpoints is illustrated by language from the Work Plan:</p> <p>“In some streams, direct channel modifications (e.g., bank armoring) may also limit opportunities to sustain high quality ecological conditions for aquatic life. In these highly developed settings, the large number of linked stressors may prevent a stream from supporting its beneficial uses or attaining high scores on indices of biological condition. Often, these stressors are difficult to mitigate or remove under the traditional mechanisms available to the Water Boards. In these circumstances, the range of CSCI and/or ASCI scores may be constrained, but targeted restoration could improve conditions. Key technical questions underpinning the range of options and prioritization of management actions for wadeable streams along the continuum from undeveloped to highly developed landscapes found within California are: For which streams is biological integrity constrained by development in the catchment? How can they be identified and mapped? What are the ranges of biological</p>	<p>for the Biostimulatory-Biointegrity Policy, which is still under development. These tools could potentially be used in future reporting cycles but currently it would be premature to use information from these technical products to support a listing decision recommendation. In response to whether a TMDL is appropriate, it is not expected that a TMDL will be developed for Benthic Community Effects themselves, but for the associated pollutants which are resulting in the beneficial use not being supported. If all known pollutant impairments have been addressed and the biological community continues to show degradation the listing decision would need to be evaluated for delisting in accordance with Section 4.9 of the Listing Policy.</p>	

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		<p>conditions these developed landscapes can support?" (Mazor et al. 2017; emphasis added)</p> <p>The following waterbody segments are concrete lined or directly downstream of concrete lined channels:</p> <ul style="list-style-type: none"> · LA River Reach 4 (Sepulveda Dr. to Sepulveda Dam): Decision ID 66232. All of LA River Reach 4 is concrete lined. <p>Regardless, data for this listing were actually collected in the concrete lined portion of LA River Reach 5.</p> <ul style="list-style-type: none"> · Arroyo Seco Reach 1 (LA River to West Holly Ave.): Decision ID 44553. All 6.6 miles of this reach are concrete lined except for the 0.3 miles where the sample was collected for LOE 96151 (LOEs 30223 and 82895 were in the concrete portion of the channel). When considering the upstream reach (Reach 2) is another approximately 2 miles of concreted lined channel, the 0.3 miles sampled as part of LOE 96151 represents less than 4% of the total waterbody length. · Compton Creek: Decision ID 44498: Compton Creek is 8.3 miles long and only the lower quarter is not concrete lined. Triggering TMDL development for benthic community effects in the concrete-lined channels using thresholds derived from statistical distributions of IBIs from unarmored reference reaches is inappropriate. 		
	10.12.i	<p>Impairment of the reaches was not demonstrated using an appropriate metric for benthic community condition. SCIBI-based datasets should not be considered for listing</p>	See response to comment 10.12c.	No

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		decisions. Section 3.9 of the Listing Policy states: “A water segment shall be placed on the section 303(d) list if the water segment exhibits significant degradation in biological populations and/or communities as compared to reference site(s) and is associated with water or sediment concentrations of pollutants including, but not limited to chemical concentrations, temperature, dissolved oxygen, and trash.” [Emphasis added.]		
	10.12.j	While it is commonly assumed that the SCIBI inherently accounted for reference conditions, the reference conditions used to develop the SCIBI were not representative of the low-elevation/low-gradient streams commonly found in the alluvial plains of the Los Angeles Region. It was developed using data from 275 sites, ranging from Monterey County to the Mexican border, but not a single reference location represented low-elevation and low-gradient streams. The reaches listed in the table above are extremely low gradient, low-elevation waterbodies, and thus the SCIBI does not adequately define relevant reference conditions. Furthermore, the reference conditions used in the SCIBI represent a less restrictive definition of the reference condition than that which was deemed adequate as part of the State’s Reference Condition Management Program. The lead scientist for development of the SCIBI, Dr. Peter Ode, has acknowledged the limitations on application of the SCIBI. In a	See response to comment 21.08.	No

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		recently published paper regarding a study examining the SCIBI relative to other benthic macroinvertebrate bioassessments, he concluded that the SCIBI did not adequately address reference conditions in low-elevation sites, stating that the SCIBI was “not completely effective at controlling for an elevation gradient.” Dr. Ode was also the coauthor of a March 2009 report on recommendations for development and maintenance of a network of reference sites to support biological assessment of California’s wadeable streams. ¹⁰ This report describes recommendations made by a technical panel of experts on bioassessment, including experts from the California Department of Fish and Wildlife, Southern California Coastal Water Research Project (SCCWRP), U.S. EPA Region 9, and various universities. The technical panel laid out a number of steps that would be necessary to develop a network of adequate reference sites for implementation of criteria for bioassessments.		
	10.12.k	They note that adequate reference sites have not been identified in southern California, stating, “human-dominated landscapes can be so pervasive in locations such as urban southern California and the agriculturally dominated Central Valley that no undisturbed reference sites may currently exist in these regions. A statewide framework for consistent selection of reference sites must account for this complexity.”	See response to comment 21.08.	No

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		In 2010, as part of its project to develop a statewide Biointegrity Policy, the State Water Board abandoned use of the SCIBI and other regional IBIs, and funded development of the statewide CSCI (Mazor et al., 2016). The CSCI addressed at least some of the problems with the SCIBI through its use of a modeled reference condition as opposed to a regional reference pool. Starting in late 2016, the State Water Board began funding the development of a “companion” Algal Stream Condition Index (ASCI). The State Water Board is developing expectations for benthic community condition using both the CSCI and the ASCI which will be incorporated in a statewide Biointegrity Assessment Implementation Plan.		
	10.12.I	The Staff Conclusions associated with the new listings in the preceding table do not acknowledge that the data used to support the new listings were SCIBI scores. Further, the Staff Conclusions for all of the new listings imply that Regional Water Board staff based the listing decision on CSCI scores. The source of the BMI data for each of the new listings, and the new LOE for Compton Creek, (“Bioassessment Monitoring Report in Los Angeles County, 2006-2008”) were appendices (Appendix H) of the Los Angeles County Stormwater Monitoring Reports for 2006, 2007, and 2008. In these reports, BMI data were scored using the SCIBI (Ode et al. 2005), not the CSCI. In the case of Arroyo Seco Reach 1, the Staff Conclusions explicitly, but	See responses to comments 10.07 and 21.08.	No

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		<p>inappropriately, states that the underlying BMI data were CSCI scores. In the other cases, the ambiguous acronym "IBI" is used where scores are cited, and then the narrative ends with a passage implying that the "IBI" scores were CSCI scores. The misleading information in the Staff Conclusion for each new listing recommendation is provided below.</p> <p>· Los Angeles River Reach 4 (Sepulveda Dr. to Sepulveda Dam): "Both of the two samples collected had IBI scores below 40.... Two of the two samples collected had IBI scores below 40. ... "The CSCI is applicable statewide, accounts for a much wider range of natural variability, and provides equivalent scoring thresholds in all regions of the state. The CSCI will be used in the future for water quality assessment purposes statewide over the regional indices of biologic integrity (IBIs)." (Regional Water Board Staff Conclusion for Decision ID 66232, emphasis added)</p> <p>· Arroyo Seco Reach 1 (LA River to West Holly Ave): "3 of 3 samples exceeded the GUIDELINE... 3 of 3 samples were below the California Stream Condition Index (CSCI) score of 0.79. ... "The CSCI is applicable statewide, accounts for a much wider range of natural variability, and provides equivalent scoring thresholds in all regions of the state. The CSCI will be used in the future for water quality assessment purposes statewide over the regional indices of biologic</p>		

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		integrity (IBIs).” (Regional Water Board Staff Conclusion for Decision ID 96151, emphasis added)There is no established water quality criteria.Regional Water Board staff utilized a SCIBI score of 40 as a listing threshold. However, this value is not an established water quality criteria, nor does it represent the type of threshold the State Water Board intends to use to identify community condition or levels of impairment in its Biointegrity Assessment Implementation Plan. A SCIBI score of 39 was originally promulgated by the authors of the SCIBI (Ode et al. 2005) as an “impairment threshold” because it was equal to an arbitrary statistical criterion (two standard deviations below the mean reference site score).		
	10.12.m	Although it was not used for the listings in the table above, Regional Water Board staff have also used a CSCI score of 0.79 as a listing threshold for other reaches. However, a CSCI threshold of 0.79 is also based on an arbitrary statistical criterion (10th percentile of the reference calibration site scores; Mazor et al. 2016), and is not an adopted water quality criteria.	The use of the CSCI as an evaluation guideline is consistent with section 6.1.3 of the Listing Policy. CSCI scores below 0.79 are very likely impacted or altered due to human activity such that the biological community is degraded.	No
	10.12.n	The State Water Board is not pursuing use of arbitrary statistical cutoffs, such as reference population percentiles, to identify benthic community impairment going forward. As outlined in the November 2016 Work Plan, the State Water Board is using a Biological Condition Gradient Expert Synthesis approach to relate ranges of biological condition scores to	See response to comment 10.12.h.	No

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		community condition. Using this approach, a team of experts uses taxonomic metrics to assign degrees of biological condition to test sites while being blind to the degree of anthropogenic stressors present at the sites. In addition, the analysis is blind to the relationship between site scores and statistical distributions of overall datasets or reference datasets.		
	10.12.o	Insufficient data are available to meet the listing requirements. Notwithstanding the previous issues several of the listings rely on a single site for bioassessment data, which is inconsistent with the Listing Policy. Per section 3.9 (Degradation of Biological Populations and Communities) of the Listing Policy, "The analysis should rely on measurements from at least two stations." Only one site is referenced in the Fact Sheets for the following listing decisions:· Los Angeles River Reach 4 (Sepulveda Dr. to Sepulveda Dam) [Also, note that the data associated with Los Angeles River Reach 4 was actually collected in Los Angeles River Reach 5.] · Arroyo Seco Reach 1 (LA River to West Holly Ave.)· Compton Creek Because data were only collected at one site within these waterbodies, the requirements of the Listing Policy are not met.	See response to comment 10.12.e.	No
	10.12.p	Summary: As described in detail above, the approach utilized to establish benthic community effects impairments are not demonstrated using an appropriate metric for benthic community condition. The listings rely on an unestablished water quality criteria based	See responses to comments 10.07, and 10.12.a through 10.12.o.	No

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		<p>on metrics that are not appropriate for concrete-lined channels. Lastly, in all but one listing, there are not sufficient data to meet the listing requirements per the Listing Policy as the data were only collected at a single site within a waterbody.</p> <p>Requested Action: Remove the following Decision IDs from the 303(d) list:</p> <ul style="list-style-type: none"> · LA River Reach 4 (Sepulveda Dr. to Sepulveda Dam): Decision ID 66232 [Note that samples used in this decision were actually collected in LA River Reach 5] · Arroyo Seco Reach 1 (LA River to West Holly Ave.): Decision ID 44553 · Compton Creek: Decision ID 44498 		
	10.13	<p>The Final Listing Decision for Decision ID 65548 has been changed to “do not list”; however, the Regional Water Board Staff Conclusion and Regional Water Board Staff Decision Recommendation have not been revised to be consistent with the Regional Water Board’s findings (stated in the response to comments) that “the sampling site with the exceedances in the soft bottom section is actually in Arroyo Seco Reach 1.”</p> <p>Requested Action: Revise the Regional Water Board Staff Conclusion and Regional Water Board Staff Decision Recommendation for Decision ID 65548 to support the Final Listing Decision of Do Not List on 303(d) list (TMDL required list) based on the Regional Water Board’s findings.</p>	<p>The original bioassessment data is now associated with Arroyo Seco Reach 1 and the Benthic Community Effects decision for Arroyo Seco Reach 2 has been retired.</p>	Yes

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	10.14	<p>Section 3.9 of the Listing Policy titled “Degradation of Biological Populations and Communities” states:</p> <p>“A water segment shall be placed on the section 303(d) list if the water segment exhibits significant degradation in biological populations and/or communities as compared to reference site(s) and is associated including but not limited to chemical concentrations, temperature, dissolved oxygen, and trash...Association of chemical concentrations, temperature,dissolved oxygen, trash, and other pollutants shall be determined using sections 3.1, 3.2, 3.6, 3.7, 6.1.5.9, or other applicable sections.”</p> <p>As such, listing a waterbody for benthic community effects does not only require LOEs that support significant degradation in biological populations and/or communities. LOEs that support an association with water or sediment concentrations of pollutants must also be provided for a waterbody to be listed for benthic community effects. The Listing Policy is explicit that the same conditions which must be met to make a determination that water quality standards are being exceeded must also be met to make a determination that an association with water or sediment concentrations of pollutants is present. In one instance, an association with a pollutant is stated, but the associated pollutant is not identified as a “candidate cause” within U.S. EPA’s Stressor Identification Guidance Document¹³ which</p>	<p>See response to comment 10.07. This decision has been changed from List to Delist as there is insufficient information to determine an associated pollutant per Section 3.9 of the Listing Policy.</p>	Yes

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		outlines the steps to be taken to discern the stressor(s) responsible for impacting a biological community. The following table identifies the instance where there is no associated pollutant listed or the associated pollutant does not have a meaningful relationship to the impairment for various benthic community effects listings. Requested Action: Revise the decision for the segment listed in the preceding table to Delist from 303(d) list and remove from Category 5 (Appendix B).		
	10.15	The City of Los Angeles (and City of Burbank) have installed and implemented nitrification/denitrification (NDN) treatment processes at three water reclamation plants in the LA River watershed. The City of Los Angeles has spent approximately \$75 million to construct these advanced treatment facilities to address ammonia (in addition to nitrate and nitrite) at both the Los Angeles-Glendale Water Reclamation Plant (LAGWRP) and Donald C. Tillman Water Reclamation Plant (DCTWRP), and spend approximately \$6 million per year to operate those facilities. Through the installation and implementation of NDN treatment facilities and process optimization by the City of Los Angeles (and City of Burbank) water quality has improved significantly for ammonia (and for nitrogen as a whole). In fact, the quality of the water in the LA River watershed has been demonstrated to be fully attaining the applicable water quality objectives for ammonia since completion of NDN at all three WRPs	<p>The commenter made a similar comment to the Los Angeles Water Board. The Los Angeles Water Board's revised response adequately addresses this comment as follows: "Los Angeles River Reach 3 includes three LOEs (85894, 86019, and 2507); 85894 and 86019 were grouped to make the assessment that there were 33 exceedances out of 111 samples total.</p> <p>Los Angeles River Reach 3 and Los Angeles River Reach 5 are being addressed by the Los Angeles River Nutrient TMDL.</p> <p>Bull Creek, Wildlife Lake, and Balboa Lake decisions have been revised in the CalWQA database to reflect that they are being addressed by the Los Angeles River Nutrient TMDL.</p> <p>Los Angeles River Reach 4 is meeting the criteria based on the available data.</p> <p>Data collected after the NDN processes were put in place may show that the water quality in these reaches has improved; this update to the 303(d) list is only considering data submitted by August 30, 2010. Los Angeles Water Board staff encourages the commenter to enter all the relevant data into CEDEN in preparation for the next listing</p>	No

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		<p>(LAGWRP, DCTWRP, and Burbank WRP). These findings are supported in the fact sheets. Because NDN represented the implementation of management practices that have resulted in a change in the waterbody segments listed downstream of their respective discharges, only data collected post-NDN operations should be considered, consistent with Section 6.1.5.3 of the Listing Policy (Temporal Representation), which states that: If the implementation of a management practice(s) has resulted in a change in the waterbody segment, only recently collected data [since the implementation of the management measure(s)] should be considered. The following outlines information for each Decision ID associated with the ammonia listings in the following waterbodies and supports a reconsideration of the listings based only on recently collected data:</p> <ul style="list-style-type: none"> Los Angeles River Reach 3 (Figueroa St. to Riverside Dr.) Los Angeles River Reach 5 (within Sepulveda Basin) Bull Creek Wildlife Lake Balboa Lake <p>The Fact Sheet for Decision ID 32974 corresponds to the ammonia listing for Los Angeles River Reach 3 (Figueroa St. to Riverside Dr.) and states that two lines of evidence are available in the administrative record to assess the pollutant, although there are three lines of evidence present (85894, 86019, and 2507). LOE 2507 is a placeholder to support a 303(d) listing decision made prior to 2006. LOEs 85894 and 86019 each state that all of the exceedances in each dataset occurred</p>	<p>cycle that includes the Los Angeles Region.” (Response to comment 11.26.)</p> <p>Delisting these waterbody-pollutant combinations may be appropriate based on changes to the environment as a result of regulatory management actions described by the commenter. However, Section 4.1 of the Listing Policy requires data to support such a finding and to show that beneficial uses are fully supported. The Los Angeles Regional Water Board can examine more recent data if submitted into CEDEN and recommend a high priority listing or delisting off-cycle consistent with Section 6.1.2 of the Listing Policy. Furthermore, as clarified by the Los Angeles Water Board, the waterbody-pollutant combinations assessed in Decisions 32974, 32567, 60597, 66374, and 60378 are identified within Integrated Report Category 4a as being addressed by the U.S. EPA approved Los Angeles River Nutrient TMDL. The waterbodies as a whole however are identified as Category 5 due to other pollutant impairments still requiring a TMDL or other regulatory action.</p>	

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		<p>prior to and in 2007. The City found that the last exceedance was July 2007, which is to be expected given that 2007 was the year that the NDN treatment process as completed at both the LAGWRP and DCTWRP. Both the LAGWRP and DCTWRP discharges travel through Los Angeles River Reach 3, and since the NDN processes to remove ammonia were completed in July 2007, no exceedances in this waterbody have been observed. The Fact Sheet for Decision ID 32567 corresponds to the ammonia listing for Los Angeles River Reach 5 (within Sepulveda Basin) and states that two lines of evidence are available in the administrative record to assess the pollutant, although there are three lines of evidence present (86205, 86204, and 2520). LOE 2520 is a placeholder to support a 303(d) listing decision made prior to 2006. LOEs 86205 and 86204 each state that all of the exceedances in each dataset occurred prior to March and August 2007, respectively. The DCTWRP discharge flows through part of Reach 5 and the NDN processes to remove ammonia were completed in 2007. The Fact Sheet for Decision ID 60597 corresponds to the ammonia listing for Bull Creek and states that two lines of evidence are available in the administrative record to assess the pollutant (83158 and 83154). LOE 83154 presents one data point collected in May 2008 that does not show an exceedance. LOE 83158 states that all of the exceedances occurred prior to August 2007. The DCTWRP discharge flows through Bull Creek and the NDN</p>		

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		<p>processes to remove ammonia were completed in 2007. The Fact Sheet for Decision ID 66374 corresponds to the ammonia listing for Wildlife Lake and states that one line of evidence is available in the administrative record to assess the pollutant (90174). LOE 90174 states that all of the exceedances occurred prior to August 2007. The DCTWRP discharge flows through Wildlife Lake and the NDN processes to remove ammonia were completed in 2007. The Fact Sheet for Decision ID 60378 corresponds to the ammonia listing for Balboa Lake and states that one line of evidence is available in the administrative record to assess the pollutant (82930). LOE 82930 states that all of the exceedances occurred prior to August 2007. The DCTWRP discharge flows through Balboa Lake and the NDN processes to remove ammonia were completed in 2007. Furthermore, the Fact Sheet for Decision ID 32913 corresponds to the ammonia listing for Los Angeles River Reach 4 (Sepulveda Dr. to Sepulveda Dam) and includes the decision to Delist from 303(d) list (being addressed by U.S. EPA approved TMDL) based on the following Regional Water Board Staff Decision Recommendation: "RWQCB staff concludes that the waterbody-pollutant combination should be removed from the section 303(d) list because applicable water quality standards for the pollutant are not being exceeded." This decision is based on two LOEs (2513 and 86136). LOE 2513 states "A TMDL and implementation plan have been approved for</p>		

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		<p>this water segment-pollutant combination. The LA River Nitrogen TMDL was approved by RWQCB on August 19, 2003 and subsequently approved by U.S. EPA on March 18, 2004.” LOE 86136 finds that 0 of 152 samples exceeded the site-specific basin plan objective for total ammonia as nitrogen and only includes samples collected from 2008 to 2010 (which is after the date when the WRPs added the NDN treatment process and is inconsistent with the dates used in the assessments conducted for Los Angeles River Reaches 3 and 5, Bull Creek, and Wildlife Lake). Through the installation and implementation of NDN treatment facilities and process optimization by the City of Los Angeles (and City of Burbank), the quality of the water in the LA River watershed has been demonstrated to be fully attaining the applicable water quality objectives for ammonia. The message from the City and the Regional Water Board should be that the cooperative process worked, and that the applicable water quality standards are now being attained. Instead, the 303(d) list does not reflect the water quality improvement. Given that the addition of the NDN treatment process to the WRPs has eliminated exceedances, the timeframe used to evaluate impairments due to ammonia should be made consistent with the timeframe used in LA River Reach 4 which would result in the same listing decision for each waterbody (i.e., Delist from 303(d) list [being addressed by U.S. EPA approved TMDL]).</p> <p>Requested Action: Revise the following Decision</p>		

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		IDs to a finding of nonimpairment and remove listings for ammonia from Category 5 (Appendix B) because the data used to conclude that the applicable water quality standards for the pollutant were exceeded are no longer representative of ammonia concentrations observed within the waterbodies due to the installation and operation of NDN:- Los Angeles River Reach 3 Decision ID 32947- Los Angeles River Reach 5 Decision ID 32567- Bull Creek Decision ID 60597- Wildlife Lake Decision ID 66374- Balboa Lake Decision ID 60378		
	10.16	The Fact Sheet for Decision ID 32973 corresponds to the ammonia listing for Los Angeles River Reach 1 (Estuary to Carson Street) and is based on one LOE (2319), which does not contain any data. As such, the decision previously approved by the State Water Resources Control Board and the U.S. EPA has not changed. The Fact Sheet for Decision ID 32911 corresponds to the ammonia listing for Los Angeles River Reach 2 (Carson to Figueroa Street) and is based on one LOE (2465) which does not contain any data. As such, the decision previously approved by the State Water Resources Control Board and the U.S. EPA has not changed. In light of the information presented in the previous comment, it can be expected that conditions in Los Angeles River Reaches 1 and 2 since NDN was fully implemented (mid-2007) are consistent with what has been observed in Los Angeles River Reaches 3, 4, and 5 (i.e., no exceedances). The	<p>See response to comment 10.15.</p> <p>LOEs 2319 and 2465 are “placeholder” LOEs to show a finding of impairment made prior to 2006. The CalWQA database does not include data from decisions made prior to 2006. There is no additional data in the CalWQA database that would support delisting consistent with Section 4.1 of the Listing Policy.</p> <p>The State Water Board encourages the commenter to enter into CEDEN the ammonia data analyzed as part of the Upper Los Angeles River Enhanced Watershed Management Program development to allow the Los Angeles Water Board to assess the impacts of the management actions on beneficial uses.</p>	No

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		Listing Policy allows for the use of only recently collected data since implementation of the management measures. A review of the ammonia data analyzed as part of the Upper Los Angeles River (ULAR) Enhanced Watershed Management Program (EWMP) do not show any exceedances. Requested Action: Revise the following Decision IDs to a finding of nonimpairment and remove listings for ammonia from Category 5 (Appendix B) because the data used to conclude that the applicable water quality standards for the pollutant were exceeded are no longer representative of ammonia concentrations observed within the waterbodies due to the installation and operation of NDN:- Los Angeles River Reach 1 Decision ID 32973- Los Angeles River Reach 2 Decision ID 32911		
	10.17	Decision ID 33930 Los Angeles/Long Beach Outer Harbor (inside breakwater) utilizes chronic toxicity data in LOE 86170 that were collected within the Terminal Island Water Reclamation Plant's (TIWRP) chronic mixing zone. As part of TIWRP's 2015 NPDES permit renewal, the Regional Water Board moved chronic toxicity testing requirements from HW24 and HW43 (which represent 78 samples considered in the Decision ID) to HW20 and HW62. As stated in the Regional Water Board's June 3, 2015 Response to Comments on the Tentative NPDES Permit: The current chronic toxicity monitoring locations are within the chronic toxicity mixing zone... The proposed	<p>The commenter is correct the chronic toxicity data collected within the mixing zone for Terminal Island Water Reclamation Plan should not be assessed.</p> <p>Definition of a mixing zone from the State Implementation Policy (SIP) "a limited volume of receiving water that is allocated for mixing with a wastewater discharge where water quality criteria can be exceeded without causing adverse effects to the overall water body." In addition, section 1.4.2 of the SIP states "The applicable priority pollutant criteria and objectives are to be met throughout a water body except within a mixing zone granted by a RWQCB." Furthermore, section 1.4.2.2.A of the SIP states "A mixing zone shall not: . . . (2) cause *acutely toxic conditions to aquatic life passing through the mixing zone . . ." There is no similar language for chronic toxic conditions.</p>	No

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		receiving water monitoring locations HW20 and HW62 are located just outside the chronic mixing zone and represent the extent of the chronic mixing zone. These locations are appropriate because they better represent the chronic mixing zone and any chronic effects the discharge may have within the mixing zone. Acute toxicity will continue to be monitored within the chronic mixing zone near the discharge point. Monitoring of both the acute monitoring locations in addition to these new chronic toxicity monitoring locations will ensure proper assessment of toxicity in the Harbor within the influence of the discharge from TIWRP. Removing the 78 chronic toxicity data from LOE 86170 results in 34 acute data points that can be assessed. Of the 34 remaining data points, only 1 exceeds the toxicity threshold, which does not meet the listing requirements. Requested Action: Revise Decision ID 33930 for toxicity for Los Angeles/Long Beach Outer Harbor (inside breakwater) to Do Not List on 303(d) list (TMDL required list) and remove from Category 5 (Appendix B) to reflect the applicable data.	<p>This decision is consistent with Listing Policy Section 6.1.5 which states “before determining a standard is exceeded...the fact sheet shall contain relevant waterbody specific factors.” And Section 6.1.3 “. . . To select an evaluation guideline, the Regional Water Board or the State Water Board shall: . . . identify the narrative water quality objectives or applicable water quality criteria; identify the appropriate interpretive evaluation guidelines that potentially represents water quality objective attainment or protection of beneficial uses. . .”</p> <p>LOE 86170 has been updated to only assess the acute toxicity data. This resulted in 1 of 34 water samples exceeding the acute the water toxicity guideline. However, 9 of 37 sediment samples exceed the sediment toxicity guideline and that exceeds the allowable frequency found in Table 4.1 of the Listing Policy. The listing recommendation should remain Do Not Delist consistent with Section 4.6 of the Listing Policy.</p>	
City of Santa Clarita Representative: Heather Merenda	11.01	Any listings for the Santa Clara River in which multiple samples were collected on one day, we request that those samples be considered a single sample for that day rather than multiple samples. There are several cases that occurred in the Santa Clara River.	There are no newly proposed listings on the Santa Clara River for the 2016 listing cycle based on multiple samples collected on the same day. Furthermore, Section 6.1.5.6 of the Listing Policy indicates that samples are not considered temporally dependent if they are collected at the same location on the same day, in which the samples would be combined and represented by a single value.	No
	11.02	For the Santa Clara River, the City requests all pollutants remaining on the 303(d) list without a	Using the Enhanced watershed Management Program (EWMP) as an existing regulatory program that is reasonably expected to result in	No

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		developed TMDL, the Category be changed to the Category 4B for the Clean Water Act as “Being Addressed by Action Other Than a TMDL.” The pollutants will be addressed through the long-term implementation of the Enhanced Watershed Management Program (EWMP). The Regional Water Board response that, “EWMPs are likely to make a significant improvement in water quality in the affected watersheds but, MS4 discharges may not be the only source of pollutants causing the impairment of these waterbodies” did not consider major facts in this watershed.	the attainment of the water quality standard within a reasonable, specified timeframe consistent with Section 2.2 of the Listing Policy, assumes that discharges from the Municipal Separate Storm Sewer System (MS4) are the primary source of pollutants causing an impairment and that addressing that source will achieve compliance with applicable standards. Unless it has been determined that the MS4 is the primary source of impairment and compliance with the EWMP with result in attainment of applicable standards, a EWMP cannot be used to place a waterbody into 4b. This determination should be made by the Regional Water Board in close coordination with U.S. EPA.	
	11.03	If, though the extensive ongoing analysis required of the EWMP and the Santa Clara River, the above elements are insufficient, the State Water Board could reassess in the next 303(d) and revert back to Category 5 at that time. Given the age of the data and the current advanced work being done, “Being Addressed by Action Other Than a TMDL” seems the most prudent and protective course of action for the Santa Clara River. This is also consistent with the State Water Board and EPA policy on watershed planning.	See response to comment 11.02. A waterbody can only be placed into 4b if there is an existing regulatory program that is reasonably expected to result in the attainment of the water quality standard within a reasonable, specified timeframe consistent with Section 2.2 of the Listing Policy. U.S. EPA will disapprove a state’s failure to include the water body on the 303(d) list/Category 5 if U.S. EPA determines the controls are not requirements or that they will not result in standards attainment within a reasonable time.	No
Middle Santa Ana River TMDL Task Force Representative: Timothy Moore	12.01	We have reviewed the rationale provided in the draft Integrated Report and concluded that the State Water Board staff has misunderstood and misapplied the Antidegradation Targets adopted by the Regional Water Board in 2012. Below, we set forth the reasons why the State Water Board should support the Regional Water Board's recommendation to de-list both	The following changes have been made: Antidegradation water quality target changed from 409 cfu/100mL to 1104 cfu/100mL. The final listing decision for the Cucamonga Creek-Reach 1 was changed from Do not Delist to Delist. The Revised Draft Staff Report has also been revised to reflect these changes.	Yes

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		waterbodies.		
	12.02	The draft Integrated Report states that "several waterbodies were required to maintain the REC-2 beneficial use which has a bacteria objective of 409 cfu/100ml." This is not true.	The evaluation guideline of 409 cfu/100mL was incorrectly stated in the two fact sheets. The correct value is 1104 cfu/100mL based on Chapter 5 of the Santa Ana Regional Basin Plan. The fact sheets and Revised Draft Staff Report have been revised accordingly.	Yes
	12.03	The Basin Plan clearly states that there are no water quality objectives for waterbodies designated REC-2 Only. The 409 cfu/100mL objective cited in the draft Integrated Report is the Single Sample Maximum (SSM) which applies only to waterbodies designated REC-1 and assigned to Tier C or Tier D (as described in Chapter 5 of the Santa Ana Region's Basin Plan). It does not apply to waterbodies where the REC-1 use has been properly removed through a Use Attainability Analysis that has been approved by U.S. EPA - such as the Santa Ana Delhi Channel and Reach 1 of Cucamonga Creek.	See response to comment 12.01, 12.02, and 12.04. The evaluation guideline of 409 cfu/100mL has been changed to 1104 cfu/mL, and Decisions 34154 (Cucamonga Creek Reach 1) and 44427 (Santa Ana Delhi Channel) have been changed from Do No Delist from the 303(d) list (TMDL required list) to Delist from the 303(d) list (TMDL required list). Chapter 5 of the Santa Ana Basin Plan outlines the derivation procedure which was carried out on Santa Ana Delhi Channel and Cucamonga Creek Reach 1 as part of the Use Attainability Analysis (UAA) that was conducted to de-designate the REC-1 beneficial use from those waterbodies. Antidegradation targets for Cucamonga have been calculated, and are undergoing the approval process. This waterbody-pollutant combination is being proposed for removal from the 303(d) List. See also response to comment 12.10.	Yes
	12.04	Waterbodies designated REC-2, but not REC-1, must continue to comply with the state Antidegradation Policy (Res. 68-16). To this end, the Regional Water Board has developed and approved Antidegradation Targets to implement this policy. However, the Antidegradation Targets are not water quality objectives and exceedances of these targets are not evidence that the beneficial uses are impaired. EPA acknowledges that antidegradation policies "may not lend themselves to attainment determinations" like those made in conjunction with developing the 303(d) list.	<p>The selected quote from the U.S. EPA guidance (p. 47, fn.16) appears in the following broader context:</p> <p>Water quality standards include designated use(s), criteria, and the antidegradation policy. Water quality criteria are important elements of water quality standards and attainment of criteria should also be evaluated in making listing decisions (See 40 CFR 130.7 (b)(3)). Failure to meet WQC warrant listing of waters under section 303(d). EPA has not developed guidance at this time on determining attainment status for antidegradation policies. EPA recognizes that such policies, while an important part of WQS, may not lend themselves to "attainment" determinations on a segment specific basis.</p>	No

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			The Antidegradation Targets are not policies, but are designed to implement the policy. Additionally, U.S. EPA's guidance concerning appropriate placement in the Integrated Report categories are recommendations to the States and not requirements. The Antidegradation Targets provided in Chapter 5 of the Santa Ana Regional Basin Plan are intended to ensure that the REC-2 beneficial uses are maintained and not degraded as a result of removing the REC-1 beneficial use. The Antidegradation Targets are also calculated to protect downstream beneficial uses. As such it is appropriate for the State Water Board to apply the antidegradation targets for assessment of the REC-2 beneficial use.	
	12.05	The Antidegradation Targets were never designed or intended to be used as Not-to-Exceed values in the same way that water quality objectives are implemented. [...] Because the Antidegradation Targets were set equal to the 75th percentile of the historical data, 25 percent of the data will exceed the target threshold. This is as expected and properly characterizes the "entire distribution of the dataset." It is not, by itself, proof that water quality degradation has occurred.	See response to comment 12.04. Section 3.3 of Listing Policy allows for an exceedance frequency of 10 percent for bacteria where recreational uses apply. The application of the antidegradation targets to the REC-2 beneficial use is consistent with the Listing Policy. The statistical requirements for calculating the baseline antidegradation targets have no bearing on the application of the Listing Policy.	No
	12.06	The Antidegradation Targets were intended to evaluate new water quality data that was collected after the Basin Plan amendment was adopted and a regional bacteria monitoring program was implemented:	See response to comment 12.05. The antidegradation targets calculate the expected baseline condition of the waterbody at which REC-2 uses are expected to be supported. Once the baseline condition has been calculated that value can be applied to any data including data collected prior and during the calculation of the antidegradation target for determining Rec-2 beneficial use support.	No
	12.07	The approved Regional Bacteria Monitoring Program describes the specific procedures that will be used to implement the Antidegradation Targets. It states that water quality samples will	The regional monitoring program is outside the scope of the assessment process and provides the regulatory actions that will be utilized by the Santa Ana Water Board when exceedances of the antidegradation targets are observed.	No

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		be collected and evaluated annually at each of the waterbodies designated REC-2 only		
	12.08	It should be noted that the Regional Water Board's approved Monitoring Program also states that water quality degradation will be evaluated by comparing a "newly acquired dataset" to the "historical dataset."	See responses to comments 12.06 and 12.07.	No
	12.09	The statistical analysis done by the State Water Board staff compares the historical dataset to itself and does so in a manner that does not comport with the methods described in the Basin Plan or the Regional Water Board's approved Monitoring Plan. Only new data collected after the Basin Plan amendment became effective on April 8th, 2015, and gathered in accordance with the approved Monitoring Plan/QAPP, can be used to determine whether water quality degradation has occurred.	See responses to comments 12.04, 12.05, 12.06 and 12.10 As stated in Footnote 3 of Chapter 5 of the Santa Ana Basin Plan, antidegradation targets should only apply to samples collected during dry weather months. As a result, LOE 96208 has been revised to show the correct exceedance frequency of 4 exceedances out of 21 samples. The fact sheet for indicator bacteria in Santa Ana Delhi Channel was changed as a result of the revised LOE from Do not Delist from 303(d) List to Delist from 303(d) List. The Staff Report has been revised to reflect this change in listing status.	Yes
	12.10	In order to minimize statistical variability, the Antidegradation Targets were intentionally developed using only water quality data from samples collected under dry weather conditions. According to the Basin Plan, these targets "do not apply to samples collected during wet weather conditions." It is not clear whether State Water Board staff properly excluded all wet weather results before undertaking their own retrospective analysis of the historical data. The exact data that the State Water Board staff used to support its conclusion was not detailed or cited in the Integrated Report.	As stated in Footnote 3 of Chapter 5 of the Santa Ana Basin Plan, antidegradation targets should only apply to samples collected during dry weather months. As a result, LOE 96208 has been revised to show the correct exceedance frequency of 4 exceedances out of 21 samples. The indicator bacteria fact sheet for Santa Ana Delhi Channel was changed as a result of the revised LOE from Do not Delist from 303(d) List to Delist from 303(d) List. The Staff Report has been revised to reflect this change in listing status.	Yes

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	12.11	In the event that the State Water Board elects to over-ride the Regional Water Board's determination and keep these stream segments on the 303(d) list, both should be re-assigned from Category 5 (TMDL required) to Category 2 because there is "insufficient information to determine beneficial use support."	<p>See response to comments 12.04 and 12.09.</p> <p>In California, waterbody-pollutant combinations are assessed consistent with the Listing Policy to determine the overall beneficial use support rating. That overall beneficial use support rating is used by the California Water Quality Assessment Database (CalWQA) to determine the overall Integrated Report Category for the waterbody as a whole. This methodology is described on page 22 and 23 of the Staff Report.</p> <p>Santa Ana Delhi Channel has been revised and is now identified as a Category 1 waterbody.</p> <p>Although the listing associated with bacteria in Cucamonga Creek Reach 1 (Valley Reach) has been revised to be a proposed Delisting, the waterbody will remain in Integrated Report Category 5 due to other pollutant impairments.</p>	Yes
	12.12	There is no need to develop a TMDL because the Basin Plan, related Monitoring Program, MS4 permits, and Comprehensive Bacteria Reduction Plans (CBRP) previously approved by the Regional Water Board, already require stakeholders to identify and mitigate bacteria sources that are causing or contributing to water quality degradation when there is "credible evidence" that such degradation is occurring.	See response to comment 12.11.	No
	12.13	For the reasons given above, the Task Force advises that the State Water Board staff reconsider its recommendation that Santa Ana Delhi Channel and Reach 1 of Cucamonga Creek should remain on the 303(d) list. These waterbodies were originally added to the 303(d)	See responses to comments 12.03 and 12.11.	No

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		list based on elevated fecal coliform concentrations. Fecal coliform is no longer considered an accurate or reliable indicator of human health risk and these water quality objectives have since been deleted from the Basin Plan. Thus, the prior listing should be considered obsolete and invalid.		
	12.14	The current 303(d) assessment is constrained to consider only data submitted prior to August 30, 2010.17 However, the Basin Plan amendment requires that "new data" be used to determine if water quality has degraded compared to the historical baseline condition.	See response to comment 12.06.	No
	12.15	Moreover, the new data must be collected in accordance with the Monitoring Program and QAPP approved by the Regional Water Board in March of 2016. Any data used to develop the Antidegradation Target is not "new." All genuinely "new" data, by definition, must have been collected long after the 2010 submission deadline had passed.	See response to comment 12.06.	No
	12.16	The Regional Water Board looked at all of the same water quality data that was evaluated by State Water Board staff and concluded that Santa Ana Delhi Channel and Reach 1 of Cucamonga Creek no longer belong on the 303(d) list. Deference should be given to the Regional Water Board's ability to implement its own Antidegradation Targets properly. State Water Board staff's interpretation of these targets and analysis of the historical data is inconsistent with the plain language of the approved Basin Plan amendment and the	Section 6.3 of the Listing Policy gives the State Water Board authority to review and change recommendations approved by the Regional Water Boards prior to submitting the 303d list to U.S. EPA in accordance with the Listing Policy and applicable law.	No

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		related Monitoring Program. Therefore, the State Water Board should affirm the Regional Water Board's determination and de-list both streams.		
Lake Elsinore TMDL Task Force Representative: Timothy Moore	13.01	The Task Force recently learned that DDT was applied to Lake Elsinore in the spring of 1954 by the California Bureau of Vector Control. At the time, the region was undergoing a prolonged drought and state authorities sprayed DDT directly on the dry lakebed to eradicate a severe gnat infestation. Sixty years ago the harmful side-effects were not yet known and DDT was widely used. It was also applied in Blue Lakes (1949) and Clear Lake (1954).	Comment noted.	No
	13.02	Task Force recommends that the Source section of the 303(d) Listing Decision be revised to indicate that: "DDT was applied directly to lakebed sediments by the California Bureau of Vector Control in 1954."	In past cycles, potential sources were identified during the listing process using staff's best professional judgement. This has been shown to result in inconsistencies that made source identification unreliable. As a result, the business rule for identifying potential sources is to only add them to fact sheets after a formal source analysis has been completed. This is typically completed as part of TMDL development, but can be completed outside of a TMDL as well. Identification, of such sources should be made by the Regional Water Board familiar with the TMDL or source analysis to support the identification. This methodology of source analysis standardizes and strengthens the information contained in the section. Although the documents submitted by the commenter are helpful, they do not contain enough detail or have a large enough scope to be considered a source analysis, and therefore will not be added as a potential source at this time.	No
	13.03	The Task Force also recommends that Lake Elsinore be placed in Category 4b of the 303(d) list because "another regulatory program is reasonably expected to result in attainment of	This comment was adequately addressed by the Santa Ana Regional Water Quality Control Board's response to comment 1.007: "The water quality assessment consists of five categories, with	No

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		the water quality standard within a reasonable, specified time frame." DDT has been banned from use in the United States since 1972. There are no controllable discharges of DDT and, for reasons discussed below, the existing federal prohibition is adequate to ensure attainment of water quality standards.	additional subcategories. Big Bear Lake is impaired by DDT and we propose to include it in Category 5 for polluted waters. Category 4b is for polluted waters that have a pollution control program. DDT has low water solubility and metabolites may be re-suspended within the lake or mobilized and enter the lake through such actions as erosion, recreation, or development. The federal ban of the use of DDT is not sufficient itself to be considered a pollution control program."	
	13.04	EPA's regulatory program prohibiting the use of DDT is working as intended. Consequently, Lake Elsinore should be listed under Category 4b because a TMDL is not needed or required.	See response to comment 13.03	No
General Public, Friends of the Agua Hedionda Lagoon Representative: Mary Anne Viney	14.01	The basis for concluding that small samples of sediment taken at only 2 locations (one in the outer and one in the middle basin of the lagoon) are representative of, and fully describe the level of toxicity in the outer and middle sections of the lagoon, in light of the purported differences in drainage and tidal flushing etc., throughout the lagoon isn't clear. With such a paucity of samples, where does one draw an accurate line between the half with sediment toxicity and the half without?	Section 6.1.5.4 of the Listing Policy allows the Regional Water Boards to "identify stream reaches or lake/estuary areas that may have different pollutant levels based on significant differences in land use, tributary inflow, or discharge input" and aggregate the data by appropriate reach or area. The lagoon has not been segmented at this time. The toxicity decision has been clarified to indicate the exceedances of sediment toxicity were based on data collected in the eastern portion of the lagoon. Discussions on how the Agua Hedionda Lagoon will be split should be done with the San Diego Regional Water Board.	No
	14.02	About 1952-1954 the Agua Hedionda Lagoon's hydrology and ecology was significantly altered to provide Once-Through-Cooling for the Encinas Power Station. The outer basin of the	Comment noted.	No

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		lagoon is dredged about every 2-3 years because of extensive sandbar formation in the outer basin of the lagoon. The continuous buildup of sediment in the outer basin can hamper adequate tidal flushing of the lagoon and eventually lead to adverse impacts to tidal prism habitat.		
	14.03	No Routine Summer-Time Monitoring for Bacteria is Required to be Performed by San Diego County in the Middle Basin of the Lagoon, but Agency Routine Summer-Time Monitoring for Bacteria Should Be Done: This is a location where children and families are permitted to swim and which is subject to both a municipal storm drain outfall and an industrial one. In 2009, testing indicated elevated levels of bacteria from the municipal storm drain outfall.	Monitoring requirements is outside the scope of the 2014 and 2016 Integrated Report process. This should be discussed with the San Diego Regional Water Board. In decision 34464, the LOEs for Water Contact Recreation cite data collected from January 2008 through October 2008 including the summer months. No data was received as part of the solicitation for 2009.	No
	14.04	The lagoon receives sediment-laden run-off, with chemicals/ bacteria bound to the sediment, from a variety of sources including: municipal and industrial storm drains, inadequate tidal flushing and sandbar formation as explained above, and the Agua Hedionda Creek, which empties into the eastern basin of the lagoon, as well as from highways and the railroad which intersect the lagoon, and Carlsbad streets/ lands. In light of these impacts to beneficial uses, sedimentation is a potential pollutant of concern.	Data exists for sediment toxicity in both Agua Hedionda Creek (LOEs 26225 and 72894) and Agua Hedionda Lagoon (LOEs 72909 and 72914). Both the Lagoon and Creek are proposed for 303(d) listing as impaired due to sediment toxicity.	No
	14.05	For a long time, until about 2010, the lagoon had been listed for sedimentation and bacteria. A document used to justify de-listing contained the following statement which seemed to help	The recommendations to delist the Agua Hedionda Lagoon for sedimentation and bacteria were made consistently with the delisting factors at Sections 4.2 and 4.3 of the Listing Policy. These decisions were approved by EPA as part of the 2010 Integrated	No

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		bolster the sedimentation de-listing decision: "The Encinas Power Station continues to monitor the sediment build up in the outer, middle, and inner lagoon." However, this monitoring has apparently never been done.	Report process.	
	14.06	The lagoon contains many contaminants such as polycyclic aromatic hydrocarbons, fuel oil components, pesticides and heavy metals etc., but apparently these are at safe levels. The adverse effect of low levels of these contaminants over extended periods of time to species / habitat as well as synergistic impacts are not fully understood and need to be studied.	Comment noted.	No
	14.07	The approximate 95-acre Encinas Power Station site is located on the southern rim of the middle and outer basins of the lagoon, west of the railroad tracks. It is considered a developable brownfield site and the soil and groundwater under the facility are known to have been contaminated with Petroleum Hydrocarbons and pesticides.	Comment noted. Data and information collected and submitted into CEDEN will be use in future listing cycles to assess beneficial use support for all pollutants with applicable criteria, objectives or evaluation guidelines consistent with the Listing Policy.	No
San Diego Clean Water Authority Representative: Toby Roy	15.01	The Water Authority's comments are limited to a proposed change to a delisting recommendation submitted by the San Diego Water Board for the San Diego region. Although the Water Authority agrees with the San Diego Water Board's recommendation to delist, our justification for delisting is different from the San Diego Water Board's. We request that the State Water Board approve the San Diego Water Board's original recommendation to delist the San Vinente Reservoir for nitrogen based on a weight of evidence approach.	See responses to comments 15.10 and 15.11.	No

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	15.02	The State Water Board's Water Quality Control Policy for Developing California's Clean Water Act Sections 303(d) List requires a waterbody to be evaluated for listing and delisting based on a Situation-Specific Weight of Evidence Listing/Delisting factor. This approach requires that all data and information be evaluated to determine whether to place waters on or remove waters from the 303(d) list. However, this approach was not followed in the original listing which was approved by the State Water Board in 2010, nor in subsequent listing cycles. Not all the data submitted by the City of San Diego was evaluated. Furthermore, additional information on the imported water dominance of the reservoir was not considered.	See response to comment 15.01. The decision to List this waterbody as impaired for Nitrogen was made consistently with Section 3.1 of the Listing Policy and was appropriately approved during the 2010 listing cycle by the Water Boards and U.S. EPA.	No
	15.03	Key reasons to delist the San Vicente Reservoir for nitrogen, which are consistent with the weight of evidence approach, are summarized below and discussed in detail in this letter: 1. The original nitrogen listing was incorrectly based on a water quality objective for biostimulatory substances. 2. Characteristics of the reservoir as dominated by imported water. 3. Data on water clarity and chlorophyll a during 2005-2006 submitted by the City of San Diego should be evaluated. 4. Changed conditions regarding the San Vicente Dam Raise project, which was completed in 2015	<p>Overall, the weight of all of the information does not indicate standards attainment. Items 1 through 4 in comment 15.03 are responded to in the same order.</p> <p>1. The water quality objective for biostimulatory substances was correctly applied according to the Regional Water Board Basin Plan. The Basin Plan states: "Analogous threshold values have not been set for nitrogen compounds; however, natural ratios of nitrogen to phosphorus are to be determined by surveillance and monitoring and upheld. If data are lacking, a ratio of N:P = 10:1, on a weight to weight basis shall be used"</p> <p>In this case, there were 32 exceedances out of 37 samples where the ratio was greater than 10:1</p> <p>2. The argument of imported water dominating the characteristics of the reservoir is not supported by data and information submitted by the August 30, 2010 solicitation deadline.</p>	No

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			<p>3. There is insufficient information available to properly assess the current condition of the reservoir during this reporting cycle. The impact to the water quality since Dreissenid mussels ("quagga") were introduced to the reservoirs' imported source water has not been verified based on the information and data currently available for the current listing cycle.</p> <p>4. The San Vicente Dam Raise project was completed in 2015. The data cutoff for this listing cycle was August of 2010, the data from the project will be taken into consideration during the next listing cycle. Please see response to comment 1.01.</p>	
	15.04	This objective clearly establishes a numerical phosphorus threshold of 0.025 mg/l within any standing body of water. It also states that "analogous threshold values have not been set for nitrogen compounds," and that "natural ratios of nitrogen to phosphorus are to be determined by surveillance and monitoring and upheld." The Basin Plan objective that directs that reservoir-specific N:P data be used to assess compliance with the biostimulatory substances objective. N:P ratios are a function of the quality of imported water that is delivered to the reservoir, which is dominated by imported water as discussed below. Total nitrogen concentrations in imported water supplies typically exceed 0.25 mg/l.	Please see response to comment 15.03.	No
	15.05	The original listing was based on a comparison of reservoir water quality concentrations in 2005-2006 for nitrogen with an assumed threshold of 0.25 mg/l. However, preventing adverse biostimulation can be achieved through a limited-nutrient approach in which reservoirs are managed to consistently achieve	State Water Board is open to receiving and assessing data during the appropriate data solicitation period to whether or not biostimulation can be achieved through a limited-nutrient approach with high N:P ratios .	No

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		phosphorus-limited conditions (e.g. high N:P ratios).		
	15.06	Data presented within the December 2009 Integrated Report demonstrates the dominance of phosphorus-limiting conditions during 2005-2006. Phosphorus was detected in six of the 37 San Vicente Reservoir samples during 2005-2006, but all of these detections occurred during the first 90 days of this two-year period. N:P ratios in San Vicente Reservoir were significantly in excess of 10:1 in an overwhelming majority of the samples collected during 2005-2006.	Please see response to comment 15.03(1) and 15.03(3).	No
	15.07	Provided that reservoir phosphorus concentrations can be effectively managed and controlled, total nitrogen concentrations in reservoirs can exceed 0.25 mg/l without causing adverse biostimulation.	The 2013 Flow Science study occurred after the data solicitation cutoff date of 30 August 2010 and therefore cannot be considered for the listing decision for this cycle. Delisting conditions can be found on pages 14 and 15, and tables 4.1 and 4.2 of the Listing Policy. From the Listing Policy, page 17, section 6.1.2.1: "If a Regional Water Board is "off cycle" pursuant to the State Water Board's notice of solicitation, that Regional Water Board or State Water Board may administer the process for one or more water segments that would result in a direct listing change from the previous listing cycle pursuant to section 6.2. In accordance with the listing cycle, the State Water Board and the Regional Water Boards shall seek all readily available data and information on the quality of surface waters of the State. Readily available data and information shall be solicited from any interested party, including but not limited to, private citizens, public agencies, state and federal governmental agencies, non-profit organizations, and businesses possessing data and information regarding the quality of the Region's waters."	No
	15.08	Provided that reservoir phosphorus concentrations can be effectively managed and	Comment noted.	No

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		controlled, total nitrogen concentrations in reservoirs can exceed 0.25 mg/l without causing adverse biostimulation.		
	15.09	The project to raise the San Vicente Reservoir dam was completed in 2015, which increased the reservoir's capacity from 90,000 to 242,000 acre-feet. This new capacity is owned by the Water Authority and is used for storing water (imported water) for use in dry years or emergency supply. With this expansion, imported water comprises the majority of the volume stored in San Vicente Reservoir supply. Because nutrient loads from local runoff are diluted into a considerably larger volume of water, nutrient concentrations within San Vicente Reservoir are projected to decrease from historic values. Virtually all nitrogen loads into the reservoir originate with imported water delivery and storage.	See responses to comments 1.01 and 15.01.	No
	15.10	Reservoir data from 2005-2006 presented within the San Diego Water Board's December 2009 Integrated Report and 2016 Integrated Report demonstrate compliance with the Basin Plan objective for biostimulation, but were not considered.	<p>The original decision to List San Vicente Reservoir during the 2010 listing cycle was based on data from the Water Department, Water Quality Monitoring Data for Drinking Source Water Reservoirs. January 2005 to December 2006. See http://www.waterboards.ca.gov/water_issues/programs/tmdl/records/region_9/2007/ref2554.zip</p> <p>The data available show that 32 out of 37 samples exceeded the evaluation guideline for nitrogen. The decision to list this waterbody as impaired for nitrogen was made consistently with Section 3.1 of the Listing Policy and was appropriately approved during the 2010 listing cycle by the Water Boards and U.S. EPA.</p> <p>In 2007, as a result of the reservoirs' imported source water,</p>	No

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			<p>Dreissenid mussels (“quagga”) were introduced, resulting in drastic changes in reservoir ecosystems and management, including the drafting of management response plans in 2009. The impact of Dreissenid mussels on reservoir ecosystem dynamics, especially nutrient pools and cycling, is dramatic and well documented in the scientific literature, with mussels completely altering the physical, chemical, and biological processes within systems. Impacts of Dreissenid mussel colonization can vary depending on reservoir dynamics, but typically results in the stripping of nutrients from the phytoplankton and promotion of macrophytes due to increased water clarity.</p> <p>Although waterbody conditions may have changed due to the introduction of the mussels, no additional data have been provided indicating the introduction of the invasive species of mussel has resulted in a decrease in nitrogen. This waterbody should remain on the 303(d) List until data can be assessed consistent against section 4.1 of the Listing Policy.</p>	
	15.11	<p>The reservoir thermally stratifies during spring, summer, and fall months. As shown in Table 2, Secchi disk values in 2005-2006 show a high degree of water clarity during all conditions. Observed Secchi disk values in San Vicente were typically on the order of 14 feet. While 90th percentile Secchi disk values were on the order of 6-7 feet, these lower values typically occurred in January/February, and are indicative of storm and climatic conditions rather than algae production. In general, water clarity during 2005-2006 tended to be highest (e.g. clearest) during summer months, when algal growth tends to be higher. This data substantiates the</p>	<p>See response to comment 15.10. San Vicente Reservoir was identified as impaired for “Color” or water clarity based on the depth profile information submitted by the reservoir data for 2005 and 2006. See Decision 42880. The San Diego Water Board has proposed to Delist this waterbody-pollutant combination based on the presence of the invasive quagga mussels and the data no longer being representative of the current conditions. The State Water Board has revised Decision 42880 from Delist back to List until current data can be assessed to support the delisting under Section 4 of the Listing Policy.</p>	Yes

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		lack of adverse biostimulation effects in these reservoirs and should be considered as part of the weight of evidence approach to delist for nitrogen.		
	15.12	Chlorophyll a is an indicator of algal biomass and is commonly used to assess eutrophic conditions in lakes or reservoirs. A number of states have or are considering water quality standards for Chlorophyll a, and have incorporated chlorophyll a numeric targets into nutrient TMDLs, including in California. Based on an analysis of the frequency of severe algal bloom conditions, a summer mean target of 5 µg/L means that blooms will almost never occur, while with a target of 10 µg/L blooms will be rare.	Comment noted.	No
	15.13	The North Carolina State University Water Quality Group suggests that water supply reservoirs maintain mean chlorophyll a concentrations less than 15 µg/L, and the State of Oregon has a phytoplankton water quality standard for lakes that thermally stratify of 10 µg/L. ⁸ In California, the Indian Creek Reservoir nutrient TMDL assigns a Secchi depth of not less than 2 ft and a maximum summer chlorophyll a concentration of 10 µg/L to protect beneficial uses.	Please see response to comment 15.01.	No
	15.14	As shown in Table 2, chlorophyll a concentrations in the epilimnion in San Vicente Reservoir were typically below 2 µg/l, and 90th percentile values were on the order of 3 µg/l. This data further substantiates a lack of adverse biostimulation in the reservoir.	Please see response to comment 15.01.	No

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	15.15	The weight of evidence supports delisting the San Vicente Reservoir as impaired for nitrogen. Had the extensive data set submitted by the City of San Diego been evaluated, it would have demonstrated a lack of adverse biostimulation effects, and no indication of adverse impacts to beneficial uses. Additional weight of evidence that supports delisting include the reservoir's characteristics as dominated by imported water, and the dam raise project completed in 2015.	Please see response to comment 15.01. Also, the project to raise the dam was completed in 2015 and the data solicitation period for this listing cycle ended in 2010. Please see responses to comments 1.01 and 15.02.	No
	15.16	The City of San Diego has committed to implementing a large-scale potable reuse reservoir augmentation program called Pure Water San Diego, which could involve directing purified water to San Vicente Reservoir as part of a later phase. Delisting for nitrogen could remove a potential future regulatory obstacle to permitting potable reuse. If the San Diego Water Board required that total nitrogen concentrations be maintained at or below 0.25 mg/l in imported water reservoirs, implementation of reservoir augmentation could be rendered infeasible, as compliance with such a 0.25 mg/l nitrogen standard cannot be achieved even with the highest level of treatment proposed with draft regulations being considered by the Division of Drinking Water. As stated earlier, compliance could also not be achieved using imported water since total nitrogen concentrations in imported water supplies also typically exceed 0.25 mg/l. Concentrations of phosphorus are projected to be lower in the purified water supply than the	The Water Quality Objective for Biostimulatory Substances within the San Diego Water Quality Control Plan (p. 3-9) states: Concentrations of nitrogen and phosphorus, by themselves or in combination with other nutrients, shall be maintained at levels below those which stimulate algae and emergent plant growth. Threshold total phosphorus (P) concentrations shall not exceed 0.05 milligrams per liter (mg/l) in any stream at the point where it enters any standing body of water, not 0.025 mg/l in any standing body of water. A desired goal in order to prevent plant nuisance in streams and other flowing waters appears to be 0.1 mg/l total P. These values are not to be exceeded more than 10% of the time unless studies of the specific waterbody in question clearly show that water quality objective changes are permissible and changes are approved by the Regional Water Board. If a site-specific objective for biostimulation are developed for reservoirs dominated by imported water, then the listing decision will be reassessed consistent with Section 4 of the Listing Policy.	No

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		imported water supply, and along with total dissolved solids and other dissolved minerals concentrations that are lower than the existing imported supply, offers the potential for improving reservoir biostimulation control while enhancing both the quality and quantity of sustainable local water supplies.		
County of Tuolumne Representative: Randy Hanvelt	16.01	The Board of Supervisors expressed concerned to the Central Valley Regional Water Quality Control Board regarding its use of old data and its apparent arbitrary cutoff date for data submission. This Board of Supervisors continues to hold the same concerns as your Board considers listing these same creeks as impaired.	The California Regional Water Quality Control Board, Central Valley Region, correctly pointed out in Resolution R5-2016-0083, recital 10: "The State Water Board directed that, due to the volume of data received during the 2010 data solicitation period, only water quality data received through 30 August 2010 were to be evaluated for the 2012, 2014, and 2016 listing cycles." In 2015 the Listing Policy was amended to include several methods for increasing the efficiency of the creation and submittal of the Integrated Report to U.S. EPA. Those methods will begin being utilized starting with the 2018 Integrated Report as directed by the State Water Board under Resolution 2015-0005.	No
	16.02	Due to the data from the study conducted by Dr. Kenneth Tate and his team at the University of California Cooperative Extension in 2013 with replicated results in 2016, we request you consider "Do Not List" action for the 4 creeks in the Stanislaus National Forest-Bull Meadow, Bell Creek, Niagara Creek, and Rose Creek.	Both the 2013 and 2016 studies occurred after the data solicitation cutoff date of 30 August 2010 and therefore cannot be considered for the listing decision for this cycle.	No
	16.03	With 92% of the 178 samples collected by the UCCE on the Stanislaus National Forest being below the U.S. EPA recommended criteria value for E. coli, it seems clear that the need to develop TMDLs for these creeks is not only a low priority but is not necessary.	Both the 2013 and 2016 studies occurred after the data solicitation cutoff date of 30 August 2010 and therefore cannot be considered for the listing decision for this cycle. Delisting conditions can be found on pages 14 and 15, and tables 4.1 and 4.2 of the Listing Policy. From the Listing Policy, page 17, Section 6.1.2.1: "If a Regional Water	No

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			Board is “off cycle” pursuant to the State Water Board’s notice of solicitation, that Regional Water Board or State Water Board may administer the process for one or more water segments that would result in a direct listing change from the previous listing cycle pursuant to section 6.2. In accordance with the listing cycle, the State Water Board and the Regional Water Boards shall seek all readily available data and information on the quality of surface waters of the State. Readily available data and information shall be solicited from any interested party, including but not limited to, private citizens, public agencies, state and federal governmental agencies, non-profit organizations, and businesses possessing data and information regarding the quality of the Region’s waters.” With additional data submitted, off-cycle listings and delistings are possible.	
	16.04	Should your Board choose to follow through on listing the four remaining creeks in Tuolumne County found in your staff's report, the Board of Supervisors requests your consideration of an off-cycle revision to delist these creeks in a timely fashion.	From the Listing Policy, page 17, Section 6.1.2.1: “If a Regional Water Board is “off cycle” pursuant to the State Water Board’s notice of solicitation, that Regional Water Board or State Water Board may administer the process for one or more water segments that would result in a direct listing change from the previous listing cycle pursuant to section 6.2. In accordance with the listing cycle, the State Water Board and the Regional Water Boards shall seek all readily available data and information on the quality of surface waters of the State. Readily available data and information shall be solicited from any interested party, including but not limited to, private citizens, public agencies, state and federal governmental agencies, non-profit organizations, and businesses possessing data and information regarding the quality of the Region’s waters.” With additional data submitted, off-cycle listings and delistings are possible.	No
	16.05	In the letter dated December 20, 2016 from Ms. Creedon, Executive Director of the Central Valley Regional Water Quality Control Board to Mr. Howard, Executive Director of your Board,	Comment noted.	No

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		Ms. Creedon directed her staff to apprise your Board on how newer data, collected after the August 2010 cutoff date, could impact assessments and priorities.		
	16.06	The Board of Supervisors wholeheartedly agrees with the statement in Resolution R5-2016-0083 that the August 2010 solicitation deadline resulted in consideration of data that was not fully representative of the most current conditions for Central Valley surface waters. With this in mind, the Board of Supervisors requests your Board consider a new process by which waterbodies would be listed as impaired in the future. It is clear that using a cutoff date that is so far removed from the listing consideration date is not effective.	The delay in the submittal of the 2014 and 2016 Integrated Report has been unavoidable due to resource constraints across the Water Boards. In 2015 the Listing Policy was amended to include several methods for increasing the efficiency of the creation and submittal of the Integrated Report to U.S. EPA. Those methods will begin being utilized starting with the 2018 Integrated Report as directed by the State Water Board under Resolution 2015-0005.	No
	16.07	The Board of Supervisors is also supportive of the California Grazing Water Quality Partnership led by the UC Cooperative Extension that seeks to maintain and improve the quality and associated beneficial uses of surface and ground water as it passes through and out of the state's grazing lands. Tuolumne County intends to participate in this partnership that will work collaboratively with all stakeholders to provide education and outreach and work to maintain the many beneficial uses of the National Forest.	Comment noted.	No
	16.08	Please consider adding Bull Meadow Creek, Bell Creek, Niagara Creek and Rose Creek to the Do Not List Category of your Staff's Report due to more current and replicated water quality data	Data from 2009 and 2010 show that these waterbodies are impaired for Indicator Bacteria from decisions 52440, 47152, 52453, and 52460. Data after 30 August 2010 were not considered.	No
	16.09	Should your Board move to adopt your staff's listing recommendations, please consider an	With additional data submitted, off-cycle listings and delistings may occur in accordance with Section 6.1.2 of the Listing Policy.	No

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		off-cycle revision to the Clean Water Act Section 303(d) List and allow the more recent data from the UC Cooperative Extension to be included for consideration.		
	16.10	Consider your data collection process and your cutoff date for data submissions and work toward developing a more effective process that would more accurately demonstrate the current conditions of the landscape and waterbodies.	See responses to comments 16.01, 16.03, and 16.06.	No
	16.11	Allow the California Grazing Water Quality Partnership spearheaded by the UC Cooperative Extension to give your Board assurance that the water quality of these creeks will continue to remain unimpaired and that no further intervention, including TMDL development or use restrictions, will be necessary.	Comment noted.	No
County of Ventura Representative: Glenn Shephard	17.01	The County and the other stakeholders implementing TMDLs in the Calleguas Creek Watershed (CCW TMDL Stakeholders), as well as the Ventura County Agricultural Irrigated Lands Group (VCAILG), will be submitting separate comment letters regarding the proposed listing changes in the Calleguas Creek Watershed and VCAILG-affected waterbody segments. The County supports comments from both CCW TMDL Stakeholders and VCAILG and requests that the SWRCB address all identified errors and issues therein.	Comments from CCW TMDL Stakeholders and VCAILG were received and responded to individually.	No
	17.02	The County appreciates the efforts the Los Angeles Water Board has made to correct errors and inconsistencies in the original list. Namely, the removal of all incorrect pollutant listings associated with a P* MUN beneficial use, as well	Comment noted.	No

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		as removal of data from agricultural drains which do not represent receiving waters. These corrections along with other errors noted by the County resulted in the correcting of 15 listings. While we appreciate the efforts made by the Los Angeles Water Board, the County still has concerns with the SWRCB's proposed 303(d) List and believe that it requires modification before adoption.		
	17.03	The requested modification comments fall into two general categories: Category 5A listings should not be listed due to noncompliance with the Listing Policy (e.g., lack of temporal representation), incorrect exceedance calculations, incorrect interpretation of the data (e.g., mismatched units), and the existence of an existing TMDL to address the pollutant.	See response to comments 17.05 - 17.29 for responses to the individual comments pertinent to the first general category of comments.	No
	17.04	Additional concerns regarding interpretation of listing criteria (e.g., temperature and pH exceedances, benthic community effects).	See response to comments 17.30 - 17.50 for responses to the individual comments pertinent to the second general category of comments.	No
	17.05	Incorrect Category 5A Listings A. Lack of Proper Temporal Representation There are many instances where the data to support the listed pollutant lack proper temporal representation. Section 6.1.5.3 of the State Water Resources Control Board (SWRCB) Listing Policy ¹ states that: "Samples should be representative of the critical timing that the pollutant is expected to impact the waterbody. Samples used in the assessment must be temporally independent. If the majority of samples were collected on a single day or during a single short-term natural event (e.g., a storm,	Temporal representation as described in the Listing Policy does not apply to fish or shellfish tissue. This comment was addressed by the comment sent to the Los Angeles Regional Water Board by the City of Los Angeles. There, Comment 11.21 states that "while the Listing Policy requires that samples be spatially and temporally independent, fish are not static; they move throughout a waterbody and accumulate pollutants in tissue over time. Therefore the data are by their nature temporally independent." Additionally, the Regional Board's response to comment 11.22 from the same letter states that "In addition, the fact that tissue concentrations represent the accumulation of pollutants over a time period of years, and each fish is a different age and will have moved differently through the environment, provides independence of the tissue sample." The	No

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		flood, or wildfire), the data shall not be used as the primary data set supporting the listing decision.” [Emphasis added] All of the proposed Category 5 pollutants listed in Table 1 rely on data collected from a single sample date. This directly violates the Listing Policy. For instance, the “Temporal Representation” entry in the Fact Sheet for Los Sauces Creek selenium listing [Line of Evidence (LOE) 86035] states “Data was collected on a single day 6/8/2006”. Because there is no temporal resolution for these waterbody-pollutant combinations, the proposed new listing should be removed.	<p>responses above adequately address concerns about proposed listings based on tissue for pollutants in Table 1.</p> <p>Proposed listings for pollutants based on macroinvertebrate surveys, water, and sediment were reviewed for proper temporal representation. See the response to comment 17.12. Temporal representation as described in the Listing Policy does apply to the sediment and water matrices, and benthic macroinvertebrates. Samples should be temporally independent to support a decision to list.</p>	
	17.06	The County made this comment previously in their March 30th, 2017, letter and in response the Los Angeles Water Board stated: “Because the data collected are temporally independent, it is appropriate to assess the data as individual samples even though they were collected at the same site.” This response implies that the Los Angeles Water Board did not understand the County’s original comment since these listings definitively lack temporal resolution by relying on a single sample day. Using a single sample day to support a new listing is in direct contradiction to the Listing Policy.	See response to comment 17.05.	No
	17.07	The Los Angeles Water Board went on to respond to Javon Canyon and Los Sauces Creek selenium listings with the following statement: “Fish were collected from two sites on a single day. Because the data collected is spatially independent, it is appropriate to assess the data as individual samples even though they were	Comment noted. See response to comment 17.12 for details on the revisions to these decisions.	Yes

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		collected on the same date. As the data support a listing decision, the waterbody pollutant combination should be listed until more data supporting a delisting decision become available. In addition, fish are not static; they move throughout a waterbody and accumulate pollutants in tissue over time. Therefore, the data are, by their nature, spatially and temporally independent.” The County finds this response insufficient.		
	17.08	First, the samples collected for selenium were water samples not fish tissue (see Table 1).	The commenter is correct. The fact sheet have been revised and the listing recommendation for selenium in Javon Canyon and Los Sauces Creek has been changed from List to Do Not List. This revision is identified in Table 5 of the Revised Draft Staff Report.	Yes
	17.09	Second, the County is not arguing that the two samples collected on the same day should not be treated as individual samples. The Listing Policy states that “a majority of samples” collected in a single day cannot be used to justify a listing. In the case of all pollutants listed in Table 1, 100% of collected samples were from a single day.	See response to comment 17.05.	No
	17.10	Third, nowhere in the Listing Policy does it allow spatial representation (two samples collected at different stations on a single day) to compensate for the lack of temporal representation.	See response to comment 17.05.	No
	17.11	Because both sites were sampled on the same day it is not possible to determine if the pollutant concentrations are indicative of typical waterbody conditions as opposed to a short-term natural event. Therefore, these listings must be removed until additional samples can	See response to comment 17.05.	No

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		be collected to provide adequate temporal representation to assess the waterbody and fully comply with the Listing Policy.		
	17.12	Requested Action: Remove all listings shown in Table 1 that were based on a single sample collection date due to lack of temporal representation.	The following waterbody and pollutant combinations will not be placed on the 303(d) list due to lack of temporal representation: Javon Canyon – Benthic Community Effects and Selenium Los Sauces Creek – Selenium Madrano Canyon – Benthic Community Effects, Copper, and Selenium Padre Juan Canyon – Benthic Community Effects and Selenium A waterbody may be listed for tissue matrix samples collected on the same day.	Yes
	17.13	B. Recalculate Exceedances for Port Hueneme Harbor and Ventura Harbor Pollutants In addition to the lack of temporal representation for the newly proposed Port Hueneme and Ventura Harbor listings, the County has identified errors in the exceedance calculations in addition to numerous persistent errors in the revised Fact Sheets which need to be corrected.	See responses to comments 17.14 through 17.17.	No
	17.14	Ventura Harbor and Port Hueneme cadmium exceedances were incorrectly calculated and do not show any exceedance over the Office of Environmental Health Hazard Assessment (OEHHA) 2.2 ppm criteria limit.	The commenter is correct and the following corrections have been made: LOE 87206 has been replaced with LOE 82807. The fraction listed in LOE 82807 has been changed to Shellfish to alleviate confusion. As a result, the decision for Port Hueneme Harbor (Back Basins) has been changed to Do Not List. LOE 89946 has been changed to show the correct exceedance count of 0 exceedances of 2 samples, the fraction has been changed to Shellfish to alleviate confusion, and the evaluation guideline listed in the LOE has been changed to show the correct 3.3 ppm value. As a result of the changes to LOE 89946, the listing decision for Ventura Harbor: Ventura Keys has been changed to Do Not List.	Yes
	17.15	All exceedances for analytes in Ventura Harbor	The applicable Lines of Evidence have been revised to state that the	Yes

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		and Port Hueneme (See Table 2) are based on mussel tissue. However, in many cases, the Fact Sheets and Response to Comments cite fish fillet analysis. No fish tissue samples exist in the dataset linked in the Fact Sheet nor were any fish tissue samples available for download from CEDEN.	data is for the shellfish fraction.	
	17.16	Due to the inconsistent reference to sample type (e.g., mussel versus fish samples) and incorrect calculation of the cadmium exceedance, we request that the SWRCB recalculate all exceedances for Ventura Harbor and Port Hueneme to ensure there are no additional exceedance calculation errors.	Exceedances and fraction types and been recalculated and verified. The following waterbodies will not be placed on the 303(d) list: Port Hueneme – Cadmium Ventura Harbor: Ventura Keys – Cadmium, Chlordane, DDT All other pollutant exceedances have been verified.	Yes
	17.17	In addition to the issues stated above there were also errors noted in the Fact Sheets: Ventura Harbor dieldrin listing shows two LOEs (89619 and 82787) demonstrating exceedance for shellfish surveys and fish tissue analysis. Both of these lines of evidence appear to be from the same 2 samples and should not be double counted as separate LOEs. Similar issues exist for PCBs listings for the same waterbody as well as dieldrin and PAHs for Port Hueneme.	LOE 89619 is a duplicate LOE, although it states fish fillet as the fraction, and has been deleted. The issues have been corrected in the other stated waterbody and pollutant combinations.	Yes
	17.18	Many of the “Los Angeles Water Board Staff Conclusions” in the Decision IDs for Ventura and Port Hueneme Harbors include the wrong number of samples and exceedances for the Lines of Evidence. For instance, in the Ventura Harbor: Ventura Keys PCBs listing cites an LOE with 4 of 4 samples exceeding; however, only 2 of 2 samples exceed. All Fact Sheets for these analytes need to be checked for errors and	The following decisions have been corrected: Ventura Harbor: Ventura Keys: PCBs, Dieldrin, Chlordane Port Hueneme Harbor: Dieldrin, PAHs	Yes

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		corrected.		
	17.19	Table 2. Port Hueneme Harbor and Ventura Harbor Listings which need to be corrected	The decisions for these waterbodies have been reviewed and corrected. See response to comments 17.20 -17.23.	Yes
	17.20	Requested Actions:1. Review and recalculate all pollutant exceedances for Port Hueneme and Ventura Harbor in Table 2.	The listing recommendation for the following waterbody pollutant combinations have been revised from List to Do Not List: Port Hueneme – Cadmium Ventura Harbor: Ventura Keys – Cadmium, Chlordane, DDT All other pollutant exceedances have been verified and remain unchanged.	Yes
	17.21	2. Remove the cadmium listings for Ventura Harbor and Port Hueneme as the concentrations do not exceed the criteria.	See response to comment 17.14.	Yes
	17.22	3. Correct and remove all reference to fish fillet in the response to comment and Fact Sheets as only shellfish samples were collected.	Lines of Evidence incorrectly identified as fish fillet fraction have been revised to shellfish fraction to reflect that samples are shellfish, this revision did not impact the overall listing recommendation.	No
	17.23	4. Correct the numerous errors in the Fact Sheets for Ventura Harbor and Port Hueneme Listings.	See response to comment 17.20.	Yes
	17.24	C. Reassess Mercury Listings Using Correct Units The data used to assess mercury for Santa Clara River Reach 3 are in ng/L (nanograms per liter) and the objective is µg/L (micrograms per liter). The data need to be converted into the same units as the objective before an exceedance can be determined. The County expects that after this calculation has been performed the waterbody will no longer meet the listing guidelines. Based on the justification that the data and objectives have different units, the June 9th version of the Draft 303(d) List	The Santa Clara River Reach 3 mercury data was converted from ng/L to ug/L for comparison with the criterion. None of the samples exceeded the criterion. LOE 88761 has been revised to reflect that none of the samples exceeded the mercury criterion. Decision 66954 has been revised to “Do Not List on 303(d) list (TMDL required)”.	Yes

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		removed the following waterbody segments for mercury impairments: Calleguas Creek Reach 3 (Potrero Road upstream to Conejo Creek confluence), Calleguas Creek Reach 4 (was Revolon Slough Main Branch), La Vista Drain (Ventura County), and Ventura River Reach 3. It is unclear to the County why the same error for Santa Clara River Reach 3 was not corrected. Repeat the mercury analysis for Santa Clara River Reach 3 after correcting the unit error. Correction of the unit error will result		
	17.25	D. Change the Listing Category to 5B Because a TMDL Already Addresses the Pollutant There is a newly proposed 5A listing of Escherichia coli for Santa Clara River Reach 3; however, the Santa Clara River has an existing Bacteria TMDL which specifically addresses this reach. The County requests that this proposed listing be properly categorized as 5B instead of 5A since it is already being addressed by an approved TMDL.	See responses to comments 17.27 and 19.14.	Yes
	17.26	Additionally, there are newly proposed 5A listings for benthic community effects in Medea Creek Reach 1 and Triunfo Canyon Reach 1, and existing listings in Malibu Creek, Las Virgenes Creek, Lindero Creek Reach 1, Medea Creek Reach 2, Triunfo Canyon Reach 2, and Malibu Lagoon that are all addressed by the Malibu Creek Benthic Community TMDL and should therefore be categorized as 5B. While the County maintains that the new listings have been made incorrectly (see Comment No. 7), if they are maintained on the list, they should be	See response to comments 17.28 and 17.29.	0

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		categorized as 5B instead of 5A because they are already addressed by an approved TMDL.		
	17.27	Requested Actions: 1. Change the Santa Clara River Reach 3 Escherichia coli listing status to 5B because a Bacteria TMDL already exists.	LOE 96006 attributed to the E. coli Decision was moved to the Indicator Bacteria Decision. The E. coli Decision is a duplicate of the Indicator Bacteria Decision and has been deleted. The Indicator Bacteria Decision has the proposed listing recommendation of Category 4a "List on 303(d) list (being addressed by USEPA approved TMDL)."	Yes
	17.28	2. Change the Malibu Creek, Las Virgenes Creek, Lindero Creek Reach 1, Medea Creek Reach 2, Triunfo Creek Reach 2, and Malibu Lagoon benthic community effects listing status to 5B because a Benthic Community TMDL already exists.	Malibu Creek, Las Virgenes Creek, and Malibu Lagoon Decisions have been revised from "Do Not Delist from 303(d) list (TMDL required)" to "Do Not Delist from 303(d) list (being addressed by USEPA approved TMDL)" because the Malibu Creek and Lagoon TMDL for Sedimentation and Nutrients to Address Benthic Community Impairments TMDL approved by USEPA on 07/02/2013 will address these impairments. The impairments associated with Lindero Creek Reach 1, Medea Creek Reach 2, and Triunfo Creek Reach 2 are not addressed by a TMDL and remain as List on 303(d) list (TMDL required list) or Do Not Delist from 303(d) list (TMDL required list).	Yes
	17.29	3. Remove the benthic community listings for Medea Creek Reach 1, Triunfo Canyon Reach 1, but if maintained, change the listing status to 5B because a Benthic Community TMDL already exists.	The benthic community effects impairment within Medea Creek Reach 1 (Lake to Confl. with Lindero) is not being addressed by the Malibu Creek Nutrients, Sedimentation and IBI TMDL approved by U.S. EPA on 07/02/2013. Therefore the decision will remain as List on 303(d) list (TMDL required list). Triunfo Canyon Creek Reach 1 remains as "List on 303(d) list (TMDL required list)" due to benthic macroinvertebrates and associated pollutants that exceed guidelines.	No
	17.30	The Listing Policy specifically prohibits the use of J-flagged ("estimated") data that fall below the quantitation limit but above the water quality standard.	See response to comment 19.07.	No
	17.31	All listings based on the use of J-flagged data should, therefore, be removed from the draft	See responses to comments 19.07 and 20.30. The decision recommendation for DDE in Ellsworth Barranca has been revised	Yes

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		303(d) List. The Ellsworth Barranca listing for DDE uses J-flagged data and should also be removed based on the incorrect assignment of the beneficial use P*MUN (as discussed in the County's previous comment) in addition to the use of J-flagged data. The Response to Comments stated that this change was in process at this time however the Fact Sheets show that Ellsworth Barranca is still incorrectly listed for P*MUN and the J-flagged data correction has yet to be made. The County urges the SWRCB to make this, and any other similar corrections prior to approving the 303(d) List.	from List to Do Not List as reflected in Table 5 of the Revised Draft Staff Report.	
	17.32	Requested Actions: 1. Review all Fact Sheets and Lines of Evidence for the use of J-flagged data and remove any instances where J-flagged data were used.	See responses to comments 19.07 and 20.30.	No
	17.33	2. Remove the listing of DDE for Ellsworth Barranca as well as any other pollutants that lack the minimum number of exceedances required to justify a listing.	See responses to comments 17.31 and 20.30.	Yes
	17.34	Based on a review of the available data, all the observed toxic samples occurred prior to 2009. Of the 8 exceedances, 3 occurred in 2000/2001 and the rest were in 2006, 2007 and 2008. In the 2006-2008 time period, toxicity was commonly observed due to chlorpyrifos and diazinon which were subsequently restricted. Toxicity in many watersheds has been significantly reduced as a result of these use modifications. The available data shows that no samples exceeded after 2008, indicating that	See response to comment 20.24.	No

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		those pesticides or another cause that is no longer present, were the cause of the toxicity. Because of the transient nature of toxicity and the potential that the causes of the toxicity are no longer present, exceedances from prior to the pesticide use bans should not be used as the basis for a listing. The more recent samples since the pesticide use restrictions should be used as a basis for evaluation.		
	17.35	If the SWRCB decides to maintain the listing, the County requests that the pollutant be properly categorized as 4B defined as "Another regulatory program is reasonably expected to result in attainment of the water quality standard within a reasonable, specified time frame". As stated above the cause of the toxicity has already been addressed by the banning of chlorpyrifos and diazinon in 2008 and there is already ample evidence (i.e., no exceedances since 2008) to show that the beneficial use has not been impacted since that regulatory program was put in place.	See response to comment 20.24.	No
	17.36	Requested Action: Either remove the listing for Ventura River Reach 3 for toxicity based on exceedances from outdated data, OR categorize the listing as 4B.	See response to comment 20.24.	No
	17.37	C. Benthic Community Effects Listing are Based on Flawed Analyses and Should Be Removed The benthic community effects listings are based on a metric which has since been deemed arbitrary and inappropriate.	If a waterbody has a designated aquatic life Beneficial Use (such as WARM), it is appropriate to evaluate whether or not that Beneficial Use is being supported as part of the Listing process. State Water Board supports maintaining listings based on the SCIBI and CSCI scores as they are consistent with State policy and have been assessed relative to appropriate reference sites. At this time, the CSCI and IBI (where CSCI is not available) are the best measures of	No

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			biologic integrity in California streams and it is appropriate to use both IBI and CSCI scores in 303(d) listing decisions. As the science progresses, improved methods may supplant older methods and the 303(d) list will be revised, as appropriate, as that occurs. The use of the SCIBI and CSCI for 303(d) listing was done in accordance with Section 3.9 and 6.1.5.8 of the Listing Policy with biological data and impairment related to associated pollutants and/or pollution.	
	17.38	Despite this, all the newly listed benthic community effects in Table 3 utilize the IBI to assess the waterbodies. Therefore, the County requests that these listings be removed until the waterbodies can be assessed with a more representative metric such as the CSCI. While the Fact Sheets for a number of water segments are listed as an exceedance for benthic community effects citing a low CSCI score, the original data shows only IBI scores. Waterbodies assessed using only IBI scores should not be listed.	See response to comment 21.02. The CSCI and regional IBIs (where CSCI is not available) are the best measures of biologic integrity in California streams and it is appropriate to use both the regional IBI and CSCI scores in 303(d) listing decisions. As the science progresses, improved methods may supplant older methods and the 303(d) list will be revised, as appropriate, as that occurs. The use of the SCIBI and CSCI for 303(d) listing was done in accordance with Section 3.9 and 6.1.5.8 of the Listing Policy with biological data and impairment related to associated pollutants and/or pollution. In some cases, standard decision language was used in the database and in some cases the CSCI was incorrectly referenced in the decision language. Specific errors such as these have been corrected when they are brought to our attention. The error of citing of the use of the CSCI in the decision language does not invalidate the assessment. In addition, IBI scores for some waterbodies were converted to CSCI scores and are valid assessments.	No
	17.39	In addition, many of the benthic community effects listings rely on a single day of sampling which does not provide proper temporal representation as discussed in Comment No. 1.	The following waterbodies will not be placed on the 303(d) list for Benthic Community Effects due to lack of temporal representation or lack of associated pollutant(s) that are exceeding guidelines: Javon Canyon, Madranio Canyon, Padre Juan Canyon, Ventura River Reach 3 (Weldon Canyon to Confl. w/ Coyote Cr), and Ventura River Reach 4 (Coyote Creek to Camino Cielo Rd).	Yes
	17.40	Additionally, several of the new listings are addressed by an existing TMDL and should be	See response to comment 17.29.	No

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		categorized as Category 5B if they are maintained on the list after consideration of this comment.		
	17.41	Requested Actions 1. Remove all listings shown in Table 3 for benthic community effect that use the IBI listing.	See responses to comments 21.02 and 17.42.	No
	17.42	2. Update the Appendix G Fact Sheets to clearly state that an IBI metric was used not the CSCI for all pollutants noted in Table 3.	Bioassessment data originally scored according to the IBI was, in some cases, converted to a CSCI score. The fact sheets for waterbodies from Table 3 where IBI scores were converted to CSCI scores have been revised and include: Medea Creek Reach 1 (Lake to Confl. with Lindero), Javon Canyon, Madranio Canyon, Padre Juan canyon, Ventura River Reach 3 (Weldon Canyon to Confl. w/ Coyote Cr), and Ventura River Reach 4 (Coyote Creek to Camino Cielo Rd). Page 22 of the Staff Report has been revised to add the following clarifying language: “In an effort to incorporate the CSCI into this reporting cycle, bioassessment data that were collected as part of our SWAMP program and had originally been scored using the IBIs were reevaluated using the new CSCI. Although it was not feasible to reevaluate all the non-SWAMP IBI scored data in this cycle, the CSCI will now be used in the future for water quality assessment purposes statewide over the regional indices of biologic integrity (IBIs).”	Yes
	17.43	D. There is No Demonstration that High pH is a Result of Waste Discharge The waterbodies listed for high pH do not appropriately demonstrate that the high pH was a result of waste discharge as required in the Basin Plan.	See response to comment 21.05.	No
	17.44	The Santa Clara River Estuary, Santa Clara River Reach 1, and Oxnard Drain are listed for high. As	See response to comment 21.05.	No

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		stated in the Fact Sheet and according to the Los Angeles Region Basin Plan ⁵ “The pH of inland surface waters shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges” [emphasis added]. However, it was not demonstrated for either of these waterbodies that the elevated pH levels were a result of waste discharge as opposed to natural causes. The Los Angeles Water Board staff noted that “analysis of sources and causes [...] are not completed as part of the Integrated Report or 303(d) listing process”. However, pH samples cannot be considered impairments without specific evidence that high pH is a result of waste discharge.		
	17.45	In Response to Comments, the Los Angeles Water Board acknowledged that there are multiple sources of water to Santa Clara River to include waste discharge but went on to state that “the relative contribution of the causes of pH exceedances is largely speculative at this time”. The County agrees that the sources are speculative at this time and because the Basin Plan criteria requires that a source be identified before a waterbody can be deemed in exceedance, the SWRCB should either provide evidence that the elevated pH was a result of waste discharge and detail that in the Fact Sheets, or, if no such evidence exists, the listings should be removed.	See response to comment 21.05.	No
	17.46	Requested Action: Remove the pH listings for Santa Clara River Estuary, Santa Clara River Reach 1, and Oxnard Drain as there is no data	See response to comment 21.05.	No

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		provided in the Fact Sheet that demonstrate that these high pH values are the result of waste discharge.		
	17.47	The temperature listing for Ventura River Reaches 1 and 2 (Estuary to Weldon Canyon) and Ventura River Reach 4 (Coyote Creek to Camino Cielo Rd) uses an evaluation guideline of 13-21 degrees Celsius (°C) as the optimum growth range for rainbow trout. However, the applicable Basin Plan objective for waterbodies designated as COLD is "For waters designated as COLD, water temperature shall not be altered by more than 5 degrees F above the natural temperature." The Fact Sheets provide no discussion of natural temperatures or a demonstration that the temperature was raised above natural temperatures in order to exceed the objectives.	The evaluation guideline (Moyle, 1976), provides a temperature threshold protective of the cold water beneficial use. According to the Listing Policy 6.1.5.9: "In the absence of necessary data to interpret numeric water quality objectives, recent temperature monitoring data shall be compared to the temperature requirements of aquatic life in the water segment." The Los Angeles Regional Water Board does not provide a numeric objective for use in determining protection of the cold water beneficial use, and therefore a threshold protective of the beneficial use was selected from Moyle (1976).	No
	17.48	Moyle 1976 is referenced as the source of the evaluation guideline. Moyle 1976 was revised and expanded by Moyle 2002. Moyle 2002 states: "Rainbows are found where daytime temperatures range from nearly 0°C in winter to 26-27°C in summer, although extremely low (<4°C) or extremely high (>23°C) temperatures can be lethal if the fish have not previously been gradually acclimated. Even when acclimation temperatures are high, temperatures of 24-27°C are invariably lethal to trout, except for very short exposures (25, 26)." As such, while temperatures above 21°C may not be optimal according to Moyle 1976, Moyle 2002 clearly states that lethal temperatures are those	See response to comment 17.47. At 23°C and above mortality occurs, therefore, a lethal temperature of 23°C is not protective of the cold freshwater beneficial use and is inappropriate to use as an evaluation guideline. The evaluation guideline selected must be protective of the cold water beneficial use of the waterbody. At 23°C and above mortality occurs. Moyle 2002 still indicates that 21°C is the limiting temperature for fish, even when dissolved oxygen concentrations are extremely low. Therefore, the evaluation guideline of 21°C is appropriate.	No

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		greater than 23°C which indicates that the evaluation guideline of 21°C is more appropriately applied as a chronic guideline (necessitating the establishment of an averaging period) and 23°C is the more appropriate "not-to-exceed" guideline if used for listing.		
	17.49	The Los Angeles Water Board's response to comments noted that the optimum range for Rainbow Trout is 13-21 degrees Celsius and therefore this is an appropriate Evaluation Guideline. The County requests that the SWRCB review the application of this guideline as a "not to exceed" value for the purposes of making listing decisions. Based on the information provided above, the County believes that the Los Angeles Water Board has misinterpreted the science behind the selected guideline when they used the range of 13-21 as a "not to exceed" threshold when the studies used to determine the guideline indicate 23°C is the appropriate "not to exceed" threshold. Using the threshold of 23°C, no samples would exceed the threshold in Ventura River Reach 4 and only 2 samples would exceed the threshold in Ventura River Reaches 1 and 2. Neither of these number of exceedances would meet the listing thresholds	See responses to comments 17.47 and 17.48.	No
	17.50	Requested Action: Remove the temperature listing for Ventura River Reach 1 and 2 as well as Ventura River Reach 4.	See response to comment 17.47. The temperature guideline used was appropriate and the listing recommendation have been made consistently with section 3.2 of the Listing Policy. The listing recommendation has been revised for Ventura Reach 1 and 2 from List to Do Not List based on the exceedance frequency being within the allowable limit of Table 3.2	Yes

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			of the Listing Policy. The listing recommendation for Ventura River Reach 4 remains as List on the 303(d) list consistent with Section 3.2 of the Listing Policy.	
California Stormwater Quality Association Representative: Jill Bicknell	18.01.a	CASQA has reviewed the 2014-2016 303(d) list available for comment and determined that many of the issues identified in the letter are still applicable and is therefore submitting this letter to formally request consideration of these bigger picture issues prior to adoption of the list. CASQA believes it is important to address these issues because 303(d) listings of pollutant and waterbody combinations initiate expensive TMDL development processes and implementation requirements, and inappropriate listings may result in the poor use of limited public funds. CASQA's primary intent and purpose is to provide comments that will assist in improving the state's listing process, correct pervasive errors, focus valuable public funds on the most critical issues, and avoid similar issues in future listing cycles.	Comment noted.	No
	18.01.b	In some cases waterbodies were listed using numeric criteria that have not been adopted by the Regional Basin Plan or California Toxics Rule even though adopted numeric criteria exist. For example, in the Los Angeles Region, many of the proposed 303(d) listings for mercury were assessed with a 2006 U.S. Environmental Protection Agency (EPA) nationally recommended criterion, however, a California Toxic Rule (CTR) adopted criteria exists for mercury. No explanation was given for the use of the EPA recommended criterion over the	The mercury criteria in the CTR does not apply to fish tissue data. The human health criteria in the CTR is for water column data. It is not appropriate to apply a water column number to tissue data. It is appropriate for the Water Board to utilize an EPA recommended criterion applicable to fish tissue when fish tissue data is being evaluated and the CTR applies to water column data and not fish tissue data.	No

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		adopted CTR value. The state should not use an EPA criterion when an existing adopted water quality objective/criteria exists.		
	18.02	In other cases, there are pollutants assessed using numeric evaluation guidelines that are inconsistent within Regions or that the selection thereof deviated from the Listing Policy with no explanation provided within the Fact Sheets. Specifically, there are many pollutants that do not have applicable numeric water quality criterion and, instead, must be assessed by interpreting an applicable narrative water quality objective with an evaluation guideline per the Listing Policy. For pesticides (e.g., bifenthrin, cyfluthrin, cypermethrin) the evaluation guidelines selected have often been either inappropriate, inconsistently applied, or are generally not well documented in the Fact Sheets.	See response to comment 18.27. The Listing Policy states "The Regional Water Boards shall assess the appropriateness of the guideline in the hydrographic unit" (Section 6.1.3). Although statewide consistency with the use of evaluation guidelines is preferred where appropriate, there is no Listing Policy requirement that evaluation guidelines be applied statewide.	No
	18.03	In Region 4, there are several instances where an LC50 or threshold for individual species was used for the assessment. This is inconsistent with the Listing Policy, which states that it must be demonstrated that an evaluation guideline is "applicable to the beneficial use, protective of the beneficial use, scientifically-based and peer reviewed, and well described." The response of a single species should only be used when it has been shown that the species is representative of the native population response to the specific pollutant. This was not demonstrated for this listing and therefore an LC50 cannot be assumed to be protective of the beneficial use	Numerous studies have demonstrated the correlation between toxicity test results and instream effects. During the development of the toxicity test methods, U.S. EPA performed numerous validation studies to confirm the correlation between toxicity test results and biological or ecological impairment of receiving water systems. This has also been supported by a conclusion that was reiterated in a 1995 workshop of nationally recognized WET experts (Grothe et al., 1996), including those from academia, the regulatory community, publicly owned treatment works (POTW), and industry. These experts stated that "WET testing is an effective tool for predicting receiving system impacts when appropriate considerations of exposure are considered" (Waller et al. 1996). This workgroup also agreed that "further laboratory to field validation is not essential for the continued use of WET testing."	No

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		and should not be used to make a listing. Another example in Region 4 occurred for two proposed malathion listing decisions with the same beneficial use that used conflicting guidelines from two different sources.	<p>In 1999, U.S. EPA once again sought to determine whether toxicity test results correlate with instream effects (U.S. EPA 1999). In that review, deVlaming and Norberg-King evaluated a total of 77 independent studies in which toxicity tests were compared to instream, biological/ecological responses. In 74 percent of the studies evaluated, the WET test results were reliable qualitative predictors of instream impacts. The toxicity tests underestimated instream effects in 21 percent of the studies, and results from only five percent of the studies were inconclusive or mixed.</p> <p>Moreover, a court decision found in the agency's favor on this issue in Edison Electric Institute et al. v. Environmental Protection Agency, (D.C. Cir. 2004) 391 F.3d 1267. The petitioners in this case claimed that U.S. EPA failed to establish the presence of "representativeness" (i.e. the ability of test results to predict instream effects accurately) for several of the toxicity tests, particularly with regard to Western state waters, which differ chemically from their Eastern counterparts. U.S. EPA responded by pointing to the results of numerous studies on this subject conducted throughout the 1990s. These studies support the representativeness of the toxicity test methods in general, and several demonstrate representativeness with regard to particular Western waters. (See U.S. EPA, "A Review of Single Species Toxicity Tests: Are the Tests Reliable Predictors of Aquatic Ecosystem Community Responses?" 47-50 (July 1999)).</p> <p>It is unrealistic to require correlation studies on every stream in the nation. U.S. EPA took the sensible approach of relying on sampling techniques to draw general conclusions, while leaving some implementation details to local entities. (See Am. Iron & Steel Inst. v. EPA (D.C. Cir. 1997) 115 F.3d 979, 1005). Pursuant to CWA section 1342(a), states retain discretion, subject to U.S. EPA guidance and recommendations, to set their toxicity thresholds in order to</p>	

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			<p>compensate for local conditions at the permitting stage. (See 40 C.F.R. § 122.44(d)(1)(iii)).</p> <p>References: Grothe DR, Dickson KL, Reed-Judkins DK, editors. 1996. Whole effluent toxicity testing: An evaluation of methods and prediction of receiving system Waller WT, Ammann LP, Birge WJ, Dickson KL, Dorn PB, LeBlanc NE, Mount DI, Parkhurst BR, Preston HR, Schimmel SC, Spacie A, Thursby, GB. 1996. Predicting instream effects from WET tests: discussion synopsis. In: Whole effluent toxicity testing: an evaluation of methods and prediction of receiving system impacts, Grothe DR, Dickson KL, Reed-Judkins DK, editors. Pensacola FL: SETAC Press. pp 271-286. De Vlaming V, Norberg-King, TJ. 1999. A review of single species toxicity tests: Are the tests reliable predictors of aquatic ecosystem community responses? EPA 600/R-97/114. Mid-Continent Ecology Division, Duluth, MN.</p>	
	18.04	<p>The lack of consistency in the evaluation guidelines especially within a given Region makes review of the impaired waters list difficult and results in some waterbodies being incorrectly listed. In order to avoid this issue in the future, CASQA requests that the State Water Board identify consistent guidelines/thresholds that may be used to interpret narrative objectives throughout the State and include this information within the Fact Sheets. CASQA Recommendation:• Reevaluate listings that are based on numeric standards that have not been adopted in the Regional Basin Plan and/or adopted by the California Toxics Rule.• Evaluate listings for consistent use of</p>	<p>See response to comment 18.27.</p> <p>The Listing Policy states "The Regional Water Boards shall assess the appropriateness of the guideline in the hydrographic unit" (Section 6.1.3). Although statewide consistency with the use of evaluation guidelines is preferred where appropriate, there is no Listing Policy requirement that evaluation guidelines be applied statewide. Water Boards review evaluation guidelines during the development of Lines of Evidence and Decision Recommendations for consistency with Section 6.1.3 of the Listing Policy. Re-evaluation of all listing recommendations using evaluation guidelines is not warranted at this time. Specific requests for review should be submitted per Section 6.2 of the Listing Policy.</p>	No

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		guidelines/thresholds used to interpret narrative water quality objectives within a Region, document the guidelines within the Fact Sheet, and reevaluate any listings made based on inconsistent guidelines.		
	18.05	As stated in the Listing Policy “the states are required to assemble and evaluate all existing and readily available water quality-related data and information to develop the list.” Despite this, there are multiple examples where large datasets from NPDES permit or Total Maximum Daily Load (TMDL) monitoring data are not assessed. For example, NPDES water quality data collected from 2002 to 2008 at approximately 70 sites in Santa Clara Valley creeks including total and dissolved metal concentrations and aquatic and sediment toxicity results, submitted to the San Francisco Bay Regional Water Board, were not included in the Region’s 303(d) List analysis as noted in a stakeholder comment letter. A similar omission occurred in the Calleguas Creek Watershed in Region 4 where monitoring data from five effective TMDLs were not included in analyses despite the annual submission of monitoring reports to the Regional Water Board as mentioned in the Calleguas Stakeholder’s comment letter. By not including data collected via NPDES permit and TMDL monitoring, the 303(d) list may mischaracterize water quality conditions in local receiving waterbodies.	<p>Los Angeles Water Board staff considered all readily available data and information in the administrative record in the development of the 2016 California Integrated Report. The State Water Board defined readily available data as those data submitted during the 2010 public data solicitation period, which began on January 14, 2010 and concluded on August 30, 2010.</p> <p>State Water Board staff rely on section 6.1.2 of the Listing Policy in determining "all readily available data." For the 2010 data solicitation, an additional outreach effort was made to include NPDES data. All NPDES dischargers were sent notices to submit their data for the purpose of developing the Integrated Report. This was not required, but dischargers were all given the opportunity to submit data for this process. Additionally, State Water Board staff relied on Regional Water Boards to submit their internal program data as part of the data solicitation. Data from NPDES monitoring and TMDL monitoring should be uploaded in the CEDEN so that it can be assessed in future listing cycles.</p>	No
	18.06	Many stormwater stakeholders have been informed by State and Regional Water Board	See response to comment 3.26. Any parties interested in having their data assessed for the Integrated Report should enter the data	No

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		<p>staff that NPDES or other similar data were not included in the listing assessment because they were not entered into CEDEN (California Environmental Data Exchange Network – the central database used to aggregate waterbody information in California). However, the Listing Policy defines “readily available data and information” as data that can be submitted to CEDEN or its successor database, however, “if CEDEN is unable to accept a particular subset of data and information, the State Water Board or the Regional Water Board will accept that data and information if it meets the formatting and quality assurance requirements detailed in section 6.1.4 of the Policy and the notice of solicitation for the current listing cycle.” There is no requirement in the NPDES permits for stormwater stakeholders to submit permit data to CEDEN. Thus, CASQA believes that the State and Regions should be responsible for compiling the data already in their possession into their own database, not the Permittees. This should be further clarified by adopting language in the Listing Policy that readily available data includes datasets submitted to the state from NPDES, TMDL, or other similar monitoring programs. CASQA Recommendation: • Ensure that all “readily available data” are included in analyses for the proposed listings, especially NPDES permit and TMDL monitoring data submitted annually to the Regional Water Boards. • Readily available data should not only be defined as data entered into CEDEN. Broaden the</p>	<p>directly into CEDEN. If assistance is needed please contact the Office of Information Management and Analysis at ceden@waterboards.ca.gov.</p>	

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		definition in the Listing Policy (section 6.1.1) to include any data that has been submitted to the State or Regional Water Boards to include NPDES and TMDL monitoring data.		
	18.07	The Fact Sheets for the 303(d) List are meant to document the process for evaluation of data. As part of these Fact Sheets, Regional Water Boards must provide documentation of how they reached their listing decision as required in Part M, Section 6.1.2 of the Listing Policy. However, the Fact Sheet link to the Data Reference often includes spreadsheets with raw data, but no corresponding analyses, making it difficult to follow the reasoning behind a listing decision. In addition, where data need to be transformed by calculating a Water Effect Ratio, total to dissolved transformation, or other simple unit conversion, these data processing steps should be detailed in the associated spreadsheets/analyses.	In compliance with Listing Policy Section 6.1.2.1, the complete references are provided for the objective/criteria/guidelines used in the analysis as well as the actual data. The factsheets provide all the information required by section 6.1.2.2 of the Listing Policy.	No
	18.08	In addition, the data reference for a specific waterbody-pollutant combination line of evidence can sometimes link to a zip file containing over 20 individual excel spreadsheets – each with many individual tabs. Finding the raw data that were used to support the line of evidence in addition to the omission of any data analyses makes review of the listing process extremely cumbersome and opaque. This can be avoided by simply providing spreadsheets that include data analyses and, in cases where there are multiple source spreadsheets for a single line of evidence, providing the name of	Comment noted. The process is as transparent as possible given available resources. In addition, see response to comment 18.07.	No

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		the spreadsheets that relate to a particular decision in the Fact Sheet.		
	18.09	CASQA Recommendation: • Provide better documentation of the data analyses by presenting the spreadsheets used to reach a listing decision. • Link to appropriate data files that support a listing, or provide the name of the relevant files that were used to reach a listing decision within the Fact Sheet.	See responses to comments 18.07 and 18.08.	No
	18.10	There were numerous cases in all three Regions where manmade flood channels (portions of the storm drain system), manmade lakes, or agricultural drains were listed as newly impaired waterbodies (e.g., Alondra Park Lake in Region 4 and Bolsa Chica Channel in Region 8). The listing of these waterbodies as impaired waters pursuant to Section 303(d) of the Clean Water Act is inappropriate. As originally stated in a comment letter from Orange County Public Works to the Region 8 Regional Water Board, many of these waterbodies are man-made flood channels constructed as part of a municipal separate storm sewer system (MS4) or as an agricultural drain used to collect and transport stormwater or agricultural runoff. Notably, as an MS4, the CWA presumptive uses (fishable/swimmable) do not apply, and these channels have no designated beneficial uses, and no applicable water quality objectives within the corresponding Basin Plans. Further, the Staff Report and Fact Sheets for such listings do not contain sufficient basis upon which jurisdiction under the CWA can be	<p>The Water Boards are neither required nor empowered to make final “waters of the United States” jurisdictional determinations as part of satisfying their 303(d) reporting requirements to U.S. EPA. Unless a jurisdictional determination has been made by the U.S. Army Corps of Engineers (Corps) or U.S. EPA, the Water Boards assume that historic waters of the United States that have subsequently been channelized (like Bolsa Chica Channel and East Garden Grove Wintersburg Channel, which are discussed in Orange County Public Works comment letter No. 24), are likely to continue to be waters of the United States, regardless of their characterization as being constructed as part of an MS4 or constructed to transport storm water or agricultural run-off. As a result, the process of identifying such waters on the 303(d) List would appear to be appropriate. If, subsequent to being placed on the 303(d) List, a determination is made by the Corps that a 303(d)-listed waterbody is not a jurisdictional water, the waterbody would be removed from the 303(d) List during a future listing cycle. Alternatively, because U.S. EPA may change the State Water Board’s recommended section 303(d) List, U.S. EPA may change a listing recommendation before the 303(d) List becomes final.</p> <p>In regards to Bolsa Chica Channel and East Garden Grove Wintersburg Channel, the Corps has (at least preliminarily) determined numerous times that those channels are waters of the</p>	Yes

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		<p>substantiated. These channels are not traditional navigable waters, and should also not be classified as tributaries to traditional navigable waters subject to CWA jurisdiction. The NPDES regulations define an MS4 as “a conveyance or system of conveyances (including roads with drainage systems, municipal streets...ditches, man-made channels or storm drains) designed or used for collecting or conveying storm water.” 40 C.F.R. 122.26(b)(8). For the channels to be subject to section 303(d) would mean that a single waterbody can be both an MS4 and a jurisdictional receiving water. The pretense that an MS4 and a receiving waterbody can be one in the same is contrary to the NPDES regulations. In EPA’s Preamble to the initial MS4 regulations, the agency expressly determined that “streams, wetlands and other waterbodies that are waters of the United States are not storm sewers for the purposes of this rule” and that “stream channelization, and stream bed stabilization, which occur in waters of the United States,” were not subject to NPDES permits under Section 402 of the CWA. The “conveyances” identified in the regulation – “roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains” – all refer to anthropogenic structures, not natural streams.⁷ Under 40 C.F.R. § 122.26(b)(9), an MS4 outfall is defined as the point at which an MS4 discharges to waters of the United States. 40 C.F.R.</p>	<p>United States through its issuance of a number of section 404 permits, which also required the Santa Ana Regional Water Board to issue CWA section 401 certifications for projects on those channels. (See e.g., CWA Section 404 Nationwide Permit No. 14 issued for the Bolsa Chica Channel and CWA Section 404 Nationwide Permit No. 12 issued for the East Garden Grove Wintersburg Channel.) Therefore, assessing the channels (as well as other waters having characteristics similar to these channels) pursuant to CWA section 303(d) appears to be appropriate.</p> <p>Regarding Alondra Park Lake in the Los Angeles Region, the Regional Water Board provided the following in response to comment 17.5 in support of the listing recommendation:</p> <p>“Alondra Park Lake overflows to the Dominguez Channel in large storm events. Therefore, a hydrologic connection exists between Alondra Park Lake and the Dominguez Channel, a water of the United States. In addition, because such intermittent flow is capable of moving pollutants from the Alondra Park Lake to Dominguez Channel, a significant nexus exists between Alondra Park Lake and the Dominguez Channel. The Dominguez Channel travels through a number of municipalities in Los Angeles County before emptying into the Los Angeles Harbor.</p> <p>“In addition, fishing takes place at Alondra Lake. The California Department of Fish and Wildlife plants trout at the Lake. Tissue mercury data from fish from Alondra Lake are part of the Statewide dataset used in the OEHHA statewide advisory, <i>Statewide Health Advisory and Guidelines for Eating Fish from California’s Lakes and Reservoirs, July 2013</i>. The identification of fish exceeding the OEHHA fish contaminant goals is important for the protection of human health and it is appropriate to identify the impairment on the 303(d) list.”</p>	

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		122.26(b)(9) (emphasis added).	<p>Lack of information exists as to the historical nature of Alondra Park Lake with respect to whether it was built within a historic natural stream channel or on dry land and whether or to what extent the lake overflows to Dominguez Channel during high storm events. The significance of the effect of such overflow, if any, on the chemical, physical, and biological integrity of Dominguez Channel and other downstream jurisdictional waters is uncertain. As a result, there is insufficient information at this time to determine whether Alondra Park Lake should be identified on the 303(d) List. The Los Angeles Water Board may further evaluate the appropriateness for identifying the lake on the 303(d) List during a future listing cycle. Accordingly, the State Water Board has updated the listing recommendation for Decision 60211 from List to Do Not List moving this waterbody into Integrated Report Category 3. This change is reflected in Table 5 of the Revised Draft Staff Report.</p> <p>If a waterbody is not subject to listing pursuant to section 303(d), or a waterbody is later removed from the 303(d) List subsequent to a determination by the Corps that it is not jurisdictional water or due to a change to the 303(d) List made by U.S. EPA, the Water Boards may regulate the quality of the water or take other appropriate action for water quality control in accordance with its authority under the Porter-Cologne Water Quality Control Act.</p>	
	18.11	An MS4 cannot be a receiving water because a receiving water cannot discharge into itself. See Los Angeles County Flood Control District v. Natural Resources Defense Council, Inc., et al., -- U.S. --, 133 S.Ct. 710, 712-13 (2013) (holding that the flow of polluted water from one portion of a river, through a concrete channel or other engineered improvement in the river, to a lower portion of the same river, does not constitute a discharge of pollutants); see also	See response to comment 18.10.	No

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		So. Fla. Water Mngmt. Dist. v. Miccosukee Tribe of Indians, 541 U.S. 95, 112 (2004) (holding that where a canal and an adjacent wetland are not meaningfully distinct waterbodies (rather, two parts of the same waterbody), then the transfer of polluted water from the former into the latter would not need an NPDES permit, as it would not constitute a discharge of pollutants into waters of the United States).		
	18.12	For similar reasons as to why man-made flood control channels cannot be WOTUS, man-made flood control channels cannot be deemed a “tributary” to WOTUS, for purposes of CWA jurisdiction. In some cases, the Regional Water Boards have indicated that a man-made concrete channel is being listed based on the “tributary rule.” Historically, the tributary rule has been used to invoke federal jurisdiction over non-navigable natural waters when such water has a significant effect on a WOTUS. However, EPA recently clarified in the waters of the U.S. rulemaking that concrete channels constructed in dry lands or uplands are not waters of the U.S. 80 Fed. Reg. 124 (June 29, 2015), Clean Water Rule: Definition of “Waters of the United States”; see also 40 C.F.R. §§ 230.3(o)(2)(vi) and §230(o)(3)(iii) (specifically excluding from the definition of “tributary,” and, therefore, WOTUS, “stormwater control features constructed to convey, treat or store stormwater that are created in dry land”). While this final rule review is currently under reconsideration by Executive Order issued on	See response to comment 18.10.	No

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		February 28, 2017, EPA's explicit exclusion of dry land "stormwater control features" from the definition of WOTUS clearly demonstrates the regulatory intent that jurisdiction over man-made flood control channel should not be exercised under the tributary rule. Tributaries can and should only be waters of the U.S. under 40 C.F.R. § 230.3(s)(5) if they are natural waterbodies. Therefore, pursuant to federal regulations, man-made flood channels are not tributaries to waters of the U.S. and cannot be listed.		
	18.13	There are numerous issues with the data evaluation process across the three Regions. Similar to the previous section, most of these issues are due to deviations from the Listing Policy. The data evaluation is largely performed such that each data set was given equal weight regardless of quality or completeness and listing decisions often appear to be made without consideration of the context of the data. This results in erroneous listings. In order to make the data evaluation process more robust and transparent, CASQA recommends that the State Water Board consider the following.	Comment noted.	No
	18.14	Data sets should be evaluated to ensure they are complete and provide both temporal and spatial coverage of the waterbody consistent with Section 6.1.5 of the Listing Policy, which describes what constitutes spatial and temporal coverage and includes the following language: • Spatial Representation: "samples should represent statistically or in a consistently	Comment noted.	No

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		targeted manner the segment of the waterbody” • Temporal Representation: “Samples should be representative of the critical timing that the pollutant is expected to impact the waterbody. Samples used in the assessment must be temporally independent. If the majority of samples were collected on a single day or during a single short-term natural event (e.g., a storm, flood, or wildfire), the data shall not be used as the primary data set supporting the listing decision.”		
	18.15	Despite this requirement, there are multiple instances where new listings were proposed that lacked spatial and/or temporal coverage. For example, in Region 4, in Ventura County alone, there are 18 occurrences of new listings that relied on a single sample collection date for pollutant categories including metals, pesticides, and benthic community effects.	See response to 17.05 which addresses temporal and spatial coverage.	Yes
	18.16	All data should go through a robust quality assurance/quality control (QA/QC) assessment before being used for a listing. Section 6.1.4 of the Listing Policy outlines the data quality assessment process however, based the on the numerous errors noted in this round of listings, this QA/QC process should be strengthened to ensure such errors are not made again in future listings. CASQA Recommendation: Ensure data used to support new listings is temporally and spatially representative of the waterbody.	Comment noted. The Listing Policy was amended in 2015 to require all data (when possible) to be submitted through CEDEN. Part of the reasoning behind this requirement was to increase the level of data QA/QC for future reporting cycles.	No
	18.17	The Fact Sheets should document significant programs that may affect the pollutant load in the waterbody. There are many occasions	When appropriate, Regional Water Boards will include information about related implementation programs in their decision recommendation. Phasing out the use of a pesticide may not have	No

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		where no acknowledgement was given to significant implementation efforts to reduce pollutant loads. This is inconsistent with the Listing Policy, which states in Part L of Section 6.1.2.2 that the Fact Sheets must include any "Program(s) addressing the problem, if known."	been documented as it is not considered to be sufficient information to justify a delisting of a pesticide.	
	18.18	In Region 4, data from 2006-2010 are used to justify a new listing for the pesticides chlorpyrifos, diazinon, and malathion in Calleguas Creek Reach 12 despite the fact that significant use restrictions were placed on these pesticides beginning in 2009. TMDL monitoring data showed significant reductions in pesticide concentrations. However, these data were omitted from analysis as stated in the Calleguas Stakeholder comment letter. Even foregoing the TMDL data omission, use of the pre-2009 data should not have occurred, as it is no longer representative of the waterbody following the implementation of use restrictions.	See response to comment 20.24. Phasing out the use of a pesticide does not ensure that the water quality objectives are being attained. If there are more recent data showing that the objectives are being met, these waterbodies could potentially be delisted in a future cycle consistent with Section 4.1 of the Listing Policy.	No
	18.19	• In Region 4, Echo Park Lake data from 2007 were used to justify new listings for dieldrin and chlordane despite the fact that the City of Los Angeles underwent a massive \$45 million Echo Park Lake Rehabilitation Project to upgrade the lake in 2015.	Information related to the 2015 Echo Park Lake Rehabilitation Project would need to be considered by the Regional Water Board's as they would make the determination as to whether or not a program of implementation meets the requirement for that listing to be considered "being addressed." If the Regional Water Board determines that a listing should be considered "being addressed," these changes can be made during the Region's next reporting cycle (or potentially off cycle).	No
	18.20	In Region 4, a number of stakeholders invested significant resources to develop an Enhanced Watershed Management Program (EWMP) for the Upper Santa Clara River Watershed, including an extensive pollutant prioritization	Information related to the EWMP for the Upper Santa Clara River Watershed would not be considered as part of this cycle as the cutoff for data and information solicitation was August 30, 2010. Any new data and information for this waterbody would be considered as part of the next Integrated Reporting cycle. If	No

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		process. However, as detailed in the City of Santa Clarita comment letter, ⁹ the existence of this program was not noted in the Fact Sheets and no less than 12 listings remain categorized as “Needing a TMDL” despite the fact that they are now being addressed by action other than a TMDL and should be re-categorized.	appropriate, the Regional Water Board could make the decision to move these listings into the "being addressed" Category at that time or while off-cycle.	
	18.21	In cases where the only available data are postdated by significant programs that are likely to significantly affect the pollutant load, the waterbodies should be classified as Category 3 waterbodies, which are defined by the U.S. EPA 2010 Integrated Report Guidance as the following: “The existing and readily available data and information is not representative of current conditions of the waterbody. This rationale might include a determination that: significant land use changes have occurred in the watershed changing the hydrology and nonpoint source loadings, point source discharges were removed, new discharges are now operating, or the locations of sampling stations did not reflect the character of the segment (e.g., limited to locations near discharge outfalls).”	U.S. EPA’s guidance is not binding on the State Water Board and the assertion that guidance from EPA constitutes a “mandate” is inaccurate. U.S. EPA’s guidance concerning appropriate placement in the Integrated Report categories are recommendations to the States and not requirements. California defines Integrated Report Category 3 as follows: "There is insufficient data and/or information to make a beneficial use support determination but information and/or data indicates beneficial uses may be potentially threatened." The suggestion to include waterbodies where the "only available data are postdated by significant programs that are likely to significantly affect the pollutant load" would not fit appropriately into this Category. It should be noted that if there is an approved TMDL (or alternative program in place that meets the requirements of Category 4B), the Regional Water Boards can update a listing recommendation to reflect implementation actions even if the program of implementation postdates the data solicitation cutoff period.	No
	18.22	Category 3 waterbodies are not included on the 303(d) List until more data are available to properly assess the condition of the current conditions of the waterbody. Listings which already existed at the time of implementation of a significant pollutant reduction program should be re-categorized as 4B, defined as “another regulatory program is reasonably expected to	Regional Water Boards make the determination as to whether or not a program of implementation meets the requirement for that listing to be considered "being addressed." These changes can be made during the Region's next reporting cycle (or potentially during the off cycle).	No

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		result in attainment of the water quality standard within a reasonable, specified time frame," as detailed in the comments from the City of Santa Clarita.		
	18.23	<ul style="list-style-type: none"> Clearly document significant programs that have occurred during or after the data collection period that may render the data no longer representative of the waterbody. 	Regional Water Boards use their discretion as to whether or not to include explanatory language in decision recommendations regarding any related implementation programs initiated after the data solicitation period. Commenters are encouraged to communicate with Regional Water Board staff regarding requests to include this information in that Region's next reporting cycle (or during the off cycle).	No
	18.24	<ul style="list-style-type: none"> Base the listing analysis on data that are relevant and representative of the current condition of the waterbody. 	Comment noted. Additionally, see the response to comment 18.20.	No
	18.25	<ul style="list-style-type: none"> When the only available data is postdated by the implementation of a program, which significantly alters the pollutant load the waterbody should either not be listed or listed only as Category 3. 	Regional Water Boards use their discretion as to whether or not any related implementation programs result in a listing is considered "being addressed." Commenters are encouraged to communicate with Regional Water Board staff regarding requests to update this information in that Region's next reporting cycle (or during the off cycle). Additionally, see the response to comment 18.21.	No
	18.26	When a new program is implemented which significantly alters the pollutant load, existing listings should be re-categorized as Category 4B	See response to comment 18.22.	No
	18.27	<p>All of the data analysis steps discussed above should be clearly documented in the Fact Sheets. Section 6.1 Process for Evaluation for Readily Available Data and Information of the Listing Policy details the required content of the Fact Sheets and data quality and quantity assessments. There are many cases where the Fact Sheet omits data and information. For example, many Fact Sheets have included:</p> <ul style="list-style-type: none"> Incorrect numbers of observations for lines of 	<p>The proposed section 303(d) lists appropriately utilizes the Listing Policy to determine whether a waterbody beneficial use/pollutant combination should be added or removed to the list. Where warranted, and in part in response to written comments, the proposed list has been revised.</p> <p>Information provided in the factsheets is consistent with the requirements of 6.1.2.2 of the Listing Policy. Specific requests for review should be submitted per section 6.2 of the Listing Policy. When specific errors were identified in comments received, they</p>	No

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		<p>evidence, • Listing a sample site that is not located on the correct waterbody, • Listing a pollutant criterion for the wrong pollutant (e.g., criteria for the wrong pesticide), • Listing the incorrect TMDL (e.g., listing a metals TMDL for nitrate), and/or • Omission of major implementation programs associated with the pollutant.</p> <p>CASQA requests that the State and Regional Water Boards take the time to systematically review every proposed listing and provide a thoughtful, transparent assessment of the data that includes documentation of relevance of data context, collection program, data age, data temporal and spatial representation, and the existence of any programs that may affect the waterbody pollutant load.</p> <p>CASQA Recommendation: Fully document the data assessment process that is used to support a listing decision in the Fact Sheets by including the various components discussed above.</p>	have been addressed on a case-by-case basis.	
	18.28	<p>In numerous cases, the proposed listings were based on outdated indices or sampling techniques. One example is the interpretation of dissolved oxygen (DO) in lakes that thermally stratify and show natural changes in DO across the hypolimnion (lower layer). The Listing Policy does not acknowledge the fluctuations of dissolved oxygen that are often observed in the hypolimnion or give guidance on interpretation of data in these conditions and, therefore, a listing based on a lack of proper scientific interpretation may result in an incorrect listing.</p>	See response to comment 18.27. Specific requests for review should be submitted per section 6.2 of the Listing Policy. When specific errors were identified in comments received, they have been addressed on a case-by-case basis.	No

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		CASQA recommends that the Listing Policy be revised to reflect the current state of the science regarding dissolved oxygen trends in stratified lake settings.		
	18.29	Another example raised in multiple stakeholder comment letters ¹¹ involves the 32 new benthic community effects listings (21 new listings in Region 4 and 5 new listings in Region 8), despite the fact that there is not an established water quality criteria, process or policy to assess benthic community effects. Although the State Water Board is in the process of developing a Biological Integrity/Biostimulatory Substances policy for amendment into the Inland Surface Waters Plan, ¹² this project is still underway. Additionally, other scientific tools and studies, such as the Algae Stream Condition Index and Bio Integrity Prediction Models, are being developed and there is no direction as to how these tools should be used, if at all, for listing purposes. As a result, there is concern that current listings are premature as they are in advance of policy development, scientific tools and data interpretation. Specifically, listing waterbodies based on the California Stream Condition Index (CSCI) in the absence of statewide guidance (which is currently under development) will likely result in statewide inconsistency and inappropriate listings. At this time, CSCI should only be used as one of the options for water quality objective development - not as an evaluation guideline.	See the response to comment 21.02. The California Stream Condition Index (CSCI) meets the Listing Policy Section 6.1.3 requirements for an acceptable Evaluation Guideline for interpreting a narrative objective. The use of the CSCI for 303(d) listing was done in accordance with Section 3.9 and 6.1.5.8 of the Listing Policy with biological data and impairment related to associated pollutants and/or pollution.	No
	18.30	Further, use of the SoCal indices of biologic	See the response to comment 21.02.	No

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		<p>integrity (IBI) is even more inappropriate because it has been replaced by CSCI and its sampling methods are less standardized than those in CSCI. In addition, the SoCal IBI is considered less accurate and more likely than CSCI to falsely identify a stream as altered. The lead scientist who developed the IBI has acknowledged the limitations of the index particularly in controlling for elevation gradient. Many of the proposed new benthic community effects listings are based on IBI scores since the data were largely collected prior to the adoption of the CSCI. However, the Fact Sheets for some of the Region 4 listings incorrectly imply that the waterbody was assessed with a CSCI. The Fact Sheets of Region 4 and 8 currently state the following, “[t]he California Stream Condition Index is a new scoring tool for bioassessment data that is applicable statewide, accounts for a much wider range of natural variability, and provides equivalent scoring thresholds in all regions of the state. The CSCI has been used in some assessments this reporting cycle and will be used in the future for water quality assessment purposes statewide over the regional indices of biologic integrity (IBIs). If CSCI scores have not been calculated for data and only IBI scores are available, IBI scores will still be used to interpret the data.” CASQA strongly disagrees with this statement. First, as stated above, the IBI is known to have significant limitations and should not be used to justify new listings even in cases</p>	<p>The CSCI is preferred over the SCIBI. Data sets originally assessed against the SCIBI were translated where possible for assessment against the new CSCI evaluation guideline. The benthic community composition was recalculated at the detailed taxonomic level, which either validated previous scores or signaled the need for additional sampling. In cases where the translation was not possible, data continued to be assessed against the SCIBI but the assessment and the associated LOE was only used as ancillary evidence in making a listing decision.</p>	

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		where no other data exist. Second, while we agree that the CSCI is improved over the IBI metric, we do not believe any new benthic community effects listings should be listed until a statewide policy has been adopted.		
	18.30.a	In addition to errors in the benthic community effects listing, there are numerous issues with newly proposed toxicity listings in Region 4 and 8 as detailed in numerous stakeholder comments including Los Angeles County. An intercalibration study of Southern California laboratories certified by the state and commonly used for toxicity tests found that the data were unreliable and not reproducible. Despite these results, ten new waterbodies were listed for toxicity in Los Angeles County relying on data from those very same laboratories.	The intercalibration study does not invalidate all of the toxicity tests conducted in 2015. In fact U.S. EPA has challenged the methodology of the intercalibration study and the State Water Board will not remove valid toxicity data from the 303(d) assessment process as a result of the findings from the intercalibration study. The listing recommendations will remain unchanged for the decisions identified by the requestor.	No
	18.31	• Update the Listing Policy to reflect the current state of the science regarding dissolved oxygen trends in stratified lake settings.	See response to comment 18.27. Specific requests for review should be submitted per section 6.2 of the Listing Policy. When specific errors were identified in comments received, they have been addressed on a case-by-case basis.	No
	18.32	• Do not approve any new benthic community effects listings until the Biological Integrity/Biostimulatory Substances Amendment has been approved OR appropriate interim guidance is provided by the state.	See responses to comments 18.29 and 18.30.	No
	18.33	• In the alternative to the first two recommendations, ensure that no new benthic community effects listings are based on the outdated SoCal IBI.	See response to comment 18.30.	No
	18.34	• Do not use tainted or un-reproducible data to justify a new listing as has been done for toxicity	See response to comment 18.30.a.	No

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		listings in Region 4 and 8. (Commenter cites an intercalibration study to support this comment)		
	18.35	There has been an increase in the number of listings for pollutants that occur at natural levels in the environment such as iron, aluminum, and manganese as has been cited in numerous stakeholder letters. Currently two of the Regions include language in their Basin Plans that clarify that “controllable water quality factors shall not cause a detrimental increase in concentrations of toxic substances found in bottom sediments or aquatic life. ¹⁵ ” CASQA agrees that only controllable pollutants should be addressed by the 303(d) list and constituents that are found at naturally occurring concentrations should be considered uncontrollable. As such, it is recommended that similar language be formally adopted in the Listing Policy so that it would apply to all regions. Valuable resources should not be used to address concentrations of naturally occurring constituents. CASQA Recommendation: Amend the Listing Policy language to clarify that only reasonably controllable constituents are subject to assessment under the listing policy.	Comment noted. Updating the Listing Policy is outside the scope of the 303(d) List approval process.	No
	18.36	Due to the seven-year lag time between data solicitation and finalization of the 303(d) List, much of the data used for this listing cycle is at least a decade old and, in some cases, the data were over 30 years old. For example, one new toxicity listing, for Guadalupe Slough in Region 2, is based on two data points collected in	See responses to comments 1.05 and 3.05. Due to the volume of data received during the 2010 data solicitation period, the Water Boards did not solicit for additional data until all of the data submitted in 2010 were assessed and considered for listing and delisting recommendations.	No

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		<p>1997.16 As such, there are many listings where the data are no longer representative of the waterbody either due to natural changes in the waterbody or due to the implementation of a pollution control program since the data were collected (discussed further in the next comment). The State and Regional Water Boards should make every effort to avoid listing waterbodies with old data that are less likely to be representative of the waterbody. Where more recent data exists, the newer data should be given a higher weight than the older data. Consideration should also be given to whether older data are still applicable, especially where measurement techniques and detection methods may have improved (e.g., in cases where historic sediment toxicity listings are now known to be caused by a particular pesticide). Proposing new listings with data over a decade old may result in significant resources being used to address pollutants that are no longer problematic. The State Water Board should also consider modifying the Listing Policy to explicitly allow for exclusion of older data that are not representative of current conditions.¹⁷ The current policy does not discuss exclusion of older data and thus it is assumed that “all” available data must be assessed. Given that this is not addressed in the current policy, the right course of action when data are old or questionable is to put waterbodies in Category 3 instead of Category 5¹⁸ and continue to collect more recent information on the support of</p>		

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		beneficial uses in those waterbodies. CASQA Recommendation:• Consider the age of the data when making listing decisions.• Ensure that older data (especially data older than a decade) are not given the same weight as more recent data.• Exclude data that are no longer representative of the waterbody.• Put waterbodies in Category 3 instead of Category 5 when data are old and otherwise questionable.• Modify the Listing Policy to explicitly allow for exclusion of data beyond a certain time period.		
	18.37	Under the current cycle, the data used to justify the 2014-2016 lists are from a 2010 data solicitation. This lag between the data solicitation and finalization of the list can cause the listings to be outdated before they are even finalized. A way to avoid this in the future would be to have a staggered data solicitation that parallels the listing cycle. For instance, the Regions that are on the latest listing timeline and scheduled for the next review in 2022 (Regions 2, 4, and 8), should not have a formal data solicitation until 1 year (or another reasonable timeframe to allow enough time for data analysis) before they are scheduled to have a listing update. Currently, there is language in the Los Angeles 2016 303(d) List Staff Report that states “Los Angeles Water Board staff estimates that the 2022 303(d) list will include data submitted through 2021.” CASQA supports this plan and expects that the same data solicitation timeline should apply to all three Regions. Such a change may address many of	Comment noted. See response to comment 3.05. Additionally, moving forward the State Water Board intends to use a similar methodology as suggested by commenter. This can be seen in the 2018 Integrated Report data solicitation notice.	No

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		the issues outlined in this letter. It would also produce a more reliable and applicable list of impaired waters since the data would better reflect the current state of the waterbody. CASQA Recommendation: Adjust the data solicitation schedule to reflect the staggered listing schedule of the Regions.		
	18.38	As mentioned earlier, CASQA is aware that State Water Board staff performed many of the data analyses for the 2014-2016 303(d) List. CASQA recommends that, instead, the Regional Water Board staff be in charge of the data analysis or at least provide a final oversight and review of the proposed list. The Regional Water Board staff is more familiar with the waterbodies and ongoing implementation programs occurring at the regional level. As such, Regional Water Board staff will be better able to correct many of the errors detailed in this letter. Further, Regional Water Board staff are more likely to have developed relationships with local stakeholders and can consult with them when there are issues with the data analysis versus making assumptions or decisions that have resulted in a number of incorrect listings. CASQA Recommendation: Regional Water Board staff should conduct the data analyses OR coordinate with the State Water Board to provide final oversight QA/QC prior to the public release of the Draft 303(d) List.	State and Regional Water Boards coordinate on all assessments. Regional Water Boards were given the opportunity to review all Lines of Evidence developed by State Water Board prior to completing all decision recommendations and the public was given the opportunity to comment at the regional board approval level, and request review of specific listings at the State Water Board level. The State Water Board communicates with the Regional Water Board during the LOE development process to ensure that Regional knowledge is incorporated into data assessments. In future cycles, the Regional Water Boards will have primary responsibility for factsheet preparation. The State Water Board will continue to act in a supporting role and coordinate with the Regional Water Boards as necessary.	No
	18.39	An additional suggestion is to consider reorganizing the listing schedule by watershed instead of by Region. A listing schedule	The Water Boards use a rotating basin approach using the defined Regional Water Board Basin Plans for Integrated Report assessments. Rotating the Integrated Reporting cycles by	No

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		<p>centered on watersheds may allow the State and Regional Water Boards to be more flexible and responsive to waterbody impairments. Adjusting the listing schedule to focus on watersheds may provide the following benefits:</p> <ul style="list-style-type: none"> • Provide the Regional Water Boards with the ability to prioritize specific watersheds. • Provide the Regional Water Boards more time to review listings for a given watershed versus assessing all watersheds in a given Region at one time. • Allow the Regional Water Boards to schedule listing cycles around the end dates of major monitoring programs. • Allow Regional Water Boards to be more responsive to new pollutants. • Allow Regional Water Boards to correct Listing Policy issues more frequently than once every 6 years. Under a watershed approach the Regional Water Boards, which are in the best position to prioritize their waterbodies, could set up a listing schedule such that all watersheds in their Region will be reviewed within the current six-year time frame. The result will be a 303(d) List of impaired waterbodies that is much more current and effective. 	<p>watersheds would not be feasible due to watersheds crossing Regional Water Board boundaries and waterbodies across watersheds having different Beneficial Uses associated with them. It is more appropriate to rotate cycles based on the Regional Water Board boundaries than watersheds.</p>	
	18.40	<p>Lastly, CASQA recognizes the inordinate amount of work that goes into each listing cycle. The intent of our comments is to address the key issues that we observed in the 2014-2016 listing cycle in order to improve the next cycle and ensure that valuable public funds are properly spent on the most pressing issues facing</p>	<p>Comment noted.</p>	No

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		California waterbodies versus developing TMDLs for pollutants which are not properly listed.		
Calleguas Creek Watershed Management Program Representative: Lucia McGovern	19.01	There are a number of erroneous listings detailed in the original comment letter that the Regional Water Board Response to Comment stated would be removed however the listings are still present on the current 303(d) List (see Table 1). The Stakeholders request that the State Water Board correct these listings, remove them from the Category 5 list, and update the fact sheets to reflect the response to comments from the Regional Water Board. The original description of the issues for each of these listings can be found in the Stakeholders' original March 30, 2017, comment letter (attached). Requested Action: • Remove all listings in Table 1 from the current 303(d) List based on the decisions reached by the Regional Water Board in the Response to Comments.	See response to comment 20.05. For Calleguas Creek Reach 12: Decisions for Chlorpyrifos (decision 67492, LOE 83486), Diazinon (decision 67493, LOE 83499), and Malathion (decision 67491, LOE 83458) have been deleted and the proposed listings have been removed. Decision 66075 for Nitrogen, Nitrate in Rio De Santa Clara/Oxnard Drain No. 3, has also been deleted and the proposed listing removed.	Yes
	19.02	As mentioned previously the Stakeholders thank the Regional Water Board for correcting listings which were based on data from agricultural drains not representative of the receiving waters. These erroneous listings included either pollutants measured at agricultural drain sites along Calleguas Creek Reaches 2 and 4 or the agricultural drains themselves (i.e., La Vista and Santa Clara Drains). The fact sheets for these listings include the following language: "The decisions for Calleguas Creek Reach 2 have been revised to not use the data from the tributary monitoring site. The Los Angeles Water Board staff will work with the commenter, and other	Comment noted. See response to comment 18.10.	No

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		<p>stakeholders, to purposely determine and document the appropriateness of assessing the tributary monitoring site under section 303(d) of the Clean Water Act. If it is determined that the tributary monitoring site is within a waterbody which should be addressed under section 303(d), then this determination requires that a new tributary be added to the Ca/QWA underlying map, which is maintained by State Water Board. It is the intention of the Los Angeles Water Board staff to work with State Water Board staff to resolve mapping issues prior to the State Water Board approval of the 2016 303(d) list, or prior to the next Listing Cycle that includes the Los Angeles Region."</p> <p>[This excerpt was taken from the dimethoate listing for Calleguas Creek Reach 2, but similar language exists for all agricultural drain listings.]</p> <p>The Stakeholders maintain that these monitoring sites and waterbodies outlined in the original letter are agricultural drains and, therefore, not subject to listing under the 303(d) List. These agricultural drains are used to collect and transport stormwater or agricultural runoff. The Staff Report and Fact Sheets for such listings do not contain sufficient basis upon which jurisdiction under the CWA can be substantiated. These channels are not traditional navigable waters, and should also not be classified as tributaries to traditional navigable waters subject to CWA jurisdiction. Therefore, while we will participate in the requested discussion to evaluate the monitoring</p>		

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		locations, we maintain that there is no need to add any of these waterbodies to the CalQWA underlying map and that these agricultural drains should not be included in the 303(d) List for this cycle or any future 303(d) review cycles. The Stakeholders are willing to provide any necessary information to effectively resolve this issue and welcome both Regional Water Board and State Water Board staff to contact us if they have any ongoing concerns. Requested Action: • Agricultural drain listings for Calleguas Creek Reaches 2 and 4, as well as La Vista and Santa Clara Drains, should remain off the 303(d) list and this decision should be revised in the finalized Fact Sheets.		
	19.03	The waterbodies listed for high pH do not appropriately demonstrate that the high pH was a result of waste discharge as required in the Basin Plan. The Oxnard Industrial Drain (Oxnard Drain) is proposed to be listed for high pH. As stated in the Fact Sheet and according to the Los Angeles Region Basin Plan ³ "The pH of inland surface waters shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges" [emphasis added]. However, it was not demonstrated that the elevated pH levels were a result of waste discharge as opposed to natural causes. Therefore, the Regional Water Board or State Water Board should either provide evidence that the elevated pH was a result of waste discharge and detail its findings in the Fact Sheets, or, if no such evidence exists, the listing should be	See response to comment 21.05.	No

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		removed.Requested Action: <ul style="list-style-type: none"> Remove the pH listing for Oxnard Industrial Drain as there is no data provided in the Fact Sheet that demonstrate that these high pH values are the result of waste discharge. 		
	19.04	The Stakeholders' original comment letter detailed many pollutants which were incorrectly listed as 5A despite the fact that they were addressed by an existing TMDL. Many of those listings were changed to 5B as requested but three of them were not. We again request that the pollutant-waterbody segment combinations included in Table 2 be changed from 5A to 5B since they are already being addressed by an existing TMDL.	<p>See response to comment 19.05.</p> <p>The State and Regional Water Board database has a TMDL Requirement Status built into its tracking system specifically for Category 5. The TMDL requirement status definitions for listed pollutants are: 5A = TMDL still required 5B = being addressed by U.S. EPA approved TMDL 5C = being addressed by action other than a TMDL There has been confusion when these TMDL changes are referred to as Categories or Sub Categories, which is not correct as there is only Category 5 in the Integrated Report. The correct wording for the TMDL Status change would be, "The TMDL Requirement Status changes from TMDL required List (5A) to being addressed with actions other than TMDL (5C)."</p> <p>Category 5 is not split further in the List based on 5A or 5B as both are still Category 5 for the purposes of the Integrated Report. The Category 5A, 5B, and 5C is for internal use in TMDL tracking development only.</p>	No
	19.05	The Rio De Santa Clara/Oxnard Drain No. 3 toxicity listing should be changed from 5A to 5B because it is covered by the existing Oxnard Drain #3 Pesticides, PCBs, Sediment Toxicity TMDL. It appears that this original comment was overlooked in the Regional Water Board Response to Comments. The bifenthrin listings for Duck pond and Honda Barranca should also be changed to 5B since they are covered by the	<p>The toxicity fact sheet for Rio De Santa Clara/Oxnard Drain No. 3 - The listing decision has been changed from Do Not Delist from 303(d) list (TMDL required list) to Do Not Delist from 303(d) list (being address with US EPA approved TMDL) and the appropriate TMDL code has been added.</p> <p>The fact sheets for Honda Barranca, Duck Pond Agricultural Drains/Mugu Drain/Oxnard Drain No 2, and Calleguas Creek Reach 10have not been changed because the suggested TMDLs do not</p>	Yes

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		2006 Toxicity and OC Pesticides, PCBs and Siltation TMDLs. However, the Regional Water Board response to comments states:"The Calleguas Creek Toxicity TMDL specifically addresses the organophosphate pesticides, chlorpyrifos and diazinon, and does not apply to pyrethroids. The Toxicity TMDL would need to be revised to identify pyrethroid targets, and include the other required elements of a TMDL for pyrethroids specifically." This statement is incorrect. The Toxicity TMDL was established to address toxicity caused by organophosphate pesticides and unknown toxicity due to other pesticides and/or toxicants. Specifically, the Basin Plan Amendment notes:"Discharge of wastes containing chlorpyrifos, diazinon, other pesticides and/or other toxicants to Calleguas Creek, its tributaries and Mugu Lagoon cause exceedances of water quality objectives for toxicity established in the Basin Plan."	apply to pyrethroids. For more information, see response to comment 20.28.	
	19.06	To address the other pesticides and/or toxicants, the Toxicity TMDL included a toxicity target "to address toxicity in reaches where the toxicant has not been identified." If the toxicity target or allocation is exceeded, the TMDL includes a trigger to conduct a Toxicity Identification Evaluation (TIE) and implement actions to address the identified toxicant. Additionally, the implementation actions discussed in the Toxicity TMDL implementation plan are designed to address pesticides as a whole and are not specific to diazinon and chlorpyrifos. As a result, the Toxicity TMDL	See responses to comments 19.05 and 20.28.	No

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		<p>proactively addresses toxicity associated with other pesticides, such as pyrethroids and other organophosphate pesticides (e.g., bifenthrin and malathion). TIEs conducted in the watershed have resulted in the identification of pyrethroids as a potential cause of toxicity and the Stakeholders have already begun actions to address these pesticides in addition to the organophosphate pesticides included in the TMDL. The structure of the TMDL is designed to proactively prevent toxicity and, therefore, it is not necessary to develop another TMDL for these constituents. There are already sufficient controls in place through the agricultural waiver and MS4 permit. Therefore, the Stakeholders request that the listings shown in Table 2 be moved to Category 5B.</p> <p>Requested Action: Change all pollutant-waterbody segment combinations in Table 2 from 5A to 5B based on coverage by an existing U.S. EPA approved TMDL.</p>		
	19.07	<p>2. Ensure no J-flagged data were used in the assessment. The Listing Policy specifically prohibits the use of J-flagged ("estimated") data that fall below the quantitation limit but above the water quality standard. Section 6.1.5.5 of the Listing Policy specifically states: "When the sample value is less than the quantitation limit and the quantitation limit is greater than the water quality standard, objective, criterion, or evaluation guideline, the result shall not be used</p>	<p>Section 6.1.5.5 of the Listing Policy does not specifically identify or define "J-flagged" data. Data with the "J" quality assurance code are generally excluded from the assessment process. The meaning of the "J" quality assurance code varies from laboratory to laboratory and requires a Water Board staff review of the Quality Assurance Program Plan to determine the cause and meaning of the code. Data that is estimated and given the "J" code as defined in the Quality Assurance Program plan should be excluded from assessment.</p>	No

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		<p>in the analysis. The quantitation limit includes the minimum level, practical quantitation level, or reporting limit." All listings based on the use of J-flagged data should, therefore, be removed from the draft 303(d) List. Specific instances were included in the Stakeholders' original comment letter. Most of these listings were appropriately removed, however, the Response to Comments for all J-Flagged data stated: "LOEs will be reassessed during the State Water Board public comment period." We encourage the State Water Board to adhere to the Listing Policy and ensure that all J-flagged data are removed from any analyses and that any incorrect listings relying on J-flagged data are appropriately corrected.</p> <p>Requested Action:</p> <ul style="list-style-type: none"> • Review all Facts Sheets and LOEs for the use of J-flagged data and remove any instances where J-flagged data were used. • Delist all constituents which are incorrectly listed using J-flagged data. 	<p>The Regional Water Boards prepared the fact sheets for each water and pollutant combination proposed for inclusion or removal from the 303(d) list in accordance with the requirements of the Listing Policy. The State Water Board staff have reviewed each fact sheet to ensure each is complete, consistent with the Listing Policy, and consistent with the applicable law, including the identification of the applicable TMDL and water quality standards. Any identified errors are, and have been corrected. The State Water Board responds to all written comments that identify issues relevant to the proposed listing recommendations. However, rechecking each LOE and fact sheets for non-specific potential errors during the comment period is impractical given the time constraints and amount of staff resources available.</p>	
	19.08	<p>3. Correct Fact Sheets. The Fact Sheets often include incorrect information and discussion. While most of the identified issues do not appear to impact the listing decisions, they make the review of information difficult. Examples of errors found include:</p> <ul style="list-style-type: none"> • Incorrect TMDLs assigned to a pollutant. For example, for chlordane in Calleguas Creek Reach 2, the applicable TMDL is listed as the Calleguas Creek Metals TMDL. It should be the Organochlorine Pesticides, PCBs, and Siltation 	<p>Decision 36436 for Chlordane in Calleguas Creek Reach 2 has been updated to reflect the correct TMDL addressing this impairment as the Calleguas Creek Toxicity TMDL.</p> <p>Decision 33565 for Toxaphene in Rio de Santa Clara/Oxnard Drain No. 3. has been reviewed and found to contain the correct number of samples and exceedances. Three sample results were not used in the assessment because the laboratory data reporting limit(s) was above the objective and therefore the results could not be quantified with the level of certainty required by Section 6.1.5.5 of the Listing Policy.</p>	No

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		<p>TMDL.</p> <ul style="list-style-type: none"> • Incorrect number of samples evaluated and incorrect number of criteria exceedances. For example, the number of samples evaluated for toxaphene on the Rio de Santa Clara/Oxnard Drain No. 3 is identified as 2 samples, whereas data files obtained from the Regional Water Board website contain 5 samples for the date range indicated in Fact Sheets, including 3 samples with results of "ND". Stating that a pollutant actually exceeds criteria in only 40% of samples, versus 100% exceedances as presented in Fact Sheets, provides a more accurate picture of the degree of impairment for that pollutant in a waterbody. The inclusion of J-flagged data when enumerating exceedances (e.g., for chlordane in the same waterbodies) further exacerbates these numbering inaccuracies. Requested Action: Correct the Fact Sheets for errors such as existing TMDLs and number of samples/number of exceedances. 	See also response to comment 19.07.	
	19.09	<p>4. Correct the waterbody assigned Hydrologic Unit (HUCs) and Ca/waternumbers to reflect those listed in the Basin Plan. There are multiple instances of what appear to be incorrectly Hydrologic Unit numbers (HUCs) and Calwater numbers assigned to the various waterways. For instance, a comparison of the 8-digit HUCs listed in Appendix B of the 303(d) List to the 12-digit HUCs listed in Appendix I of the Basin Plan indicate a number of inconsistencies. For example, waterbodies present in the Santa Clara River watershed (e.g., Santa Clara River Reach 3)</p>	<p>The HUCs identified in the Category reports are unreliable and cannot be updated at this time due to database constraints. This is a known issue, and the State Water Board is working with the contractor that maintains the database to update the information. In the meantime the stakeholders can utilize the information available in the Los Angeles Regional Basin Plan to accurately identify waterbodies by HUC.</p>	No

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		are listed with a Calleguas watershed HUC (18070103) while the same reaches are listed as 18070102 in the Basin Plan. This makes identifying the location of unknown waterbodies not previously listed or described in the Basin Plan difficult to assess. A full review of the 303(d) List HUCs should be completed to correct all errors. The Regional Water Board Response to Comments stated that, "It is the intention of the Los Angeles Water Board staff to work with State Board staff to resolve mapping issues including HUCs for those reaches, as appropriate, prior to the State Water Board approval of the 2016 303(d) list, or at the next Listing Cycle that includes the Los Angeles Region." The Stakeholders appreciate that the Regional Water Board and State Water Board intend to fix the issue but find it unacceptable that the change might not come until sometime during the next Listing Cycle planned for 2022. The State Water Board should not approve any 303(d) List that includes fundamental errors in the location of reaches. If such errors are allowed to remain they will only compound the many issues experienced by the Stakeholders and others when the list is revisited again in 6 years. Requestion Action: Perform a full review of HUCs and Calwater numbers listed in the Appendices and Fact Sheets and correct any inconsistencies with the Basin Plan.		
	19.10	5. Correct inconsistencies in the Regional Water Board staff report. There is inconsistent	No change is necessary. Appendix H of the State Water Board Staff Report is the operative document that supports the State Water	No

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		discussion in the staff report about some proposed listings that should be clarified to avoid confusion about the listings. For instance, on page 12 of the Regional Water Board Staff Report there is discussion about existing TMDLs covering newly proposed pollutants: "For example, the proposed new listings for mercury in Calleguas Creek Reach 3 and the proposed DDT listings in Hondo Barranca are being addressed by the Calleguas Creek Metals TMDL and the Organochlorine Pesticides, PCBs and Siltation TMDL." However, there is no proposed new listing for mercury for Calleguas Creek Reach 3 because as we noted in our March 30th letter, data used for the proposed mercury listing was incorrectly assessed to be three orders of magnitude higher due to a unit conversion error. While the fact sheets were revised the text of the Staff Report was not. Requestion Action: Correct language cited above in the Regional Water Board Staff Report	Board's consideration of the proposed 2014-2016 303(d) list.	
	19.11	The assessments for the Calleguas Creek watershed do not appear to include any of the submitted Calleguas Creek Watershed TMDL monitoring data, monitoring data from the Camarillo Sanitary District, or monitoring data from the Simi Valley Wastewater Treatment Plant, which includes data collected prior to 2010. All of this monitoring data has been provided to the Regional Water Board in annual monitoring reports and all data were collected using approved QAPPs. As noted in the Response to Comments, the Regional Water	See responses to comments 1.01, 3.05 and 18.05. Additionally, the commenter is encouraged to communicate with Regional Water Board staff regarding requests to include this information in the Region's next reporting cycle or during the off cycle.	No

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		Board only considered data that was submitted during the data solicitation period. However, at the time of the data solicitation, dated January 14th, 2010, Section 6.1.1 of the Listing Policy stated, "Data and information that shall be reviewed include, but are not limited to: submittals resulting from the solicitation, selected data possessed by the RWQCBs, and other sources."7 It was assumed that data provided electronically and in annual reports to the Regional Water Board would be considered "readily available data" per the Listing Policy. As a result, there is no reason why this data should not have been included in the 2016 303(d) listing evaluation. In fact, references show that the Regional Water Board selectively used discharger data for listing assessments in Ventura County that was not submitted by the dischargers themselves at the time of data solicitation.8 The Regional Water Board should have consistently utilized previously available data across all assessed waterbodies, including those in the Calleguas Creek watershed. While we understand that it is challenging at this late date to include additional data, the Stakeholders are providing this comment to highlight the problems with the current listing process and note the progress that has been made in the watershed that is not being acknowledged due to the time frames for assessment and the lack of consideration of this data in the analysis.		
	19.12	In 2013, the Stakeholders did an assessment of	See responses to comments 1.01, 3.05 and 18.05. Additionally, the	No

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		<p>the watershed consisting of data collected between 2004 and 2012 and found that multiple waterbody-pollutant combinations could potentially be delisted as shown in Table 3. A summary of the assessment is included as an attachment to this letter and the datasets used in the analysis as well as all of the TMDL annual monitoring reports are available upon request. While we recognize that this assessment uses two more years of data than the current 303(d) listing analysis, a number of these waterbodies had many more samples than were necessary for delisting. As a result, we feel if all the watershed data were used in the assessment, a number of these waterbodies would be delisted, particularly for metals. We also feel this assessment would demonstrate that several of the proposed listings, particularly for diazinon and chlorpyrifos and a number of organochlorine pesticides, are not warranted. Additionally, a large number of new proposed listings are being added that are already covered by a TMDL. While the list acknowledges that a TMDL does not need to be developed by categorizing these new listings in Category 5B, in several cases, the watershed now has sufficient data to delist, whereas the listing is an artifact of old data being used to make the listing decision. These listings should not be added to the current list only to be removed during the next listing cycle as an artifact of the timing of the listing assessments. Requestion Action:•</p> <p>Reassess all Calleguas Creek waterbodies using</p>	<p>commenter is encouraged to communicate with Regional Water Board staff regarding requests to include this information in the Region's next reporting cycle or during the off cycle.</p>	

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		all available data. • Remove all listings based on old data that the assessment provided shows could be delisted if the complete dataset were used.		
Farm_Bureau of Ventura Representative: John Krist	20.01	There are a number of erroneous listings outlined in the original comment letter that the RWQCB Response to Comment1 stated would be removed, but which are still present on the current 303(d) List (see Table 1). Farm Bureau requests that the SWRCB correct these listings, remove them from the Category 5 list, and update the fact sheets to reflect the response to comments from the RWQCB. The original description of the issues for each of these listings can be found in the March 29 comment letter.	Comment noted. The appropriate changes have been made as detailed in the following responses.	Yes
	20.02	Active Listing which does not reflect the RWQCB Response to Comments (from Table 1)Waterbody segment: Calleguas Creek Reach 12Pollutant: Chlorpyrifos Justification: Data does not appear to be from a station in Reach 12.RWQCB Response to Comment: The Chlorpyrifos LOE was moved to Calleguas Creek Reach 10. The decision for Calleguas Creek Reach 10/chlorpyrifos has been revised to “do not delist.” Calleguas Creek Reach 12 is no longer recommended for a Chlorpyrifos listing.Requested Action: Remove all listings in Table 1 from the current 303(d) List based on the decisions reached by the RWQCB in the Response to Comments.	The chlorpyrifos fact sheet for Calleguas Creek Reach 12 (was Conejo Cree/Arroyo Conejo North Fork on 1998 303(d) list), and LOE ID 83486 have been removed and the Staff Report has been revised to reflect these changes.	Yes
	20.03	Active Listing which does not reflect the RWQCB Response to Comments (from Table	The diazinon fact sheet for Calleguas Creek Reach 12 (was Conejo Cree/Arroyo Conejo North Fork on 1998 303(d) list), and LOE ID	Yes

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		1)Waterbody segment: Calleguas Creek Reach 12 Pollutant: Diazinon Justification: Data does not appear to be from a station in Reach 12. RWQCB Response to Comment: The diazinon LOE was moved to Calleguas Creek Reach 10. The decision for Calleguas Creek Reach 10/diazinon has been revised to "do not delist." Calleguas Creek Reach 12 is no longer recommended for a diazinon listing. Requested Action: Remove all listings in Table 1 from the current 303(d) List based on the decisions reached by the RWQCB in the Response to Comments.	83499 have been removed and the Staff Report has been revised to reflect these changes.	
	20.04	Active Listing which does not reflect the RWQCB Response to Comments (from Table 1) Waterbody segment: Calleguas Creek Reach 12 Pollutant: Malathion Justification: Data does not appear to be from a station in Reach 12. RWQCB Response to Comment: The Malathion LOE was moved to Calleguas Creek Reach 10. The decision for Calleguas Creek Reach 10/ Malathion has been revised to "list." Calleguas Creek Reach 12 is no longer recommended for a Malathion listing. Requested Action: Remove all listings in Table 1 from the current 303(d) List based on the decisions reached by the RWQCB in the Response to Comments.	The malathion fact sheet for Calleguas Creek Reach 12 (was Conejo Cree/Arroyo Conejo North Fork on 1998 303(d) list), and LOE ID 83458 have been removed and the Staff Report has been revised to reflect these changes.	Yes
	20.05	Active Listing which does not reflect the RWQCB Response to Comments (from Table 1) Waterbody segment: Rio De Santa Clara/Oxnard Drain No. 3 Pollutant: Nitrogen, Nitrate Justification: Maintained as a brackish	The applicable decision and LOE had already been removed, and the Staff Report had already been revised at the time of review.	No

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		waterbody therefore criteria do not apply. Incorrectly listed using guideline for MUN beneficial use that is not applicable to waterbody. RWQCB Response to Comment: The Nitrogen, Nitrate decision has been retired. Requested Action: Remove all listings in Table 1 from the current 303(d) List based on the decisions reached by the RWQCB in the Response to Comments.		
	20.06	As mentioned previously, FBVC thanks the RWQCB for correcting listings that were based on data from agricultural drains that are not representative of the receiving waters. These erroneous listings included either pollutants measured at agricultural drain sites along Calleguas Creek Reach 2 and 4 or the agricultural drains themselves (i.e., La Vista and Santa Clara Drains). The fact sheets for these listings include the following language: “The decisions for Calleguas Creek Reach 2 have been revised to not use the data from the tributary monitoring site. The Los Angeles Water Board staff will work with the commenter, and other stakeholders, to purposely determine and document the appropriateness of assessing the tributary monitoring site under section 303(d) of the Clean Water Act. If it is determined that the tributary monitoring site is within a waterbody which should be addressed under section 303(d), then this determination requires that a new tributary be added to the CalQWA underlying map, which is maintained by State Water Board. It is the intention of the Los	<p>The commenter’s characterization of the waters at issue as “agricultural drains” does not render inapplicable an assessment under the Listing Policy and identification on California’s section 303(d) List. See response to comment 18.10.</p> <p>The Los Angeles Water Board indicated they will review the waterbodies within the Calleguas Creek watershed while off cycle to make a final determination on whether or not it is appropriate to include them on a future region-specific 303(d) list.</p>	No

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		Angeles Water Board staff to work with State Water Board staff to resolve mapping issues prior to the State Water Board approval of the 2016 303(d) list, or prior to the next Listing Cycle that includes the Los Angeles Region.” [This language was taken from the dimethoate listing for Calleguas Creek Reach 2 but similar language exists for all agricultural drain listings.] Farm Bureau maintains that these monitoring sites and waterbodies outlined in the original letter are agricultural drains and therefore not subject to listing under the 303(d) List. Therefore, while we will participate in the requested discussion to evaluate the monitoring locations, we contend there is need to add any of these waterbodies to the CalQWA underlying map and that these agricultural drains should not be included in the 303(d) List for this cycle or any future 303(d) review cycles. We are willing to provide any necessary information to fully resolve this issue, and we invite RWQCB and SWRCB staff to contact us if they have any concerns. Requested Action: Agricultural drain listings for Calleguas Creek Reaches 2 and 4, as well as La Vista and Santa Clara Drains, should remain off the 303(d) list and this decision should be revised to be finalized in the Fact Sheets.		
	20.07	The waterbodies listed for high pH do not appropriately demonstrate that the high pH was a result of waste discharge, as required in the Basin Plan. The Santa Clara River Estuary, Santa Clara River Reach 1, and Oxnard Drain are listed	See response to comment 21.05.	No

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		<p>for high pH. As stated in the Fact Sheet and according to the Los Angeles Region Basin Plan³ “The pH of inland surface waters shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges” [emphasis added]. However, it was not demonstrated for any of these waterbodies that the elevated pH levels were a result of waste discharge as opposed to natural causes. The Regional Water Board staff noted that “analysis of sources and causes [...] are not completed as part of the Integrated Report or 303(d) listing process”. However, pH samples cannot be considered impairments without specific evidence that high pH is a result of waste discharge. In Response to Comments, the Regional Water Board acknowledged that there are multiple sources of water to the Santa Clara River that include waste discharge, but went on to state that “the relative contribution of the causes of pH exceedances is largely speculative at this time”. The FBVC agrees that the sources are speculative at this time, and because the Basin Plan criteria requires that a source be identified before a waterbody can be deemed in exceedance, the SWRCB should provide evidence that the elevated pH was a result of waste discharge and detail that in the Fact Sheets. If no such evidence exists, the SWRCB should remove the listings. Requested Action: Remove the pH listings for Santa Clara River Estuary, Santa Clara River Reach 1, and Oxnard Drain as there is no data provided in the Fact Sheet that demonstrate that these high pH</p>		

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		values are the result of waste discharge.		
	20.08	The temperature listing for Ventura River Reaches 1 and 2 (Estuary to Weldon Canyon) and Ventura River Reach 4 (Coyote Creek to Camino Cielo Rd) uses an evaluation guideline of 13-21 degrees Celsius (°C) as the optimum growth range for rainbow trout. However, the applicable Basin Plan objective is as follows: "For waters designated as COLD, water temperature shall not be altered by more than 5 degrees F above the natural temperature." The Fact Sheets provide no discussion of natural temperatures or a demonstration that the temperature was raised above natural temperatures in order to exceed the objectives.	<p>The Los Angeles Regional Water Quality Control Board's revised response to comment 16.13, is appropriate. Response to comment 16.13 states:</p> <p>"The designated beneficial use supports cold water ecosystems including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates. As stated by Moyle, 1976, the optimum range for Rainbow Trout's growth and completion of most life stages is 13-21 degrees Celsius. Therefore, it is appropriate to use this information as Evaluation Guideline, which does not conflict with the water quality objective for Cold Freshwater Habitat."</p> <p>Additionally, although the basin plan specifies the narrative objective as being no greater than 5 degrees deviation from natural temperatures, the natural temperature for the waterbody has not yet been established. Section 6.1.5.9 of the Listing Policy states that "When 'historic', or 'natural' temperature data are not available, alternative approaches shall be employed to assess temperature impacts." Since "historic" or "natural" temperature data were unavailable, Moyle 1976 was selected as an applicable Evaluation Guideline.</p>	No
	20.09	Notwithstanding that a deviation from natural temperatures has not been demonstrated, the manner in which the evaluation guideline is applied is also inappropriate. Moyle 1976 is referenced as the source of the evaluation guideline. Moyle 1976 was revised and expanded by Moyle 2002. Moyle 2002 states: "Rainbows are found where daytime temperatures range from nearly 0°C in winter to 26-27°C in summer, although extremely low	See responses to comment 17.47 and 17.48.	No

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		(<4°C) or extremely high (>23°C) temperatures can be lethal if the fish have not previously been gradually acclimated. Even when acclimation temperatures are high, temperatures of 24-27°C are invariably lethal to trout, except for very short exposures (25, 26).” As such, while temperatures above 21°C may not be optimal according to Moyle 1976, Moyle 2002 clearly states that lethal temperatures are those greater than 23°C which indicates that the evaluation guideline of 21°C is more appropriately applied as a chronic guideline (necessitating the establishment of an averaging period) and 23°C is the more appropriate “not-to-exceed” guideline if used for listing.		
	20.10	The RWQCB responded to this comment originally made in the March 29 letter by stating the following: “As stated by Moyle, 1976, the optimum range for Rainbow Trout's growth and completion of most life stages is 13-21 degrees Celsius. Therefore, it is appropriate to use this information as Evaluation Guideline, which does not conflict with the water quality objective for Cold Freshwater Habitat.” It is unclear to the FBVC why the RWQCB has not revised their reference to the more recent Moyle 2002. We urge the SWRCB to use the more recent reference or provide justification for the continued use of the 41-year-old reference. Using the threshold of 23°C, no samples would exceed the threshold in Ventura River Reach 4 and only 2 samples would exceed the threshold in Ventura River Reaches 1 and 2. Neither of	See response to comment 17.48.	No

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		these numbers of exceedances would meet the listing thresholds.		
	20.11	Requested Action: Remove the temperature listing for Ventura River Reach 1 and 2 as well as Ventura River Reach 4.	See response to comment 20.08, 20.09, and 20.10.	No
	20.12	There are many instances where the data to support the listed pollutant lack proper temporal representation. Section 6.1.5.3 of the State Water Resources Control Board (SWRCB) Listing Policy ⁵ states that: "Samples should be representative of the critical timing that the pollutant is expected to impact the waterbody. Samples used in the assessment must be temporally independent. If the majority of samples were collected on a single day or during a single short-term natural event (e.g., a storm, flood, or wildfire), the data shall not be used as the primary data set supporting the listing decision." [Emphasis added.]	In general, data used to list a waterbody must be both spatially, and temporally representative of the waterbody being assessed. This comment is addressed in the response to comment 20.13 of this document, as well as by comment 11.21 of the Los Angeles Regional Water Board's Response to Comment document. Comment 11.21 states that "while the Listing Policy requires that samples be spatially and temporally independent, fish are not static; they move throughout a waterbody and accumulate pollutants in tissue over time. Therefore the data are by their nature temporally independent." Additionally, response to comment 11.22 from the same letter states that "In addition, the fact that tissue concentrations represent the accumulation of pollutants over a time period of years, and each fish is a different age and will have moved differently through the environment, provides independence of the tissue sample." These responses adequately address the comment	No
	20.13	All of the proposed Category 5 pollutants listed in Table 2 rely on data collected from a single sample date. This directly violates the Listing Policy. For instance, the "Temporal Representation" entry in the Fact Sheet for Ventura Harbor: Ventura Keys Cadmium listing (LOE 89946) states "Representative samples of locally abundant species were collected on February 28, 2007". Because there is no temporal resolution for these waterbody-pollutant combinations, the proposed new listings should be removed.	Temporal representation as described in the Listing Policy does not apply to fish or shellfish tissue. This comment was addressed by the comment sent to the Los Angeles Regional Water Board by the City of Los Angeles. Comment 11.21 states that "while the Listing Policy requires that samples be spatially and temporally independent, fish are not static; they move throughout a waterbody and accumulate pollutants in tissue over time. Therefore the data are by their nature temporally independent." Additionally, response to comment 11.22 from the same letter states that "In addition, the fact that tissue concentrations represent the accumulation of pollutants over a time period of years, and each fish is a different age and will have moved differently through the	No

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			environment, provides independence of the tissue sample.” These responses adequately address the comment.	
	20.14	The City of Ventura made this comment previously in their March 30, 2017, letter and in response the Regional Water Board stated: “Because the data collected is spatially independent, it is still appropriate to assess the data as individual samples even though they were collected on the same date.” This response implies that the Regional Water Board did not understand the City’s original comment since these listings definitively lack temporal resolution by relying on a single sample day. Using a single sample day to support a new listing is in direct contradiction to the Listing Policy. The Regional Water Board went on to respond to some Ventura Harbor: Ventura Keys and Port Hueneme Harbor (Back Basins) listings with the following statement: “Fish were collected from three sub-locations from two sites. The three samples per site were averaged prior to assessment. Because the data collected is spatially independent, it is still appropriate to assess the data as individual samples even though they were collected on the same date. As the data support a listing decision, the waterbody pollutant combination should be listed until more data supporting a delisting decision become available. In addition, fish are not static and move throughout a waterbody, accumulating pollutants in tissue over time. Therefore, the data are, by their nature,	See response to comment 20.13.	No

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		<p>spatially and temporally independent.” This response is wholly insufficient. First, the samples collected for the various pollutants are from mussels not fish (see Table 2). Second, the argument is not that the two samples collected on the same day should not be treated as individual samples. The Listing Policy states that “a majority of samples” collected in a single day cannot be used to justify a listing. In the case of all pollutants listed in Table 2, the Line of Evidence (LOE) used to justify the listing includes 100% of samples collected on a single day. Third, nowhere in the Listing Policy does it allow spatial representation (two samples collected at different stations on a single day) to compensate for the lack of temporal representation. As stated above, the reason temporal representation is necessitated is to avoid a short-term natural event from creating bias for the assessment of a waterbody. Because both sites were sampled on the same day it is not possible to determine if the pollutant concentrations are indicative of typical waterbody conditions as opposed to a short-term natural event. Therefore, these listings must be removed until additional samples can be collected to provide adequate temporal representation to assess the waterbody and fully comply with the Listing Policy.</p>		
	20.15	<p>Table 2. Proposed Listings Lacking Adequate Temporal Representation The Table 2 proposed listings for mussel tissue include: Port Hueneme Harbor (Back Basins) for Arsenic, Cadmium, and</p>	See response to comment 20.13.	No

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		Dieldrin Ventura Harbor: Ventura Keys for Arsenic, Cadmium, Chlordane, DDT, Dieldrin, and PCBs Requested Action: Remove all listings shown in Table 2 that were based on an LOE with a single sample collection date due to lack of temporal representation.		
	20.16	In addition to the lack of temporal representation for the newly proposed Port Hueneme and Ventura harbor listings, FBVC has identified errors in the exceedance calculations in addition to numerous persistent errors in the revised fact sheets that need to be corrected. We maintain that these listings must be removed due to lack of temporal representation. If, for some reason, the SWRCB maintains the listings, corrections must be made to the fact sheets.	Comment noted. As discussed below, the appropriate corrections have been made and the listing recommendation has been changed where appropriate	No
	20.17	Ventura Harbor and Port Hueneme cadmium exceedances were incorrectly calculated and do not actually show any exceedance over the Office of Environmental Health Hazard Assessment (OEHHA) 2.2 ppm criteria limit.	The commenter is correct, the following corrections have been made: LOE 87206 has been replaced with LOE 82807. The fraction listed in LOE 82807 has been changed to Shellfish to alleviate confusion. As a result, the decision for Port Hueneme Harbor (Back Basins) has been changed to Do Not List. LOE 89946 has been changed to show the correct exceedance count of 0 exceedances of 2 samples, the fraction has been changed to Shellfish to alleviate confusion, and the evaluation guideline listed in the LOE has been changed to show the correct 3.3 ppm value. As a result of the changes to LOE 89946, the listing decision for Ventura Harbor: Ventura Keys has been changed to Do Not List.	Yes
	20.18	All exceedances for analytes in Ventura Harbor and Port Hueneme (See Table 3) are based on mussel tissue. However in many cases, the Fact Sheets and Response to Comments cite fish fillet analysis. No fish tissue samples exist in the	The cadmium data associated with Port Hueneme and Ventura Harbor was sediment, and the appropriate changes were made to the associated fact sheets. Additionally the fraction in all tissue LOEs associated with these waterbodies were changed from Fish fillet to Shellfish to reduce confusion.	No

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		dataset linked in the Fact Sheet nor were any fish tissue samples available for download from CEDEN.		
	20.19	Due to the inconsistent reference to sample type (e.g., mussel versus fish samples) and incorrect calculation of the cadmium exceedance, we request that the SWRCB recalculate all exceedances for Ventura Harbor and Port Hueneme to ensure there are no additional exceedance calculation errors.	See response to comment 20.18.	Yes
	20.20	Ventura Harbor dieldrin listing shows two LOEs (89619 and 82787) demonstrating exceedance for shellfish surveys and fish tissue analysis. Both of these lines of evidence appear to be from the same 2 samples and should not be double counted as separate LOEs. Similar issues exist for PCBs listings for the same waterbody as well as dieldrin and PAHs for Port Hueneme. (See Table 3)	LOE 89619 was a duplicate LOE, and was deleted. The fraction on LOE 82787 was changed from Fish fillet to Shellfish to reduce confusion.	Yes
	20.21	Many of the “Regional Water Board Staff Conclusions” in the Decision IDs for Ventura and Port Hueneme Harbors include the wrong number of samples and exceedances for the lines of evidence. For instance, in the Ventura Harbor: Ventura Keys PCBs listing cites an LOE with 4 of 4 samples exceeding; however, only 2 of 2 samples exceed. All Fact Sheets for these analytes need to be checked for errors and corrected.	The following decisions have been corrected: Ventura Harbor: Ventura Keys: PCBs, Dieldrin, Chlordane Port Hueneme Harbor: Dieldrin, PAHs	Yes
	20.22	Table 3. Port Hueneme Harbor and Ventura Harbor Listings which need to be corrected Requested Action: • Review and recalculate all pollutant exceedances for Port	Many of these issues have been corrected by deleting the duplicated LOEs. The arsenic fact sheet for Port Hueneme Harbor (Back Basins) was correct, and therefore was left unchanged. The duplicate LOE 87197 in the fact sheet for arsenic was deleted, and now shows the	Yes

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		Hueneme and Ventura Harbor in Table 3. • Remove the cadmium listings for Ventura Harbor and Port Hueneme as the concentrations do not exceed the criteria. • Correct and remove all reference to fish fillet in the response to comment and Fact Sheets as only shellfish samples were collected. • Correct the numerous errors in the Fact Sheets for Ventura Harbor and Port Hueneme Listings.	correct exceedance count of 2 out of 2 samples. The duplicate LOE 87206 in the fact sheet for cadmium was deleted and now shows the correct exceedance count of 0 out of 2 samples. The listing recommendation for this fact sheet was changed from List to Do Not List as a result of these changes. The duplicate LOE 87121 in fact sheet for Dieldrin has been deleted and now shows the correct exceedance count of 2 out of 2 samples. The final listing decision for this waterbody pollutant combination remains unchanged as a result of the deleted LOE. The duplicate LOE 87149 in fact sheet for PAHs (Polycyclic Aromatic Hydrocarbons) has been deleted and now shows the correct exceedance count of 2 out of 2 samples. The final listing decision for this waterbody pollutant combination remains unchanged as a result of the deleted LOE. The fraction in LOE 89881 was changed from Fish fillet to Shellfish. The arsenic fact sheet for Ventura Harbor: Ventura Keys did not have an exceedance count of 4 of 4 samples and therefore was left unchanged.	
	20.23	The data used to assess mercury for Santa Clara River Reach 3 are in ng/L (nanograms per liter) and the objective is µg/L (micrograms per liter). The data need to be converted into the same units as the objective before an exceedance can be determined. The FBVC expects that after this calculation has been performed the waterbody will no longer meet the listing guidelines. Based on the justification that the data and objectives have different units, the June 9 version of the Draft 303(d) List removed the following waterbody segments for mercury impairments: Calleguas Creek Reach 3 (Potrero Road upstream to Conejo Creek confluence), Calleguas Creek Reach 4 (was Revolon Slough Main Branch), La Vista Drain (Ventura County), and Ventura River Reach 3. It is unclear why the	The Santa Clara River Reach 3 mercury data was converted from ng/L to ug/L for comparison with the criterion. None of the samples exceeded the criterion. LOE 88761 has been revised to reflect that none of the samples exceeded the mercury criterion. Decision 66954 has been revised to "Do Not List on 303(d) list (TMDL required)."	Yes

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		same error for Santa Clara River Reach 3 was not corrected. Requested Action:• Repeat the mercury analysis for Santa Clara River Reach 3 after correcting the unit error. Correction of the unit error will result in no exceedances and require removal of the proposed mercury listing.		
	20.24	Based on a review of the available data, all the observed toxic samples occurred prior to 2009. Of the 8 exceedances, 3 occurred in 2000/2001 and the rest were in 2006, 2007 and 2008. In the 2006-2008 time period, toxicity was commonly observed due to chlorpyrifos and diazinon which were subsequently restricted. Toxicity in many watersheds has been significantly reduced as a result of these use modifications. The available data shows that no samples exceeded after 2008, indicating that those pesticides, or another cause that is no longer present, were the cause of the toxicity. Because of the transient nature of toxicity and the potential that the causes of the toxicity are no longer present, exceedances from prior to the pesticide use bans should not be used as the basis for a listing. The more recent samples since the pesticide use restrictions should be used as a basis for evaluation. In response to this the original comment letter, the Regional Water Board retained the listing as 5A and responded that "Of the 43 samples evaluated, eight samples were in exceedance, which supported a listing decision. The waterbody pollutant combination should be listed until	<p>No change has been made to Ventura River Reach 3. This comment was adequately addressed by the Los Angeles Regional Water Quality Control Board in Response to Comment 18.43: "Of the 43 samples evaluated, eight samples were in exceedance, which supported a listing decision. The waterbody pollutant combination should be listed until more data supporting a delisting decision become available. Staff encourages commenter to submit data to CEDEN in preparation for the next listing cycle."</p> <p>Additionally, the Listing Policy does not put age limitations on data. The policy uses the weight of evidence approach during data assessment and all data must be considered. While the residential use of diazinon and chlorpyrifos have been restricted by the EPA, use restriction is not the same as water quality standards attainment, nor is it a pollution control program and 4b placement is not warranted. Data suggesting use attainment must be available prior to delisting.</p>	No

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		more data supporting a delisting decision become available. Staff encourages commenter to submit data to CEDEN in preparation for the next listing cycle." If the SWRCB decides to maintain the listing, the FBVC requests that the pollutant be properly categorized as 4B defined as "Another regulatory program is reasonably expected to result in attainment of the water quality standard within a reasonable, specified time frame". As stated above the cause of the toxicity has already been addressed by the banning of chlorpyrifos and diazinon in 2008 and there is already ample evidence (i.e., no exceedances since 2008) to show that the beneficial use has not been impacted since that regulatory program was put in place. Requested Action: • Either remove the listing for Ventura River Reach 3 for toxicity based on exceedances from outdated data, OR categorize the listing as 4B.		
	20.25	The FBVC original comment letter detailed many pollutants that were incorrectly listed as 5A despite the fact that they were addressed by an existing TMDL. Many of those listings were changed to 5B as requested but four of them were not. We again request that the pollutant-waterbody segment combinations included in Table 4 be changed from 5A to 5B since they are already being addressed by an existing TMDL.	<p>The following changes have been made:</p> <p>The toxicity fact sheet for Rio De Santa Clara/Oxnard Drain No. 3 - The listing decision has been changed from Do Not Delist from 303(d) list (TMDL required list) to Do Not Delist from 303(d) list (being address with US EPA approved TMDL) and the appropriate TMDL code has been added.</p> <p>The fact sheet for Santa Clara River Reach 4 has not been changed because there is no bacteria listing for Santa Clara River Reach 4. The fact sheets for Honda Barranca and Duck Pond Agricultural Drains/Mugu Drain/Oxnard Drain No 2 have not been changed because the suggested TMDLs do not apply to pyrethroids. For more</p>	Yes

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			information, see response to comment 20.28.	
	20.26	The Rio De Santa Clara/Oxnard Drain No. 3 toxicity listing should be changed from 5A to 5B since it is covered by the existing Oxnard Drain #3 Pesticides, PCBs, Sediment Toxicity TMDL.	<p>The following changes have been made:</p> <p>The listing decision for the toxicity fact sheet for Rio De Santa Clara/Oxnard Drain No. 3 has been changed from Do Not Delist from 303(d) list (TMDL required list) to Do Not Delist from 303(d) list (being address with US EPA approved TMDL) and the appropriate TMDL code has been added.</p>	Yes
	20.27	The Santa Clara River Reach 3 Escherichia coli listing should be changed from 5A to 5B since it is covered by the existing Santa Clara River Bacteria TMDL which specifically addresses this reach. It appears that this original comment was overlooked in the RWQCB Response to Comments.	The fact sheet for Santa Clara River Reach 4 has not been changed because there is no bacteria listing for Santa Clara River Reach 4.	No
	20.28	The bifenthrin listings for Duck Pond and Honda Barranca should also be changed to 5B since they are covered by the 2006 Toxicity and OC Pesticides, PCBs and Siltation TMDLs. However, the RWQCB response to comments states: "The Calleguas Creek Toxicity TMDL specifically addresses the organophosphate pesticides, chlorpyrifos and diazinon, and does not apply to pyrethroids. The Toxicity TMDL would need to be revised to identify pyrethroid targets, and include the other required elements of a TMDL for pyrethroids specifically." This statement is incorrect. The Toxicity TMDL was established to address toxicity caused by organophosphate pesticides and unknown toxicity due to other pesticides and/or toxicants. Specifically, the Basin Plan Amendment notes: "Discharge of wastes containing chlorpyrifos, diazinon, other	Although pyrethroids do technically fall under the umbrella stated in the TMDL to cover currently unknown sources of toxicity, many other aspects of a TMDL as required by 40 C.F.R § 130.7 are currently missing as they relate to pyrethroids. A key component of a TMDL is the development of waste load allocations (WLAs). Although the Calleguas Creek TMDL includes a generic portion to cover not yet identified sources of toxicity, WLAs, and complete source analysis must be developed before other specific pollutants can be considered to fall under this TMDL. The TMDL requirement status for this fact sheet cannot be changed until the remaining components have been completed.	No

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		<p>pesticides and/or other toxicants to Calleguas Creek, its tributaries and Mugu Lagoon cause exceedances of water quality objectives for toxicity established in the Basin Plan.” To address the other pesticides and/or toxicants, the Toxicity TMDL included a toxicity target “to address toxicity in reaches where the toxicant has not been identified.” If the toxicity target or allocation is exceeded, the TMDL includes a trigger to conduct a Toxicity Identification Evaluation (TIE) and implement actions to address the identified toxicant. Additionally, the implementation actions discussed in the Toxicity TMDL implementation plan are designed to address pesticides as a whole and are not specific to diazinon and chlorpyrifos. As a result, the Toxicity TMDL proactively addresses toxicity associated with other pesticides, such as pyrethroids and other organophosphate pesticides (e.g., bifenthrin and malathion). TIEs conducted in the watershed have resulted in the identification of pyrethroids as a potential cause of toxicity and agricultural dischargers, through VCAILG, have already begun actions to address these pesticides in addition to the organophosphate pesticides included in the TMDL. The structure of the TMDL is designed to proactively prevent toxicity and therefore it is not necessary to develop another TMDL for these constituents. There are already sufficient controls in place through the Conditional Waiver as well as the MS4 permit. The Conditional Waiver includes water quality benchmarks for</p>		

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		both toxicity and bifenthrin, as well as actions to address exceedances. Therefore, FBVC requests that the listings shown in Table 4 be moved to Category 5B.		
	20.29	Table 4. 303(d) Category 5A listings which should be changed to 5B listings Requested Action: Change all pollutant-waterbody segment combinations in Table 4 from 5A to 5B based on coverage by an existing U.S. EPA approved TMDL.	The following changes have been made: The listing decision for Rio De Santa Clara/Oxnard Drain No. 3 has been changed from Do Not Delist from 303(d) list (TMDL required list) to Do Not Delist from 303(d) list (being addressed with US EPA approved TMDL). The Category for Santa Clara River Reach 4 has not been changed because there is no indicator bacteria listing for Santa Clara River Reach 4. The Bifenthrin fact sheets for Honda Barranca and Duck Pond Agricultural Drains/Mugu Drain/Oxnard Drain No 2 have not been changed because the suggested TMDLs do not apply to pyrethroids. For more information, see response to comment 20.28.	Yes
	20.30	All listings based on the use of J-flagged data should, therefore, be removed from the draft 303(d) List. The Ellsworth Barranca listing for DDE uses J-flagged data and should also be removed based on the incorrect assignment of the beneficial use P*MUN (as discussed in FBVC's previous comment) in addition to the use of J-flagged data. Response to Comments for all J-Flagged data stated: "LOEs will be reassessed during the State Water Board public comment period." The FBVC encourages the SWRCB to adhere to the Listing Policy and ensure that all J-flagged data are removed from any analyses and that any incorrect listings relying on J-flagged data are appropriately corrected. Requested Action: • Review all Fact Sheets and Lines of Evidence for the use of J-flagged data and remove any instances where J-flagged data were used. • Delist all constituents	The following change has been made: The sample count of LOE 84304 has been revised to reflect this correction. The new sample count is one sample exceeds out of one sample assessed. The listing recommendation listed on the DDE fact sheet for Ellsworth Barranca has been changed from List on 303(d) list (TMDL required List) to Do Not List on 303(d) list (TMDL required list).	Yes

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		which are incorrectly listed using J-flagged data, including the listing of DDE for Ellsworth Barranca.		
	20.31	Numerous listings were made using water quality objectives for the protection of the municipal drinking for waterbodies that do not have applicable municipal drinking water beneficial uses (see discussion in our March 29 comment letter). Many of the waterbodies listed are brackish waterbodies for which no beneficial uses are designated or waterbodies designated for the municipal beneficial use with an asterisk (i.e., P*) in the Basin Plan. The P* MUN beneficial use should not be used to propose new 303(d) listings. The Fact Sheets for DDE listings in both Ellsworth Barranca (LOE 84304) and Fox Barranca (LOE 84487) still contain MUN as the listed beneficial use. The Fact Sheets should be revised with the correct beneficial use and associated evaluation guidelines. Requested Action: Remove DDE listings for Ellsworth Barranca and Fox Barranca based on incorrect beneficial use designation.	The following changes have been made: The beneficial use of LOEs 84304 and 84487 have been changed to COMM. The human health water quality criteria found in the California Toxic Rule for DDE applies to the COMM beneficial use. Although COMM is not designated for Ellsworth Barranca and Fox Barranca, it is known that the public uses the waterbodies downstream of Ellsworth Barranca and Fox Barranca for purposes included in the definition of the commercial fishing beneficial use. The federal regulations provide that "[e]xisting uses are those uses actually attained in the waterbody on or after November 28, 1975, whether or not they are included in the water quality standards." (40 C.F.R § 131.3(e).) See response to comment 20.30.	No
	20.32	The Fact Sheets often include incorrect information and discussion. While most of the identified issues do not appear to impact the listing decisions, they make the review of information difficult. Examples of errors found include: • Incorrect TMDLs assigned to a pollutant. For example, for chlordane in Calleguas Creek Reach 2, the applicable TMDL is listed as the Calleguas Creek Metals TMDL. It should be the Organochlorine Pesticides, PCBs,	The TMDL listed in the Fact Sheet for Calleguas Creek Reach 2 has been revised to reflect the correct TMDL (State Water Board Resolution 2005–0068). The toxaphene fact sheet for Rio de Santa Clara/Oxnard Drain No. 3 has not been changed. The 3 samples claimed by the commenter to not be included in the LOE were not included because the water quality criteria was below the minimum detection limit and therefore could not be included in the assessment as stated in Section 6.1.5.5 of the Listing Policy.	No

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		and Siltation TMDL. • Incorrect number of samples evaluated and incorrect number of criteria exceedances. For example, the number of samples evaluated for toxaphene on the Rio de Santa Clara/Oxnard Drain No. 3 is identified as 2 samples, whereas data files obtained from the Regional Water Board website contain 5 samples for the date range indicated in Fact Sheets, including 3 samples with results of “ND”. Stating that a pollutant actually exceeds criteria in only 40% of samples, versus 100%exceedances as presented in Fact Sheets, provides a more accurate picture of the degree of impairment for that pollutant in a waterbody. The inclusion of J-flagged data when enumerating exceedances (e.g., for chlordane in the same waterbodies) further exacerbates these numbering inaccuracies.Requested Action: Correct the Fact Sheets for errors such as existing TMDLs and number of samples/number of exceedances.		
	20.33	There are multiple instances of what appear to be incorrectly Hydrologic Unit numbers (HUCs) and Calwater numbers assigned to the various waterways. For instance, a comparison of the 8 digit HUCs listed in Appendix B of the 303(d) List to the 12 digit HUCs listed in Appendix I of the Basin Plan indicate a number of inconsistencies such that waterbodies present in the Santa Clara River Watershed (e.g., Santa Clara River Reach 3) are listed with a Calleguas watershed HUC (18070103) while the same reaches are listed as 18070102 in the Basin Plan. This makes	The HUCs identified in the Category reports are unreliable and updatable at this time. This is a known issue, and the State Water Board is working with the contractor that maintains the database to update the information. In the meantime the stakeholders can utilize the information available in the Los Angeles Regional Basin Plan to accurately identify waterbodies by HUC.	No

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		it especially difficult to identify the location of unknown waterbodies not previously listed or described in the Basin Plan to determine whether they are receiving waters that should be assessed. A full review of the 303(d) List HUCs should be completed to correct all errors. The RWQCB Response to Comments stated that "It is the intention of the Los Angeles Water Board staff to work with State Water Board staff to resolve mapping issues including HUCs for those reaches, as appropriate, prior to the State Water Board approval of the 2016 303(d) list, or at the next Listing Cycle that includes the Los Angeles Region." We appreciate that the RWQCB and SWRCB intend to fix the issue but find it unacceptable that the change might not come until sometime during the next Listing Cycle planned for 2022. The SWRCB should not approve any 303(d) List that includes fundamental errors in the location of reaches. If such errors are allowed to remain they will only compound the many issues experienced by FBVC and others when the list is revisited again in 6 years. Requested Action: Perform a full review of HUCs and Calwater numbers listed in the Appendices and Fact Sheets and correct any inconsistencies with the Basin Plan.		
	20.34	There is inconsistent discussion in the staff report about some proposed listings, which should be clarified. For instance, page 12 of the RWQCB Staff Report includes this statement: "For example, the proposed new listings for mercury in Calleguas Creek Reach 3 and the	No change is necessary. Appendix H of the State Water Board draft Staff Report is the operative document that supports the State Water Board's consideration of the proposed 2014-2016 303(d) list.	No

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		proposed DDT listings in Hondo Barranca are being addressed by the Calleguas Creek Metals TMDL and the Organochlorine Pesticides, PCBs and Siltation TMDL." However, there is no proposed new listing for mercury for Calleguas Creek Reach 3 because, as we noted in our March 29 letter, the proposed mercury listing was off by three orders of magnitude due to a unit conversion error. While the fact sheets were revised, the text of the Staff Report was not. Requested Action: Correct language cited above in the RWQCB Staff Report.		
Sanitation Districts of Los Angeles Representative: Ann Heil	21.01	The Draft June 2017 version of the 2016 303(d) List contains a number of newly proposed listings for "Benthic-Macroinvertebrate Bioassessments." The proposed listings are based on application of the Southern California Coastal Index of Biological Integrity (SCIBI) and, in some cases, the California Stream Condition Index (CSCI). These include listings for Santa Clara River Reaches 5 and 6 and Medea Creek Reach 1. The Sanitation Districts believe these proposed listings should be removed, for the reasons listed below.	Comment noted.	No
	21.02	The Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy) indicates that waterbodies should only be listed for degradation of biological populations if they have significant degradation relative to reference sites [emphasis added]. Although the scientists that developed the SCIBI attempted to incorporate reference conditions into the index itself, the	The use of the CSCI and the SCIBI for 303(d) listing was done in accordance with Section 3.9 and 6.1.5.8 of the Listing Policy with biological data and impairment related to associated pollutants and/or pollution. The CSCI accounts for a wide range of natural variability and provides equivalent scoring evaluation guidelines in all regions of the state, including large watersheds, low gradient stream reaches, and waters at low elevations. A set of nearly 600 reference sites with	No

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		reference conditions used to develop the index did not include sufficient low elevation, low gradient locations similar to the Santa Clara River reaches of concern. Although the CSCI at least partially addresses some of the problems with the SCIBI by employing a modeled reference condition as opposed to the regional reference pool used by the SCIBI, a lack of reference sites in large watersheds, low gradient, and low elevation systems still limits the identification of appropriate thresholds using the CSCI.	<p>minimal human disturbance across the state was used to develop the CSCI. Out of those 600 reference sites, 93 are in large watersheds that drain more than 100 km² (82 out of 93 had good biology) and 26 are below 100 m elevation (24 of the 26 had good biology with scores greater than 0.79). Additionally, 263 samples collected from 2000-2012 under the SWAMP Perennial Stream Assessment program were collected from streams or rivers with a mean slope of less than 1% (73 out of 263 had good biology). These data sets support the application of the CSCI to stream reaches that drain large watersheds at low gradients and low elevations, including the Santa Clara River reaches of concern.</p> <p>The CSCI is preferred over the SCIBI. Data sets originally assessed against the SCIBI were translated where possible for assessment against the new CSCI evaluation guideline. The benthic community composition was recalculated at the detailed taxonomic level, which either validated previous scores or signaled the need for additional sampling. In cases where the translation was not possible, data continued to be assessed against the SCIBI but the assessment and the associated LOE was only used as ancillary evidence in making a listing decision.</p>	
	21.03	Section 6.1.5.8 of the Listing Policy also states that when "evaluating biological data and information, RWQCBs shall evaluate all readily available data and information and shall ... evaluate physical habitat data and other water quality data, when available, to support conclusions about the status of the water segment." [Emphasis added.] All of the reaches mentioned in this comment letter represent reaches that have undergone various levels of physical habitat modifications and there is no	<p>The listing recommendations proposed for benthic community effects have been made consistently with the requirements outlined in Sections 3.9 and 6.1.5.8 of the Listing Policy. Section 6.1.5.8 of the Listing Policy states "Evaluate physical habitat data and other water quality data, when available, to support conclusions about the status of the water segment." While physical habitat data is in many cases available, criteria for evaluating physical habitat data are not available. If such criteria are developed, the physical habitat will be evaluated consistent with Section 6.1.5.8 of the Listing Policy.</p> <p>There is no direct physical habitat element required to calculate the</p>	No

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		indication that an evaluation of the physical habitat was conducted. It is well recognized by the scientific community that unmanageable non-pollutant physical habitat alterations would preclude many California streams from ever having biological assemblages similar to reference. The threshold used as the listing criterion for these reaches is therefore likely inappropriate for these modified waterbodies.	<p>CSCI, as asserted by the Los Angeles Water Board revised responses. However, human activity criteria (land use, road density, and hydrologic alteration) are used in the CSCI to select reference sites by evaluating stress due to anthropogenic factors and to identify minimally disturbed (reference) sites. The CSCI is then used to determine if a waterbody is impaired by comparing the biological community to what we expect to see in an applicable reference condition.</p> <p>Additionally, site-specific physical habitat information may be used to understand the cause of the biological community effect, which may occur through future source assessment or TMDL efforts.</p>	
	21.04	The Sanitation Districts believe that it is inappropriate to make impairment decisions using the SCIBI and premature to rely on the improved, but still limited CSCI for making impairment decisions, particularly in reaches where surrounding development and instream physical habitat limitations are recognized and/or in large watersheds, low gradient, low elevation systems. Therefore, the Sanitation Districts respectfully recommend that the Regional Water Board delay making decisions regarding these benthic macroinvertebrate community impairments in this listing cycle or place these waterbodies in Category 3, and instead continue to work with stakeholders, scientists, and the State Water Board that are currently engaged in efforts to address these and other issues as part of the Biointegrity/Bio-stimulatory Policy.	See responses to comments 21.02 and 21.03.	No
	21.05	The Sanitation Districts believe the proposed temperature listings for San Gabriel River Reach	The water quality objectives found in the Los Angeles Basin Plan for pH, DO and temperature are levels expected to protect aquatic life	No

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		<p>2, San Jose Creek Reach 1, San Gabriel River Reach 1, and Santa Clara Reach 6 should be removed because the impairment listings are inconsistent with the Basin Plan water quality objective for temperature, which states, "at no time shall these WARM-designated waters be raised above 80°F as a result of waste discharges." [Emphasis added.] The wording of this Basin Plan objective places the burden of proof on the Water Boards to demonstrate that waste discharges are causing the elevated temperatures. The Draft List does not contain any analysis or evidence indicating that the elevated temperatures occurred as result of wastes discharged, as opposed to other factors. Rather, the Response to Comments on the Draft 2016 303(d) List prepared by the Regional Water Board specifically states that such analyses were not conducted. In this same document the Regional Water Board also acknowledged other sources of temperature exceedances, stating, "Exceedances in temperature may be caused in part by ambient temperatures or exacerbated by the lack of tree cover in some reaches; exceedances may also be caused in part by waste discharge." Furthermore, evidence indicates that summertime excursions greater than the 80°F in these reaches are not caused by wastes discharged but are likely due to elevated ambient air temperature, conductive and radiative heating associated with hardened landscapes, a lack of riparian cover, and</p>	<p>beneficial uses. The language "as a result of waste discharge" recognizes that in some cases, pollutant concentrations in waters can be the result of natural or uncontrollable conditions. However, the quoted language does not require a source analysis prior to comparing conditions to the numeric portion of the water quality objectives for an impairment determination via the 303(d) List consistent with Section 3 of the Listing Policy.</p> <p>In circumstances where a waterbody is placed on the 303(d) list for pH, DO, and temperature, and it is subsequently determined through a source analysis that waste discharges are not a contributing source of impairment, the condition in the water quality objective would be met and the water body would be subsequently delisted.</p>	

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		increased ambient temperatures related to climate change.		
	21.06	Additionally, the Sanitation Districts believe that the proposed temperature listing for Santa Clara River Reach 6 is particularly inappropriate. Measurements for this listing were taken immediately downstream of the Saugus Water Reclamation Plant (WRP), where tertiary treated effluent is discharged along one bank of the Santa Clara River bed. The flow remains isolated from the main channel of the Santa Clara River and percolates rapidly into the soil; groundwater resurfaces downstream near Reach 5 of the Santa Clara River. The predominant natural condition of this stretch of river is dry and would not be expected to support aquatic life without the Saugus WRP discharge; therefore, application of the 80°F water quality objective is unnecessary and inappropriate. Upon resurfacing near Reach 5, the water temperature averages 69°F, demonstrating that elevated temperatures in this isolated discharge area are not detrimental to beneficial uses in reaches where water occurs naturally in the river. Finally, elevated ambient temperatures regularly exceed 90 °F during the summer months, and heavily influence both the Saugus WRP discharge and the immediate downstream receiving water location.	<p>See response to comment 21.05. Santa Clara reach 6 is designated with aquatic life beneficial uses. The 80°F temperature objective protects the aquatic life beneficial use of WARM in surface waters regardless of the ultimate source of the water in that reach of the river. The Los Angeles Water Board does not have alternative objectives for effluent-dominated waters.</p> <p>The State Water Board encourages the commenter to work with the Los Angeles Water Board to perform a thorough assessment of sources contributing to the temperature impairment. The information provided will likely be helpful in that analysis, but it is outside the scope of the data solicitation for the 2014-2016 303(d) listing cycle and will not be considered.</p> <p>If it is determined that the natural conditions of the waterbody does not support aquatic life, then the Los Angeles Water Board can either designate the use from the waterbody via a use attainability analysis or establish site specific objectives.</p>	No
	21.07	In addition to these general comments, the Sanitation Districts have comments on some specific listing decisions. As stated above, detailed comments are provided in the	Comment noted. The proposed listing decisions, as identified in the Draft Staff Report or as clarified or revised by the State Water Board's responses to comments, are adequately supported by information contained in the Fact Sheets as applied to the relevant	No

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		attachment to this letter. Because the implications of erroneous listings are substantial, the Sanitation Districts urge the State Water Board to consider this information in making the appropriate changes to the Draft List.	factors in the Listing Policy.	
	21.08	The State Water Resources Control Board (State Water Board) is currently proposing that a new listing for benthic community effects be made to the 303(d) list for Reach 5 of the Santa Clara River, based on Southern Coastal California Index of Biotic integrity (SCIBI) scores. The Sanitation Districts believe this proposed listing is inappropriate and recommend not listing or listing as a Category 3 (insufficient data) stream reach for the reasons listed below; supporting evidence is provided in the sections that follow. The SCIBI-based analysis has been demonstrated to be inadequate for use in low gradient/low elevation watersheds similar to the reaches in the upper Santa Clara River. In 2010 the State Water Board agreed that the SCIBI was an inadequate tool for assessment of the Santa Clara River and did not approve the staff recommendation to place these waterbodies on the 303(d) for benthic community impairment. Although the CSCI at least partially addresses some of the problems with the SCIBI by employing a modeled reference condition as opposed to the regional reference pool used by the SCIBI, the low number of reference sites in large watersheds, low gradient, and low elevation systems still	<p>See responses to comments 21.02 and 21.03.</p> <p>The comment is correct that in 2010 the State Water Board overturned staff recommendations to list several waterbodies in the Santa Clara River due to limitations of the SCIBI as it applied to certain environmental conditions. Since that time the CSCI has been developed, peer reviewed and is scientifically defensible to use and apply to waters throughout California. It is also possible to use the CSCI to reevaluate scores originally calculated by the SCIBI to verify the appropriateness of those scores. This reevaluation has not been performed for this waterbody and therefore the SCIBI scores are being used as ancillary evidence to support the primary evidence provided by the CSCI.</p> <p>The Southern California Storm Water Monitoring Coalition reference “cloud” identified by the comment comes from preliminary presentations on the CSCI. It shows an ordination of environmental variables from approximately 2,000 sites throughout California. The “cloud” shows areas where there are reference sites in ordination space. The cloud itself is somewhat arbitrary, and a different scaling could result in a larger or smaller cloud. The interpretation of sites falling within the cloud is also dependent on user interpretation. The appropriateness of the CSCI can be validated where there are underrepresented references sites by looking at scoring results of similar sites that aren’t reference but have various levels of “non-referenceness.” The CSCI was calibrated so that the mean score of reference sites is 1. The distribution of CSCI scores at all reference</p>	Yes

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		limits the identification of appropriate thresholds using the CSCI. Specifically, several Santa Clara River sites have been shown to fall outside the experience of the CSCI model. Bioassessment monitoring using the CSCI scoring tool has demonstrated an unimpaired benthic community. The sole CSCI score included in the current data set met the proposed 0.79 threshold. Physical habitat was not assessed, as required by the State Water Board Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy). Historically unmanaged or unmanageable stressors (e.g. channel/habitat modifications) are well documented as precluding sites from achieving reference conditions. An evaluation of relevant physical habitat data is critical to identify whether observed impacts are due to these stressors. A lack of such evaluation should result in designation to Category 3. The proposed listing fails to associate the alleged impairment with pollutants impacting aquatic life beneficial uses. The Southern California Stormwater Monitoring Coalition (SMC) evaluated the CSCI reference poolusing principle components analysis. The environmental gradients used as predictors for the CSCI were compressed into two dimensions and used to generate a heat map (Figure 1). Figure 1 shows the availability of data to determine reference conditions; red areas indicate a higher density of reference locations, darker/blue areas indicate fewer	<p>sites defined the thresholds. The reference data set that was used to calibrate the CSCI had areas that ranged from 0.34 km² – 2029 km². The CSCI score for the smallest watershed was 0.869 and the CSCI for the largest watershed was 0.889. The largest reference watershed (296.7 km²) in the LA Region is Sespe Creek 3643 (SMC03643). Site elevations ranged from 7 km – 3130 km. The CSCI score for the site with the lowest elevation is 1.3 and the CSCI score for the highest elevation is 0.918. Lastly, Section 6.1.5.8 of the Listing Policy does not define “reference site” but rather requires a method for selecting reference sites and applying them to develop an Index of Biological Integrity which has been done and validated repeatedly by the CSCI and reference threshold studies.</p> <p>The Southern California Coastal Water Research Project tool identified by the commenter is still under development and utilizing it at this point to support a listing/delisting recommendation would be inappropriate. Once the tool is completed the tool could aid in causal assessment and for developing an appropriate regulatory program for addressing water quality impairments in those streams. It is important to note that the SCCWRP's use of the term ‘constrained’ to refer to certain stream reaches refers to the biology and such constrained biology could be due to habitat alterations and/or poor water quality.</p> <p>Decision 44468 pertaining to Santa Clara River Reach 5 for “Benthic Community Effects” has been revised from “List on 303(d) list” to “Do Not List” due to lack of sufficient information to support a beneficial use support determination at this time. The decision language has been revised to clarify that while existing impairments exist for iron, bacteria, chloride and trash, the samples analyzed using the SCIBI were deemed insufficient to utilize as primary evidence. The more recent sample analyzed using the CSCI does not exceed the evaluation guideline. More data should be collected and</p>	

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		reference locations, and gray indicates sites that may be outside the experience of the CSCI. Several of the Santa Clara River sites (orange symbols circled in Figure 1) fall outside of CSCI reference conditions and presumably outside the experience of the CSCI model. A more recent tool developed by Southern California Coastal Water Research Project (SCCWRP) staff through a State Water Board effort has resulted in a quantitative tool to identify streams/reaches that are likely to be “constrained” by habitat or other, non-water quality parameters (the model used land cover, road density, canal density, mines, dams, aerial deposition, and non-native vegetation). When applying this tool to the Santa Clara Reach 5 location, SCCWRP determined that this location is “likely constrained”, meaning unlikely to achieve a CSCI score of 0.79 due to landscape development.	analyzed to determine if pollutant levels in the water are impacting the biological community.	
	21.09	The State Water Resources Control Board (State Water Board) is currently proposing that a new listing for benthic community effects be made to the 303(d) list for Reach 6 of the Santa Clara River, based on Southern Coastal California Index of Biotic integrity (SCIBI) scores. The Sanitation Districts believe this proposed listing is inappropriate and recommend not listing the stream reach or listing it in Category 3 (insufficient data) for the reasons below; supporting evidence is provided in the sections that follow. • The SCIBI-based analysis has been demonstrated to be inadequate for use in low	See responses to comments 21.02, 21.03 and 21.08. Decision 44626 pertaining to Santa Clara River Reach 6 for “Benthic Community Effects” has been revised from “List on 303(d) list” to “Do Not List” due to lack of sufficient information to support a beneficial use support determination at this time. While existing chlorpyrifos, temperature, and toxicity impairments exist in the waterbody, and the single CSCI score indicate that the biology is impaired, Section 6.1.5.3 of Listing Policy requires samples from at least two events to support a listing decision. More data should be collected and analyzed to determine if the current impairments to water quality are impacting the biological community.	Yes

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		<p>gradient/low elevation watersheds similar to the reaches in the upper Santa Clara River. In 2010 the State Water Board agreed that the SCIBI was an inadequate tool for assessment of the Santa Clara River and did not approve the staff recommendation to place these waterbodies on the 303(d) for benthic community impairment. • Although the CSCI at least partially addresses some of the problems with the SCIBI by employing a modeled reference condition as opposed to the regional reference pool used by the SCIBI, the low number of reference sites in large watersheds, low gradient, and low elevation systems still limits the identification of appropriate thresholds using the CSCI. Specifically, several Santa Clara River sites have been shown to fall outside the experience of the CSCI model. • Physical habitat was not assessed, as required by the State Water Board Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy). Historically unmanaged or unmanageable stressors (e.g. channel/habitat modifications) are well documented as precluding sites from achieving reference conditions. An evaluation of relevant physical habitat data is critical to determine if these habitat-related stressors are limiting the biological capacity of a site. In the absence of such an evaluation, sites not meeting the biological condition threshold should be placed in Category 3.</p>		
	21.10	The State Water Resources Control Board (State	See responses to comments 17.29, 21.02, 21.03 and 21.08.	No

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		Water Board) is proposing that a new listing for benthic community effects be made to the 303(d) list for Reach 1 of the Medea Creek, based on a weight of evidence approach using California Stream Condition Index (CSCI) and Southern Coastal California Index of Biotic integrity (SCIBI) scores. The Districts believe this proposed listing is inappropriate and recommend not listing for the reasons listed below; supporting evidence is provided in the sections that follow. • Physical habitat was not assessed, as required by the State Water Board Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy). Historically unmanaged or unmanageable stressors (e.g. channel/habitat modifications) are well documented as precluding sites from achieving reference conditions. An evaluation of relevant physical habitat data is critical to identify whether observed impacts are due to these stressors. A lack of such evaluation should result in designation to Category 3. • The proposed listing fails to associate the alleged impairment with other pollutants impacting aquatic beneficial uses.	Sufficient information exists to support the recommendation to List Medea Creek Reach 1 on the 303(d) list. There are existing impairments for excess algae and sedimentation as well as adequate bioassessment data showing exceedances of the evaluation guideline. This decision recommendation has been made consistent with Section 3.9 of the Listing Policy.	
	21.11	The State Water Resources Control Board, (State Water Board) is proposing that a new listing for impairment due to water temperature be made to the 303(d) list for Reach 1 of San Jose Creek. The Sanitation Districts of Los Angeles County (Sanitation Districts) believe this proposed listing is inappropriate and	See response to comments 21.05 and 21.06. After review of Decision 66408 for San Jose Creek Reach 1 for "Temperature, Water," the exceedance to sample frequency does not exceed the allowable frequency contained in Section 3.2 of the Listing Policy. Therefore, the decision has been revised from "List on the 303(d) list" to "Do Not List" and the fact sheet will be revised,	Yes

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		<p>recommend not listing due to water quality objectives being achieved. Failure to Meet Water Quality Objectives Has Not Been Demonstrated The Water Quality Control Plan: Los Angeles Region Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) states that: "At no time shall these WARM-designated waters be raised above 80°F as a result of waste discharges." [Emphasis added.]...the 80°F temperature objective is not a hard and fast number that was set as a threshold above which aquatic life would not be protected. Rather the Basin Plan only prohibits the raising of water temperature above 80°F as a result of waste discharges. The Basin Plan accommodates temperatures above 80°F without considering them to be violations, as long they are not as a result of waste discharges...The Southern California area routinely experiences temperatures well above 80°F during the summer months, and the Basin Plan was written to accommodate higher temperatures caused by these ambient conditions. Additionally, the Sanitation Districts respect that source identification typically is not part of the 303(d) listing process for most pollutants. However, this water quality objective clearly distinguishes between exceedance of the 80°F standard caused by "waste discharges" and those associated with other causes. In cases such as these, the burden falls on the Water Boards to demonstrate that temperature in excess of 80°F were as a result of waste</p>	<p>accordingly.</p>	

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		<p>discharge before an impairment listing can be made. Based on the wording of the receiving water objective, a receiving water exceeding 80°F caused by factors other than wastes discharged would not represent an exceedance of the objective. Therefore, when assessing the temperature objective in Region 4, an analysis of the source or cause is both required and critical in determining if the objective was exceeded. Furthermore, as described in more detail below, a Sanitation Districts survey clearly demonstrates that summertime excursions greater than the 80°F in this reach are not caused by waste discharges but are due to elevated ambient air temperature, conductive and radiative heating associated with hardened landscapes, a lack of riparian cover, and increased ambient temperatures related to climate change. Additionally, the proposed listing and associated fact sheets do not contain any analysis or evidence refuting the findings of this survey. Instead, the Regional Water Board Fact Sheet states that a single line of evidence was used in the assessment of temperature. Specifically, 42 of 301 samples from Pom-RD, Pom-RC, SJC-C1, and SJC-C2 exceeded the objective from July 2005 to November 2010 using the “Data for Various Pollutants in Various Waterbodies in Sanitation Districts of Los Angeles County, 2005-2010” dataset. (Appendix A of the Sanitation Districts’ March 30, 2017 letter “Comments on the February 2017 Proposed 2016 Los Angeles Region Clean Water</p>		

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		Act Section 303(d) List of Impaired Waters” contains the full set of data applicable to this listing from Appendix G of the Regional Water Board Draft Staff Report.) Note that based on a review of the dataset utilized for the listing evaluation, the Sanitation Districts identified 339 discrete temperature measurements, not 301. The dataset contains 368 results; however, 29 samples were duplicates. Of the 339 unique temperature measurements, 46 exhibited a temperature that exceeded 80 °F, not 42. However, 14 of the 46 temperature exceedances were demonstrably caused by conduction and radiation (details below), not waste discharges. Conduction and radiative heating likely also caused the remaining 32 exceedances out of 339 measurements; this total does not meet the minimum number of measured exceedances needed to place a water segment on the section 303(d) list.		
	21.12	Pom-RC and Pom-RD Excursions Above 80 °F Are Demonstrably Not a Result of Waste Discharges Tertiary treated water from the Pomona Water Reclamation Plant is discharged to the south fork of San Jose Creek and flows into Reach 1. Receiving water stations Pom-RC, Pom-RD, and SJC-C1 are located approximately 3, 12, and 12.5 miles from the upstream border of Reach 1, respectively. Reach 1 is fully lined in concrete from the upstream border to just upstream of SJC-C1 (Figure 1). As observed by Sanitation Districts staff and corroborated by EPA staff ¹ , groundwater exudes from relief	See responses to comments 21.05, 21.06, and 21.11. The State Water Board encourages the commenter to work with the Los Angeles Water Board to perform a thorough assessment of sources contributing to the temperature impairment. The information provided will likely be helpful in that analysis, but it is outside the scope of the data solicitation for the 2014-2016 303(d) listing cycle and will not be considered.	No

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		structures distributed throughout the concrete-lined bottom, even in mid-summer (August) after several years of drought (Figure 2). In the absence of discharge from the Pomona Water Reclamation Plant or other observed discharges, flows in SJC between Pom-RC and Pom-RD increase by 200% to greater than 400% (Figure 3) due to the release of this groundwater, which has a localized average temperature of approximately 67 °F.2 As this groundwater-dominated flow travels downstream, the temperature naturally rises (Figure 4) due to heat conduction through the warm concrete lining and solar radiation exposure in the unshaded channel (Figure 5 shows ambient air temperature as a proxy for solar radiation3). When the concrete channel ends upstream of SJC-C1, the water leaves the heat source (concrete channel) and mixes with additional groundwater, resulting in consistently cooler temperatures. The observed spatial and temporal temperature profile, coupled with no identifiable waste discharges and substantial groundwater clearly demonstrates that the temperature excursions in Reach 1 of San Jose Creek are not a result of waste discharges.		
	21.13	The State Water Resources Control Board (State Water Board) is proposing that a new listing for impairment due to water temperature be made to the 303(d) list for Reach 1 of the San Gabriel River. The Sanitation Districts of Los Angeles County (Sanitation Districts) believe this proposed listing is inappropriate and	See responses to comments 21.05, 21.06, and 21.11.	No

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		<p>recommend not listing due to water quality objectives being achieved. Failure to Meet Water Quality Objectives Has Not Been Demonstrated</p> <p>The Water Quality Control Plan: Los Angeles Region Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) states that: "At no time shall these WARM-designated waters be raised above 80°F as a result of waste discharges." [Emphasis added.]...the 80°F temperature objective is not a hard and fast number that was set as a threshold above which aquatic life would not be protected. Rather the Basin Plan only prohibits the raising of water temperature above 80°F as a result of waste discharges. The Basin Plan accommodates temperatures above 80°F without considering them to be violations, as long they are not as a result of waste discharges. The standard was set this way presumably to recognize that there are natural variations in temperature in the Los Angeles Basin that may occur even in the absence of waste discharges...The Southern California area routinely experiences temperatures well above 80°F during the summer months, and the Basin Plan was written to accommodate higher temperatures caused by these ambient conditions. Additionally, the Sanitation Districts respect that source identification typically is not part of the 303(d) listing process for most pollutants. However, this water quality objective clearly distinguishes between exceedance of the 80°F standard caused by "waste discharges" and</p>		

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		<p>those associated with other causes. In cases such as these, the burden falls on the Water Boards to demonstrate that temperature in excess of 80°F were as a result of waste discharge before an impairment listing can be made. Based on the wording of the receiving water objective, a receiving water exceeding 80°F caused by factors other than wastes discharged would not represent an exceedance of the objective. Therefore, when assessing the temperature objective in Region 4, an analysis of the source or cause is both required and critical in determining if the objective was exceeded. As detailed in the San Jose Creek Reach 1 Temperature Fact Sheet, in fully lined concrete channels, summertime excursions greater than the 80°F are not caused by waste discharges but are due to elevated ambient air temperature, conductive and radiative heating associated with hardened landscapes, a lack of riparian cover, and increased ambient temperatures related to climate change. Although a specific survey for San Gabriel River Reach 1 has not been conducted, the physical conditions in that reach are very similar to those in San Jose Creek and would be expected to exhibit the same patterns (see figures 1-2). Furthermore, an analysis of ambient temperature correlated to receiving water temperature confirms this relationship and is described in more detail below. Finally, the proposed listing and associated fact sheets do not contain any analysis or evidence refuting</p>		

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		the actuality that elevated temperatures are caused by factors such as elevated ambient temperatures and conductive and radiative heating associated with hardened landscapes. Instead, the Regional Water Board Fact Sheet simply states that a single line of evidence was used in the assessment of temperature. Specifically, 93 of 234 samples from LC-R4, R3-1, and R3-1b exceeded the objective from July 2005 to November 2009 using the "Data for Various Pollutants in Various Waterbodies in Sanitation Districts of Los Angeles County, 2005-2010" dataset. Note that based on a review of the entire dataset utilized for the listing evaluation, the Sanitation Districts identified 288 discrete temperature measurements, 117 of which exhibited a temperature that exceeded 80°F. However, these temperature exceedances were not as a result of waste discharges, but were directly associated with high elevated ambient air temperatures as well as conduction and radiation (details below). Therefore, under the definition in the Basin Plan, no exceedances of the water quality objective were observed.		
	21.14	San Gabriel River Reach 1 Excursions Above 80 °F Are a Result of Radiative and Conductive Heating Tertiary treated water from the San Jose Creek and Los Coyotes Water Reclamation Plants (WRPs) is discharged to the main stem of the San Gabriel River. Reach 1 is a fully lined concrete channel from approximately 0.25 miles downstream of the San Jose Creek WRP	See responses to comments 21.05 and 21.06.	No

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		discharge point 001 to the San Gabriel River estuary. As explained in Fact Sheet #4, elevated temperatures in Reach 1 of San Jose Creek occurred even in the absence of observable waste discharges and were caused by conductive heating through the concrete lining and solar radiation exposure. Although a comprehensive assessment of flows, in the absence of WRP discharge, cannot be conducted along the San Gabriel River, the same conditions associated with the radiative and conductive heating exist in San Gabriel River Reach 1. This is supported by a significant correlation between ambient air temperature and receiving water temperature ($R^2 = 0.61$, Figure 3)2 and the fact that 90% of excursions above 80°F in the receiving water environment occurred during summer months, between June and September. The weight of evidence supports the contention that receiving water temperatures above 80°F were a result of ambient and environmental conditions (i.e., summer weather and a concrete channel) and not waste discharges.		
	21.15	The State Water Resources Control Board (State Water Board) is proposing that a new listing for impairment due to water temperature be made to the 303(d) list for Reach2 of the San Gabriel River. The Sanitation Districts of Los Angeles County (Sanitation Districts) believe this proposed listing is inappropriate and recommend not listing due to water quality objectives being achieved.Failure to Meet Water	See responses to comments 21.05, 21.06, and 21.11. After review of Decision 66310 for the San Gabriel River Reach 2 for "Temperature, Water," the decision recommendation will remain as "List on the 303(d) list" because 81 of 224 samples exceeded the temperature objective and this exceeds the frequency allowed by Section 3.2 of the Listing Policy.	No

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		<p>Quality Objectives Has Not Been DemonstratedThe Water Quality Control Plan: Los Angeles Region Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) states that:“At no time shall these WARM-designated waters be raised above 80°F as a result of waste discharges.” [Emphasis added.]...the 80°F temperature objective is not a hard and fast number that was set as a threshold above which aquatic life would not be protected. Rather the Basin Plan only prohibits the raising of water temperature above 80°F as a result of waste discharges. The Basin Plan accommodates temperatures above 80°F without considering them to be violations, as long they are not as a result of waste discharges.The standard was set this way presumably to recognize that there are natural variations in temperature in the Los Angeles Basin that may occur even in the absence of waste discharges...The Southern California area routinely experiences temperatures well above 80°F during the summer months, and the Basin Plan was written to accommodate higher temperatures caused by these ambient conditions. Additionally, the Sanitation Districts respect that source identification typically is not part of the 303(d) listing process for most pollutants. However, this water quality objective clearly distinguishes between exceedance of the 80°F standard caused by “waste discharges” and those associated with other causes. In cases such as these, the burden falls on the Water</p>		

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		<p>Boards to demonstrate that temperature in excess of 80°F were as a result of waste discharge before an impairment listing can be made. Based on the wording of the receiving water objective, a receiving water exceeding 80°F caused by factors other than wastes discharged would not represent an exceedance of the objective. Therefore, when assessing the temperature objective in Region 4, an analysis of the source or cause is both required and critical in determining if the objective was exceeded. As detailed in the San Jose Creek Reach 1 Temperature Fact Sheet, in fully lined concrete channels, summertime excursions greater than the 80°F are not caused by waste discharges but are due to elevated ambient air temperature, conductive and radiative heating associated with hardened landscapes, a lack of riparian cover, and increased ambient temperatures related to climate change. Although a specific survey for San Gabriel River Reach 2 has not been conducted, the physical conditions in the most data rich portion of that reach are very similar to those in San Jose Creek and would be expected to exhibit the same patterns (Figures 1-2). The segments that are not fully lined are regularly dry in the absence of discharge or impounded stormwater and cannot support WARM freshwater habitat (Figure 3). Furthermore, an analysis of ambient temperature correlated to receiving water temperature confirms this relationship and is described in more detail below. Finally, the</p>		

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		proposed listing and associated fact sheets do not contain any analysis or evidence refuting the actuality that elevated temperatures are caused by factors such as elevated ambient temperatures and conductive and radiative heating associated with hardened landscapes. Instead, the Regional Water Board Fact Sheet simply states that a single line of evidence was used in the assessment of temperature. Specifically, 81 of 224 samples from SJC-R2 and SJC-R12 exceeded the objective from July 2005 to November 2009 using the “Data for Various Pollutants in Various Waterbodies in Sanitation Districts of Los Angeles County, 2005-2010” dataset. Note that based on a review of the entire dataset utilized for the listing evaluation, the Sanitation Districts identified 81 excursions above 80 °F out of 232 discrete temperature measurements at these two stations, not 224. However, these temperature exceedances were not as a result of waste discharges, but were directly associated with high elevated ambient air temperatures as well as conduction and radiation (details below). Therefore, under the definition in the Basin Plan, no exceedances of the water quality objective were observed.		
	21.16	San Gabriel River Reach 2 Excursions Above 80 °F Are a Result of Radiative and Conductive Heating Tertiary treated water from the San Jose Creek Water Reclamation Plant (WRP) is discharged to the mainstem of the San Gabriel River. The lower ¼ mile of Reach 2 is a fully lined concrete channel, containing the R2 receiving	See responses to comments 21.05 and 21.06.	No

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		water station. Data from this station represent 215 of 232 data points. As explained in Fact Sheet #4, elevated temperatures in Reach 1 of San Jose Creek occurred even in the absence of observable waste discharges and were caused by conductive heating through the concrete lining and solarradiation exposure (Figure 4)2. Although a comprehensive assessment of flows, in the absence of WRP discharge, cannot be conducted along the San Gabriel River, the same conditions associated with the radiative and conductive heating exist in this part of San Gabriel River Reach 2. This is further supported by the fact that 99% of excursions above 80 °F in the receiving water environment occurred during the warmer months, June through October. The weight of evidence supports the contention that receiving water temperatures above 80 °F were a result of ambient and environmental conditions (i.e., summer weather and a concrete channel) and not waste discharges.		
	21.17	The State Water Resources Control Board (State Water Board) is proposing that a new listing for impairment due to water temperature be made to the 303(d) list for Reach 6 of the Santa Clara River. The Sanitation Districts of Los Angeles County (Sanitation Districts) believe this proposed listing is inappropriate and recommend not listing due to water quality objectives being achieved. Failure to Meet Water Quality Objectives Has Not Been DemonstratedThe Water Quality Control Plan:	See responses to comments 21.05, 21.06, and 21.11. After review of Decision 67068 for Santa Clara River Reach 6 for "Temperature, Water," the decision recommendation will remain as "List on the 303(d) list because 23 of 110 samples exceeded the temperature objective and this exceeds the frequency allowed by Section 3.2 of the Listing Policy.	No

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		<p>Los Angeles Region Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) states that: "At no time shall these WARM-designated waters be raised above 80°F as a result of waste discharges." [Emphasis added.] ...the 80°F temperature objective is not a hard and fast number that was set as a threshold above which aquatic life would not be protected. Rather the Basin Plan only prohibits the raising of water temperature above 80°F as a result of waste discharges. The Basin Plan accommodates temperatures above 80°F without considering them to be violations, as long they are not as a result of waste discharges. The standard was set this way presumably to recognize that there are natural variations in temperature in the Los Angeles Basin that may occur even in the absence of waste discharges...The Southern California area routinely experiences temperatures well above 80°F during the summer months, and the Basin Plan was written to accommodate higher temperatures caused by these ambient conditions...the Sanitation Districts respect that source identification typically is not part of the 303(d) listing process for most pollutants. However, this water quality objective clearly distinguishes between exceedance of the 80°F standard caused by "waste discharges" and those associated with other causes. In cases such as these, the burden falls on the Water Boards to demonstrate that temperature in excess of 80°F were as a result of waste</p>		

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		<p>discharge before an impairment listing can be made. Based on the wording of the receiving water objective, a receiving water exceeding 80°F caused by factors other than wastes discharged would not represent an exceedance of the objective. Therefore, when assessing the temperature objective in Region 4, an analysis of the source or cause is both required and critical in determining if the objective was exceeded. Warm weather excursions above 80°F are frequently due to elevated ambient air temperature, conductive and radiative heating associated with hardened landscapes, a lack of riparian cover, and increased ambient temperatures related to climate change. Furthermore, an analysis of ambient temperature correlated to receiving water temperature identified a significant relationship between ambient air temperature and receiving water temperature in this Reach, as detailed below. Finally, the proposed listing and associated fact sheets do not contain any analysis or evidence refuting the findings of this survey. Both the Saugus WRP discharge and the immediate downstream receiving water location (Sa-RB) are heavily influenced by ambient air temperature. Figure 3 includes a plot of the 15-day average values of the maximum air temperature along with the individual water temperature measurements collected at the Sa-RB location¹. Nearly all of the 80°F temperature exceedances were associated with the higher, warm weather air</p>		

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		temperatures and the two have a statistically significant correlation ($R^2 = 0.76$). Because exceedances of the Basin Plan temperature objective are limited to those “as a result of waste discharges,” an evaluation of the contribution of ambient air temperature to the receiving water should have been conducted before identifying receiving water excursions above 80oF as exceedances of the objective.		
	21.18	The 80°F Water Quality Temperature Objective Is Unnecessary and Inappropriate for Santa Clara River Reach 6. The only dry weather surface flows within this stretch of Reach 6 are associated with recycled water discharges from the Saugus WRP, which percolate into the dry riverbed a short distance downstream of the discharge point and eventually resurface downstream near the Reach 5 boundary. At the point of resurfacing, the water temperature averages 69F and this perennial surface flow supports a diverse aquatic life community in Reach 5. However, the predominant natural condition of Reach 6 is dry and would not be expected to support any aquatic life without the Saugus WRP discharge. In addition, the cool temperatures in the water that resurfaces near the Reach 5 boundary demonstrate that elevated temperatures in the isolated discharge area are not detrimental to beneficial uses. Therefore, application of the 80oF water quality objective in Santa Clara Reach 6 is unnecessary and inappropriate, as the presence of water exceeding the 80oF water quality objective	See response to comments 21.05, 21.06, and 21.17.	No

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		would not result in any impairment to naturally occurring aquatic life.		
	21.19	Mitigating the Elevated Temperature at Sa-RB Is Not Feasible The only reasonable alternative to address the temperature water quality objective below the Saugus WRP at location Sa-RB during dry weather would be to eliminate the discharge through expansion of water recycling. However, it is highly unlikely that the California Department of Fish and Wildlife would support elimination of the entire discharge, because this action would remove all dry weather surface flows in the relevant section of Santa Clara Reach 6 and could potentially reduce the amount of resurfacing groundwater flows that actually support a diverse aquatic community in Santa Clara River Reach 5.	The alternatives for addressing the impairments identified within Santa Clara River Reach 6 is not within the scope of the 303(d) listing process. The Los Angeles Water Board should work with the appropriate responsible parties to develop an appropriate regulatory or standards action to address the impairments.	No
Los Angeles County Flood Control District Representative: Mark Pestrella	22.01	Section 4.3 of the Los Angeles Area Lakes Nitrogen, Phosphorus, Mercury, Trash, Organochlorine Pesticides and PCBs TMDLs1 (LA Area Lakes TMDLs), promulgated by the U.S. EPA in 2012, states that Peck Road Park Lake was sampled for lead between December 2008 and September 2010 and no exceedances were found for lead during this time. Therefore, the U.S. EPA concluded that Peck Road Park Lake met the lead water quality standards, and that preparing a TMDL for lead would be unwarranted. The U.S. EPA recommended that Peck Road Park Lake not be identified as impaired by lead in California's next 303(d) list.	See response to comment 22.05. The State Water Board has changed the recommendation from List on the 303(d) List (TMDL still required), to Delist for lead in Peck Road Park. Justification for this delisting is the Los Angeles Area Lakes Nitrogen, Phosphorus, Mercury, Trash, Organochlorine Pesticides and PCBs TMDL, completed and approved by U.S. EPA, which found that there was no impairment for lead. The data available in the database is insufficient to determine beneficial use support at this time.	Yes
	22.02	Sections 9.3 and 9.4 of the LA Area Lakes TMDLs2 state that Legg Lake was sampled for	See response to comment 22.05.	Yes

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		lead and copper between February 2009 and September 2010 and no exceedances were found for lead or copper during this time. Therefore, the U.S. EPA concluded that Legg Lake met the lead and copper water quality standards, and that preparing a TMDL for lead and copper would be unwarranted. The U.S. EPA recommended that Legg Lake not be identified as impaired by lead or copper in California's next 303(d) list.	The State Water Board has changed the recommendation from List on the 303(d) List (being addressed by a TMDL), to Delist for copper and lead in Legg Lake. Justification for this delisting is the Los Angeles Area Lakes Nitrogen, Phosphorus, Mercury, Trash, Organochlorine Pesticides and PCBs TMDL, completed and approved by U.S. EPA, which found that there was no impairment for lead or copper. The data available in the database is insufficient to determine beneficial use support at this time.	
	22.03	Sections 11.3 and 11.4 of the LA Area Lakes TMDLs3 state that Santa Fe Dam Park Lake was sampled for lead and copper between March 2009 and August 2010 and no exceedances were found for lead or copper. Therefore, the U.S. EPA concluded that Santa Fe Dam Park Lake met lead and copper water quality standards, and that preparing a TMDL for lead and copper would be unwarranted. The U.S. EPA recommended that Santa Fe Park Dam Park Lake not be identified as impaired by lead or copper in California's next 303(d) list.	See response to comment 22.05. The State Water Board has changed the recommendation from List on the 303(d) List (being addressed by a TMDL), to Delist for copper and lead in Santa Fe Dam Park Lake. Justification for this delisting is the Los Angeles Area Lakes Nitrogen, Phosphorus, Mercury, Trash, Organochlorine Pesticides and PCBs TMDL, completed and approved by U.S. EPA, which found that there was no impairment for lead or copper. The data available in the database is insufficient to determine beneficial use support at this time.	Yes
	22.04	The U.S. EPA collected sufficient data to reach the conclusions described above for these lakes, i.e., findings of non-impairment and the recommendation to delist them. Of 26 samples collected for Peck Road Park Lake, there were no exceedances of lead. Of 33 samples collected for Legg Lake, there were no exceedances of copper and lead. Of 28 samples collected for Santa Fe Dam Park Lake, there were no exceedances of copper and lead.	See responses to comment 22.02, 22.03, and 22.05.	Yes
	22.05	In response to comments, the Los Angeles	The following waterbody and pollutant combinations have been	Yes

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		Regional Water Board indicated that staff did not address these waterbody-pollutant combinations due to resource constraints coupled with challenges of identifying QA/QC documents associated with the data. However, Regional Water Board staff do not need to do any analysis because the U.S. EPA already conducted the analysis needed and made the recommendation to delist these waterbody-pollutant combinations. Making a reference to the U.S. EPA's 2012 LA Area Lakes TMDL should be sufficient evidence to delist these waterbodies as a similar approach has been utilized for delisting other waterbodies. For example, the Regional Water Board delisted Diazinon for Dominguez Channel based on the analysis and findings of non-impairment presented in a U.S. EPA approved TMDL. To this end, the 303(d) list fact sheet for Diazinon in the Dominguez Channel ⁴ states, "there is sufficient justification to delist this waterbody/pollutant because when the Dominguez Channel and Los Angeles and Long Beach Harbors Toxics and Metals was completed, the TMDL analysis showed no diazinon concentrations above the guideline, post 2005." Therefore, the County of Los Angeles (County) and the Los Angeles County Flood Control District (LACFCD) request that lead for Peck Road Park Lake, copper and lead for Legg Lake and Santa Fe Dam Park Lake be delisted based on analyses and the recommendation presented in the 2012 LA Area Lakes TMDL.	<p>delisted:</p> <p>Peck Road Park Lake – Lead Legg Lake - copper and lead Santa Fe Dam Park Lake - copper and lead</p> <p>The Los Angeles Area Lakes Nitrogen, Phosphorus, Mercury, Trash, Organochlorine Pesticides and PCBs TMDL, completed and approved by U.S. EPA, found that there was no impairment for the above waterbody pollutant combinations and this provides justification for the delistings.</p>	

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	22.06	<p>The following concrete-lined channels are inappropriately proposed or remain listed for benthic community effects: * Alhambra Wash (proposed) * Arroyo Seco Reach 1 (existing) * Los Angeles River Reach 4 (proposed)</p> <p>These listings of concrete channels for benthic community effects is not consistent with the Regional Water Board's approach stating that current biological indices (standards) are not calibrated for such channels in response to comments regarding other concrete-lined channels. Specifically, the Regional Water Board's response to comments states that "benthic community listings for waterbodies that are lined entirely with concrete have been reassigned to Category 3 until such time as benthic community condition scores have been more specifically calibrated for concrete-lined channels." This reasoning was used to delist benthic community listings for other concrete-lined channels, such as Ballona Creek and Dominguez Channel.</p>	<p>Decision 44553 has been revised from Do Not Delist from Category 5 to Delist (Category 3) based on insufficient information and lack of an associated pollutant.</p> <p>Decision 66232: LOE 96220 for Benthic-Macroinvertebrate Bioassessments is based on data collected in Los Angeles River Reach 5 and so was moved to Decision 67520 for Los Angeles River Reach 5. The Benthic Community Effects Decision for Los Angeles River Reach 4 (Decision 66232) has been deleted. The decision recommendation for Los Angeles River Reach 5 for Benthic Community Effects is to List on 303(d) list.</p> <p>Decision 65544 has been revised from List on 303(d) list to Do Not List. The samples collected were within eight days of each other and this site will be prioritized for further monitoring and data collection to better determine the impact on the benthic community.</p>	Yes
	22.07	<p>The three waterbodies listed above are fully concrete-lined channels and, thus, should be reassigned to Category 3. The reconnaissance survey conducted by the Regional Water Board during the recreational use reassessment (RECUR) of the engineered channels of the Los Angeles River Watershed⁷ has confirmed that these are concrete-lined channels. *Page 88 of the RECUR report describes Alhambra Wash as, "...a concrete-lined box channel (with vertical walls) throughout its length...". LACFCD's</p>	See response to comment 22.06.	Yes

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		database further confirms this fact. LACFCD's database further confirms that this reach of the LA River is fully lined with concrete. Therefore, to remain consistent, the benthic community listing for Alhambra Wash, Arroyo Seco Reach 1, and Los Angeles River Reach 4 should be removed from the 303(d) list and reassigned to Category 3. Page 66 of the RECUR report describes Arroyo Seco Reach 1 as "concrete lined the entire length except in a short section just south of W. Holly Street to the Colorado Boulevard overpass where the stream channel is natural." A further assessment by the LACFCD reveals that the natural section is approximately 0.25 miles of the more than seven miles total length of Arroyo Seco Reach 1 (see enclosed map). As shown in the map, the natural spot is located under a freeway, which is heavily constrained by bridge piers. These natural portion (which accounts only for 3% of the total reach length and located under a freeway) is negligible and, thus, Arroyo Seco Reach 1 should be considered fully concrete channel. Page 36 of the RECUR report describes the Los Angeles River Reach 4 as "a channel with vertical concrete walls with a flat concrete bottom."		
	22.08	The Regional Water Board's decision regarding toxicity and temperature listings should be reviewed by the State Water Board in conjunction with the County and LACFCD comments. The comment letter to the Regional Water Board is available at http://www.waterboards.ca.gov/losangeles/wat	Regarding temperature: The Los Angeles Water Board's revised response regarding Los Angeles River Reach 3, San Gabriel River Reaches 1 and 2, and Santa Clara River Reach 6 temperature assessments is appropriate and is as follows: "The 303(d) list appropriately identifies the temperature	No

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		er_issues/programs/303d/2016/comments/17_LAC-LACFCD_p53.pdf . Comments III and IV (pages 6-9 of the pdf) discusses justifications for not listing toxicity and temperature, respectively.	<p>impairments. Analysis of sources and causes are not completed as part of the Integrated Report or 303(d) listing process. The 80°F temperature objective protects the aquatic life beneficial use of WARM in surface waters regardless of the ultimate source of the water in that reach of the river. The Los Angeles Water Board does not have different objectives for different seasons.”</p> <p>Response to comment 11.25: “The temperature data for the Los Angeles River Reach 3 has been re-evaluated and compared to the Basin Plan standard of not to exceed 80° and the decision has been revised to “do not list.” (response to comment 17.4)</p> <p>Additionally, due to the large amount of data to be assessed during each update of the 303(d) list, the 303(d) list data evaluations are more general. In particular, these evaluations do not include source assessments; they rely upon existing waterbody delineations without further subdivision (e.g., Santa Monica Bay); and they typically do not entail more refined analyses such as assessing data collected during wet weather and dry weather separately. As Water Board staff commences TMDL development, these more temporally and spatially refined data assessments are made along with a source analysis. Based on these analyses, staff may propose a finding of no impairment with a recommendation to delist during the next 303(d) cycle, or may refine the defined scope of the impairment to be addressed by the TMDL (e.g., wet weather only).</p> <p>Regarding toxicity: The Los Angeles Water Board’s response regarding the ten county waterbodies newly listed for toxicity (comment 17.3) as provided in the “Revised Response to Comments on the Draft 2016 393(d) List” is appropriate and is as follows: “All the toxicity data assessed met the required quality assurance. The SMC Toxicity Testing Laboratory Guidance study, 2016, conducted a laboratory intercalibration study</p>	

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			<p>focusing on four species C. dubia, Hyalella, Strongylocentrus and Mytilus. Fathead and topsmelt were not a part of the study.</p> <p>The study did not conclude or recommend that previously analyzed data should be disregarded. The study authors recommended all four species for future use as part of the Stormwater Monitoring Coalition monitoring programs. The authors also provided specific guidance for stormwater testing for potential variability-inducing steps including hardness of dilution water, feeding, sample handling and water renewals, and aging of organisms. The authors further concluded: “Based on the scoring system developed for this study, the participating laboratories were comparable for most of the test endpoints (Table 10). Virtually all laboratories were able to meet test acceptability requirements, including internal positive and negative controls. Most laboratories tended to produce internally consistent results when given blind duplicate samples. Finally, most laboratories produced data consistent with non - toxic samples when exposed to laboratory dilution water.”</p> <p>This response adequately addresses the comment regarding validity of toxicity data. See also response to comment 18.30.</p>	
	22.09	Unlike other regions, the Los Angeles Region 303(d) list has not been formally adopted by the Los Angeles Regional Water Board. Thus, the Los Angeles Region stakeholders request the opportunity to express their concern to the State Water Board during the October 3rd hearing. Travel to Sacramento can be cost prohibitive for many, therefore the October 3rd hearing should be held in the Los Angeles Region to encourage robust stakeholder participation.	While travel to Sacramento from Los Angeles can be time consuming and costly, the Los Angeles Water Board completed a full public participation process with a 45-day comment period and two response to comment efforts. The Los Angeles Water Board also held a board workshop on May 4, 2017 in Los Angeles to hear oral comments from stakeholders. The public participation process has been robust.	No
	23.01	The 303(d) listing recommendations should be	See responses to comments 1.01 and 3.05. Additionally, Regional	No

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Department of Water and Power Representative: Katherine Rubin		revised to include current data and information. The Los Angeles Regional Water Quality Control Board (LARWQCB) staff indicated in their response to comments that "Due to the volume of data received during the 2010 data solicitation period, the SWRCB determined that no additional data would be solicited or analyzed until all the 2010 data are assessed. [...] LARWQCB staff estimates that the 2022 303(d) list will include data submitted through 2021." (Staff Report, p. 6). However, LADWP would like to reiterate the concern that many of the data upon which proposed listings are based are more than ten years old, and are not necessarily representative of current conditions and therefore listing may not be necessary for certain waterbodies. LADWP respectfully requests that revised data and information be used in the 303(d) listing, as basing the listing of datasets that do not include the most recent information could list a waterbody that no longer should or need be on the list.	Water Boards may conduct CWA Section 305(b) and/or 303(d) List update(s) "off-cycle," before their next regularly scheduled Integrated Report periods. To be efficient, off-cycle updates should be limited to priority waterbodies, pollutants, or combinations thereof as identified by the Regional Water Boards, with reallocation of resources as appropriate.	
	23.02	The proposed listings for "benthic community effects" are premature at this time, particularly for proposed listings in modified channels. LADWP notes that several of the proposed listings for "benthic community effects" are based upon limited data (2 or 3 samples) that were collected nine or more years ago, and that some of the proposed listings are based upon "index of biotic integrity" (181) scores. As the SWRCB is in the midst of developing a comprehensive, consistent state-wide	See response to comment 21.02.	No

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		Biostimulatory Substances and Biological Integrity Policy (including specifically the technical and policy approaches to regulating biological integrity in modified channels) which will include biological condition assessment methods, scoring tools, and targets for biological integrity. Workshops, meetings, and policy development are all actively underway. Given that the SWRCB's policy development is underway, tools and metrics that are no longer being developed for inclusion in the State's policy should not be used as the basis for 303(d) listings. This includes 181-based benthic community listing methods and interpretations, which do not represent current technical understanding for biological integrity in California.		
	23.03	Additionally, many of the waterbodies proposed for listing for benthic community effects are engineered or modified channels, and it is not scientifically or technically appropriate to expect that modified channels will achieve the CSCI or 181 scores that are observed in reference channels. The proposed listings do not consistently establish a link between the biological condition and the pollutant(s) that may be responsible for the biological condition; it is not clear that the pollutant measurements (available only for some proposed listings) were collected at the same time as the biological data.	<p>See responses to comments 21.02, 21.03, and 21.08.</p> <p>Section 3.9 of the Listing Policy states: "A water segment shall be placed on the section 303(d) list if the water segment exhibits significant degradation in biological populations and/or communities as compared to reference site(s) and is associated with water or sediment concentrations of pollutants...Association of chemical concentrations...shall be determined using sections 3.1, 3.2, 3.6, 3.7, 6.1.5.9, or other applicable sections."</p> <p>The Listing Policy only requires an association with a pollutant impairment a direction linkage is not necessary to support a listing recommendation under Section 3.9.</p>	No
	23.04	Finally, some of the samples upon which the	Unless information regarding wildfires is submitted as part of the	No

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		proposed listings are based were collected downstream of and shortly after major wildfires; these data are likely representative of temporary disturbed conditions and may not be representative of typical conditions.	data solicitation, that ancillary information would not be included as part of the assessment. If commenters are aware of specific data sets that are not representative due to wildfires, this information should be communicated to the Regional Water Board.	
	23.05	In order to create meaningful and relevant 303(d) listings and to implement efficient and effective management solutions, both science and policy need to converge on determining (a) whether biological impairment actually exists, such that impairments are not designated where they would be indicated by a statistical artifact of the metric calculation methodology employed and not by the actual physical condition, (b) whether regulatory benchmarks applied are biologically meaningful in the context where they are being applied, and (c) whether there is a clear understanding of how to remedy correctly identified and meaningfully interpreted impairments. The SWRCB has made significant progress towards meetings these goals, and in conjunction with the Southern California Coastal Water Research Project (SCCWRP), has been active in collecting feedback from stakeholders.	Comment noted.	No
	23.06	On the subject of regulating modified channels, SCCWRP has acknowledged that the newly developed California Stream Condition Index (CSCI), which compares observed to expected benthic communities in a waterbody, does not account for landscape modifications that preclude achievement of reference biological communities. Such landscape modifications	See responses to comments 21.02, 21.03, and 21.08. The technical work referenced by the commenter is meant to support the Biostimulatory-Biointegrity Policy is still under development. These tools could potentially be used in future reporting cycles but currently it would be premature to use information from these technical products to support a listing decision recommendation. In response to whether a TMDL is	No

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		include concrete-lined and other highly modified channels. As such, SCCWRP is developing a model to predict where biological quality is constrained by the landscape (e.g., modified channels), identifying conditions where it is not possible for a biological metric score to achieve reference conditions. "Some streams may not be able to attain high scores, even if key stressors are reduced" (SCCWRP webinar; June 26, 2017). Prior to a comprehensive discussion of "how policies might address constraints on biointegrity" (SCCWRP webinar; June 26, 2017), it is counterproductive and unsuitable to list such streams for benthic community effects in absence of a scientifically valid and meaningful regulatory strategy for assessing those effects. As SCCWRP stated in the feedback solicitation form provided after the June 26, 2017 webinar, it is important to evaluate "observed CSCI scores, comparing a site not just to a target threshold but also to its expected range"; "[i]n some scenarios, the sites in question may not be sampled, or their scores may be less relevant to the management decision". Feed back from the Biostimulatory-Biointegrity Project- Regulatory Advisory Group provided by SCCWRP suggests that " 'Constrained class' could be a line of evidence for not putting on 303(d) list" and "Biological objectives may not be good targets in constrained streams" (SCCWRP webinar; June 26, 2017). Given the unresolved discussion regarding how to identify and regulate a stream	appropriate, it is not expected that a TMDL will be developed for Benthic Community Effects themselves, but for the associated pollutants which are resulting in the beneficial use not being supported. If all known pollutant impairments have been addressed and the biological community continues to show degradation the listing decision would need to be revised to be consistent with Section 3.9 of the Listing Policy.	

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		segment expected to have poor biological quality based on its surrounding landscape, it seems premature to list such segments on the 303(d) list.		
	23.07	Listings made during the current listing cycle and based on the proposed use of the IBI /CSCI are likely to be out of date and inconsistent with the forthcoming policy that is currently in development. It does not appear that the 181 / CSCI in their current forms are suitable metrics for determining impairment in all circumstances, it is unclear what modified streams "should" look like, and what management action(s) might be needed to address these impairments. It is also unclear how listings that are made now would be adjusted or removed in the future, should they be found to be inconsistent with the policy that is currently in development. Thus, listings based on the IBI may lead to not needed TMDLs. In summary, it may not be possible for certain streams, particularly modified channels or channels within modified landscapes, to achieve the target IBI reference conditions. Given that the process for evaluating biological integrity is still in development, LADWP requests that the SWRCB decline to list as impaired any pollutant/waterbody combinations that are proposed for listing for benthic community effects based on IBI scores.	See responses to comments 21.02, 21.03, and 21.08.	No
	23.08	Listing and delisting as described in Section 2.4 of the June 2017 Revised Staff Report should be a more stakeholder involved process. LADWP	Comment noted. The data solicitation for the Integrated Report is a public process and all proposed 303(d) listings/delistings and the data used in assessments are made available to the public as part of	0

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		would like to propose that the listing and delisting of the 303(d) list become a more involved process with stakeholders. Currently the development of the 303(d) list is a closed process with little to no stakeholder involvement. However, if the data used to evaluate listings were to be shared with stakeholders before placement on the 303(d) list, it would be conducive to a more cooperative and transparent process.	the State and Regional Water Board's approval process.	
	23.09	Elderberry Forebay is not open to the public and does not allow fishing. In the response to comments, the LARWQCB mentioned that Elderberry Forebay has several beneficial uses, but COMM (Commercial and Sport Fishing) is not one of them. However, in the fact sheet for the proposed listing, under "beneficial use affected" for Line of Evidence (LOE) 94684 and LOE 62708, Elderberry Forebay is listed as "Commercial or recreational collection of fish, shellfish, or organisms". Not only is COMM not listed as a proposed or existing beneficial use at Elderberry Forebay in the Basin Plan, but no fishing of any kind is allowed at the Forebay.	The Basin Plan does not designate Elderberry Forebay with COMM as an existing or potential beneficial use. The PCB Line of Evidence for the COMM Beneficial Use (LOE# 94684) has been removed from the assessment for this waterbody. Decision #62709 has been changed to 'Do Not List.' Additionally, a COMM beneficial use LOE for dieldrin (LOE# 94647) has been removed from the assessment for this waterbody and Decision# 62708 has also been changed to 'Do Not List.'	Yes
	23.10	The fact sheet also mentions WARM (Warm Freshwater Habitat) in LOE 84210 and LOE 84222, which is one of the designated beneficial uses at Elderberry Forebay. REC1 and REC 2 (which include fishing) also apply to Elderberry Forebay, but the REC1 use in the Basin Plan has a footnote indicating that access to Elderberry Forebay is prohibited. However, the staff response to comments indicates that	The WARM beneficial use for this waterbody still applies and it is appropriate to assess whether or not this use is supported. The evaluation guideline used is for the protection of aquatic life. Also, see response to comment 23.09.	No

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		"Restricted access does not preclude a waterbody from possessing beneficial uses" or being assessed for impairments.		
	23.11	LADWP understands the LARWQCB's response that even though restricted access to the CPP does not preclude it from possessing beneficial uses; LADWP would like to emphasize that public access is not allowed at Elderberry Forebay, primarily due to the high flow velocities and extreme water level fluctuations. As there is no public access, there is also no fishing of any kind allowed in the Forebay, and therefore the Forebay does not have any beneficial uses beyond being an operating body of water for the CPP. Consequently, fish consumption criteria should not be used for listing purposes of Elderberry Forebay. For these reasons, LADWP respectfully requests that the Elderberry Forebay be excluded from the 303(d) list.	See response to comment 23.09.	Yes
Orange County Flood Control District Representative: Chris Crompton	24.01	The cities of Brea, Buena Park, Huntington Beach, Irvine, Lake Forest, and Tustin have indicated that they should be considered concurring entities with the County's comments.	Comment noted.	No
	24.02	The current staff report does not reflect the State Water Board's consideration of the County's timely request for review. Thus, the County asks that the State Water Board consider the County's May 26 request for review and modify the listing recommendations in the staff report accordingly.	State Water Board received the County's May 26th request for review, which was a timely request for the State Water Board to review Santa Ana Regional Board's listing recommendations consistent with the requirements outlined in Section 6.2 and 6.3 of the Listing Policy.	No

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	24.03	The County further asks that the State Water Board provide responses to each of the requests made in the May 26 letter.	There is no requirement for the State Water Board to provide responses to requests for review with the distribution of the Draft Staff Report. Any changes, additions, or deletions made to as a result of the State Water Board's evaluation of a request for review were identified on pages 13 – 17 of the Draft Staff Report released on June 9, 2017. See the below responses to each of the requests made in the May 26 letter.	No
	24.03.a	<p>Bolsa Chica and East Garden Grove-Wintersburg Channels ("Channels") are listed in Staff Report Appendix B as impaired by ammonia, and the Bolsa Chica Channel is additionally listed for indicator bacteria and pH. The listing of these Channels as impaired waters subject to listing under section 303 (d) Clean Water Act (CWA) is legally inappropriate. The Channels are man-made flood channels constructed as part of a municipal separate storm sewer system (MS4), used to collect and transport stormwater. Notably, as MS4, the CWA presumptive uses (fishable/ swimmable) do not apply, and these water bodies have no designated beneficial uses and no applicable water quality objectives within the Santa Ana Regional Board Basin Plan. Neither the Staff Report nor the any of the Appendices provides sufficient basis upon which jurisdiction under the CWA can be exercised over the Channels given these factors. The Channels are not traditional navigable waters, and they should not be classified as tributaries to traditional navigable waters subject to CWA jurisdiction.</p> <p>In EPA' s Preamble to the initial National</p>	See response to comment 18.10.	No

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		<p>Pollutant Discharge Elimination System (NPDES) MS4 regulations, the agency expressly determined that "streams, wetlands and other waterbodies that are waters of the United States are not storm sewers for the purposes of this rule" and that "stream channelization, and stream bed stabilization, which occur in waters of the United States," were not subject to NPDES permits under Section 402 of the CW A. (53 Fed. Reg. 49416, 49422 (Dec. 7, 1988)). NPDES regulations define an MS4 as "a conveyance or system of conveyances (including roads with drainage systems, municipal streets ... ditches, man-made channels or storm drains) . . . designed or used for collecting or conveying storm water." (40 C.F.R. 122.26(b)(8) (emphasis added)). The "conveyances" identified in the regulation all refer to anthropogenic structures, not natural streams. As indicated above, the Channels are man-made infrastructure used to collect and convey stormwater; they are part of an MS4.</p> <p>For the Channels to be subject to section 303(d) listing would mean that a single waterbody can be both an MS4 and a jurisdictional receiving water. This pretense that an MS4 and a receiving water body can be one in the same is contrary to the NPDES regulations. Under 40 C.F.R. 122.26(b)(9), an MS4 outfall is defined as the point at which an MS4 discharges to waters of the United States. (40 C.F.R. 122.26(b)(9) (emphasis added)). Thus, there is clear</p>		

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		<p>distinction between the MS4 used to collect, convey and discharge stormwater, and waters of the United States (WOTUS), into which point source discharges from MS4s are regulated. An MS4 cannot be a receiving water, because a receiving water cannot discharge into itself. (See Los Angeles County Flood Control District v. Natural Resources Defense Council, Inc., et al., -- U.S. --, 133 S.Ct. 710, 712-13 (2013), holding that the flow of polluted water from one portion of a river, through a concrete channel or other engineered improvement in the river, to a lower portion of the same river, does not constitutes a discharge of pollutants; see also So. Fla. Water Mngmt. Dist. v. Miccosukee Tribe of Indians, 541 U.S. 95, 112 (2004), holding that where a canal and an adjacent wetland are not meaningfully distinct water bodies (and are, rather, two parts of the same water body), then the transfer of polluted water from the former into the latter would not need an NPDES permit, as it would not constitute a discharge of pollutants into waters of the United States).</p> <p>For similar reasons as to why man-made flood control channels cannot be WOTUS, manmade flood control channels should not be deemed a "tributary" to WOTUS, contrary to the position of the Regional Board, who has indicated that the Channels are being listed based on the "tributary rule."</p> <p>Historically, the tributary rule has been used to</p>		

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		<p>invoke federal jurisdiction over nonnavigable, not relatively permanent natural waters when such water has a significant effect on a WOTUS. The U.S. EPA recently clarified in the 2015 Clean Water Rule rulemaking that concrete channels constructed in dry lands or uplands are not waters of the U.S. (80 Fed. Reg. 124 (June 29, 2015), Clean Water Rule: Definition of "Waters of the United States"). The final 2015 Clean Water Rule specifically excludes from the definitions of "tributary" and WOTUS, certain types of ditches and "stormwater control features constructed to convey, treat or store stormwater that are created in dry land." (40 C.F.R. §§ 230.3(o)(2)(iv), (o)(2)(vi) and (o)(3)(iii)). While application of the 2015 final Clean Water Rule is stayed by an order by the United States Court of Appeal for the Sixth Circuit, and is also under reconsideration by the EPA, under Executive Order issued on February 28, 2017, the action of the EPA is nonetheless instructive here. The EPA's explicit exclusion of ditches and dry land "stormwater control features" from the definition of WOTUS clearly demonstrates the regulatory intent that jurisdiction over man-made flood control channels should not be exercised under the "tributary rule."</p> <p>Based on the foregoing, the State Water Board is requested to remove the Channels from the 303 (d) list, as they are flood control, MS4 infrastructure, and thus their listing as an impaired water body is legally inappropriate.</p>		

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	24.03.b	<p>The 2015-16 Stormwater Monitoring Coalition laboratory toxicity inter-calibration study among southern California laboratories (generally covering the major commercial and governmental State-certified laboratories involved in stormwater monitoring) found significant and systemic variability problems in the performance of toxicity tests with a variety of organisms. Laboratory dilution water, for example, which was prepared using standard methods, elicited toxic responses (up to 60% effect) during the first round of calibration (SCCWRP Technical Report 956, 2016). While considerable efforts have been, and continue to be, dedicated to resolving these issues, the toxicity test results conducted prior to 2015 must be considered compromised from a quality control perspective. Although much of the toxicity data used for assessment purposes in the Staff Report came from the County, in good faith, the County cannot stand behind this data any more due to it being impugned by the SCCWRP study. This data affects the following listing decisions in the Staff Report:</p> <ul style="list-style-type: none"> • Listings for toxicity: 33671, 61926, 62070, 62482, 42910, 34702, 34358, 64503, 35104, 64579, 32794, 63794, 63822, 63787, and 63795 • Listings for Benthic Community that use toxicity as a line of evidence: 65192, 65194, and 65208 <p>The Regional Board in its response to comments</p>	<p>The intercalibration study does not invalidate all of the toxicity tests conducted in 2015. In fact U.S. EPA has challenged the methodology of the intercalibration study and the State Water Board will not remove valid toxicity data from the 303(d) assessment process as a result of the findings from the intercalibration study. The listing recommendations will remain unchanged for the decisions identified by the requestor.</p>	No

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		stated that "the State Board staff will not discredit sample results that show toxicity unless additional information is available showing that those results are false positives". The SCCWRP Technical Report, as discussed above, provides this additional information. It is recommended that the State Water Board not make listings based on toxicity data during this listing cycle and look instead at newer data, enhanced by the work of the Stormwater Monitoring Coalition, in future cycles.		
	24.03.c	<p>The proposed listings for Benthic Community Effects and the application of California Stream Condition Index (CSCI) and Southern California Coastal Index of Biotic Integrity (SoCal IBI) raise a number of issues. The overarching concern is that the evaluation of bioassessment scores via Listing Policy criteria is moving forward without an approved statewide policy framework of how such data should be considered. At this time, CSCI should only be used as one of the reference tools for water quality objective development, not as a water quality objective itself. Notwithstanding the overarching comment above that such listings should not be pursued at this time, the following more specific issues were identified.</p> <p>a) A CSCI score of 0.79 has been applied to many engineered channels in the 303(d) listing process in spite of the consensus that 0.79 is rarely, if ever, achieved in engineered channels and it may not be achievable given that tradeoffs between ecological health and flood</p>	See responses to comments 21.02, 21.03, 21.08, 23.03, and 24.03.b.	No

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		<p>protection may be unavoidable (2015 Report on the SMC Regional Stream Survey). Among the 6 proposed listings, 5 are engineered channels (Decision ID 65192, 65193, 65194, 65195, 65208).</p> <p>b) The Staff Report and Fact Sheets conclude that there are poor biological conditions based on CSCI scores alone, without considering other biological indicators, such as benthic algae and riparian habitat conditions. The 2015 Report on the SMC Regional Stream Survey indicates that within engineered channels algae indices may reflect water quality conditions better than macro-invertebrate indices, such as CSCI.</p> <p>c) The association established between biological condition and existing pollutant listings in the proposed listings is weak. The location, hydrological condition and time period of chemistry and biological data need to be carefully examined before making an association between biological conditions and pollutants. For example, the listing for San Diego Creek Reach 2 (Decision ID 65195) uses unpublished data prior to 2002 to establish an association between the chemistry and the CSCI score. However, the chemistry data are more than 5 years older than the biological data, and neither the hydrological conditions nor the sample location for the chemistry data are available. In fact, the evidence presented does not establish an association between water quality and biological condition.</p> <p>d) As discussed in #2 above, the toxicity data</p>		

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		<p>referenced have clearly documented data quality issues and should not be used for listing purposes. 3 out of the 6 proposed listings (Decision ID 65208, 65192) were based on compromised toxicity data.</p> <p>The State Water Board is requested, based on the above, to defer listings 65192, 65193, 65194, 65195, and 65208 until a formal policy is completed.</p>		
	24.03.d	<p>4. Staff Report Appendix G: Factsheets, Decision ID 66920, new listing for DDT</p> <p>The proposed listing of San Diego Creek Reach 1 for DDT is solely based on the existence of an organochlorine compounds total maximum daily load (TMDL) for Newport Bay and its watershed, not on data showing exceedences in the referenced stream reach. The referenced data is from a single sample that did not exceed the probable effects concentration (PEC) (for total DDTs and for sum of DDT, which should be noted are sediment quality guidelines and not water quality objectives). Two other sediment samples for the same site (801SDCxxx) were available in CEDEN but were not used in the assessment. Both of these samples also had DDT concentrations below the PEC.</p> <p>The recommendation to list is clearly inappropriate since decisions on listing should be made on the basis of data analyzed during the listing period. Based on the data, San Diego</p>	<p>San Diego Creek, Reach 1 has been placed in Category 4A for DDT as being Addressed by a U.S. EPA approved TMDL. It is appropriate for the Santa Ana Water Board to acknowledge this action by placing this water body into Category 4A as part of this Integrated Reporting Cycle. Once more recent data are available for assessment, it will be determined whether this water body should remain in Category 4A or be delisted consistent with Section 4.1 of the Listing Policy.</p>	No

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		Creek Reach 1 should not be listed as impaired for DDT and the State Water Board is requested to not approve listing 66920.		
	24.03.e	<p>5. Staff Report Appendix G: Factsheets, Decision ID 44222</p> <p>Seal Beach has multiple monitoring stations for indicator bacteria. Based on a cumulative assessment of all stations, Seal Beach does not exceed the allowable frequency stated in Table 4.2 and should be delisted. The Regional Board, however, retained a listing for the entire beach as impaired based on exceedances occurring at the First Street station. This is inappropriate.</p> <p>The State Water Board is requested to delist the entire beach based on the listing analysis or limit listing 44222 to a specific area - north of the Pier - since the entire beach does not exceed the allowable frequency.</p>	<p>While aggregating all stations together does suggest delisting the waterbody, the weight of evidence suggests that indicator bacteria are impairing the Contact Recreation beneficial use, and thus the waterbody should not be delisted. Splitting waterbodies consistent with Section 6.1.5.4 is at the discretion of the Regional Water Boards. It has already been well established that the 1st St station is the source of impairment for the waterbody, and therefore redefining the waterbody would no benefit the stakeholders, or the TMDL writers. Segmenting this waterbody would have no impact on the actions that must be taken to resolve the issue, and since segmenting a waterbody results in considerable work for water board staff, re-segmenting this waterbody would be a poor allocation of the public's resources.</p>	No
	24.03.f	<p>6. Staff Report Appendix G: Factsheets, Decision ID 35179 and 34029</p> <p>The Regional Board in its response to comments agreed that the decisions for this water body should be re-evaluated because it appears that during one of the previous listing cycles, a decision was made to split the Rhine Channel from Lower Newport Bay leading to separate decisions for Rhine Channel and for the rest of the Lower Newport Bay.</p> <p>For Rhine Channel, listings for zinc and lead are</p>	<p>Re-segmenting the Rhine Channel and Lower Newport Bay is at the discretion of the Regional Water Boards consistent with Section 6.1.5.4 of the Listing Policy.</p> <p>Decision 35179 and 34029 should remain as List because the data assessed for zinc and lead levels in water still indicates impairment.</p> <p>Adding the eight samples to decision 35179, and the 16 samples to decision 34029 does not result in change to the listing recommendation based on Table 4.1 of the Listing Policy.</p> <p>Each group of LOEs must be counted separately when making a</p>	No

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		a carryover of decisions from previous listing cycles based on data collected from 2000-03. The dataset provided in the Staff Report from 2006-09 (sediment data from ref3871) shows none of the 8 samples exceed the probable effects level (PEL) sediment quality guideline for lead, or the sediment effects range median (ERM) guideline for zinc. Analysis of 8 water samples also showed no exceedances of the zinc California Toxics Rule (CTR) criterion. Based on these data the State Water Board is requested to delist Rhine Channel for zinc and lead.	decision. A LOE group is defined as a waterbody, pollutant, beneficial use, matrix, fraction combination. Therefore adding the eight samples to 35179 and 16 samples 34029 would not result in a listing change.	
	24.03.g	<p>7. Staff Report Appendix G: Factsheets, Decision ID 38659 and 32603</p> <p>The assessment of Upper and Lower Newport Bay for copper considered the County's water column data but not the sediment data. The Regional Board recognized this issue but deferred the decision to the State Board. For Upper Newport Bay, the County's sediment data shows none of the 55 samples exceeded the ERM guideline. The total number of exceedances, including both water and sediment data, met the delisting requirements for copper.</p> <p>In addition, Line of Evidence 8864 shows significant quality control issues (the method blank samples yielded the highest metals concentrations among all samples, including actual water samples). The Regional Board response to comments did not address this</p>	<p>The Santa Ana Water Board's response that assessing sediment data collected prior to 2011 is inappropriate because the sediment has since been dredged is appropriate and adequate. Furthermore assessing data collected after August 30, 2010 is not within the solicitation period for the 2014 and 2016 Integrated Report.</p> <p>Decision 38659: Although including the 55 samples mentioned by the commenter in this decision would result in the use support rating change for the sediment LOE group, the 55 samples would have no impact on the water matrix LOE group. In other words the water matrix LOE group use support rating would remain Not Supporting, as would the overall use support rating for the decision which would result in a continued recommendation to Not Delist. LOE 8864 does not have associated toxicity data consistent with Section 3.6 of Listing Policy and is included for informational purposes.</p> <p>Decision 32603: The data in the decision currently available suggest listing is appropriate. Furthermore, a U.S.EPA approved TMDL exists to address this impairment. This decision should remain as Do Not Delist until more recent data can be assessed.</p>	No

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		<p>issue directly but indicated that the data were not used as a line of evidence for either Upper or Lower Newport Bay. Given this information, the data should be removed from the record to avoid future misuse.</p> <p>The State Water Board is requested to remove Line of Evidence 8864 and delist for copper (ID 32603).</p>		
	24.04	<p>The State Water Board staff recommendation to not de-list Santa Ana-Delhi Channel as impaired for REC-2 is inappropriate for the following reasons:</p> <p>a. The REC-2 water quality objective of 410 CFU /100 ml does not exist in the Santa Ana Region Basin Plan. Effective April 8, 2015, REC-2 in the Santa Ana Region Basin Plan was revised for Santa Ana-Delhi Channel to be based on anti-degradation targets. While Section 3.10 of the Listing Policy allows anti-degradation to be considered based on trends in water quality, the State Water Board appears inappropriately to be applying them as not to be exceeded values in the same way that water quality objectives are implemented.</p>	See responses to comment 12.02 and 12.03.	Yes
	24.05	<p>b. The data being used in the line of evidence to support Decision ID 44427 was collected before the baseline period when the anti-degradation target was established. Any listing considerations should therefore be deferred to a subsequent listing cycle when data</p>	Although the anti-degradation target was established after the data was collected, the data was still submitted during the solicitation period and are valid for assessment in accordance with section 6 of the Listing Policy. The proper use of the data isn't dependent on when the anti-degradation target was established.	No

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		subsequent to 2015 is available.		
	24.06	c. According to Listing Policy Section 3.10, the Water Board is required to complete six steps before listing a waterbody. The required steps which have yet to be completed in this particular listing are: using data collected for at least three years (step 1); and, determining the occurrence of adverse impacts (step 5). With no data collected subsequent to the establishment of the anti-degradation targets and the absence of an observed impact, it is inappropriate to list the waterbody as impaired for REC-2.	<p>Section 3.10 of the Listing Policy is used for identifying trends in Water Quality. The actual policy language is as follows:</p> <p>“A water segment shall be placed on the section 303(d) list if the water segment exhibits concentrations of pollutants or waterbody conditions for any listing factor that shows a trend of declining water quality standards attainment. This section is focused on addressing the antidegradation component of water quality standards and threatened waters as defined in 40 CDR 130.2(j) by identifying trends of declining water quality. Numeric, pollutant-specific water quality objectives need not be exceeded to satisfy this listing factor.</p> <p>In assessing trends in water quality the Regional Water Board shall:</p> <p>1. Use data collected for at least three years; 2. Establish specific baseline conditions; 3. Specify statistical approaches used to evaluate the declining trend in water quality measurements; 4. Specify the influence of season effects, interannual effects, changes in monitoring methods, changes in analysis of samples, and other factors deemed appropriate; 5. Determine the occurrence of adverse biological response (section 3.8), degradation of biological populations and communities (section 3.9), or toxicity (section 3.6); and 6. Assess whether the declining trend in water quality is expected to not meet water quality standards by the next listing cycle.</p> <p>Waters shall be placed on the section 303(d) list if the declining trend in water quality is substantiated (steps 1 through 4 above) and impacts are observed (step 5).” (Section 3.10 of the Listing Policy)</p> <p>As the language from the Listing Policy states, the steps described are used to identify trends of declining water quality which can eventually lead to a listing. The decision for Santa Ana Delhi</p>	No

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			Channel was not made using Section 3.10 of the Listing Policy, but rather Section 3.7 of the Listing Policy in order to assess attainment of the narrative water quality objective for nuisance using the REC-2 anti-degradation evaluation guidelines for bacteria.	
	24.07	The comments submitted on behalf of the MSAR TMDL Task Force (Timothy F. Moore, July 10, 2017) provide additional information on the inappropriateness of the REC-2 listings for Santa Ana-Delhi Channel and Cucamonga Creek-Reach 1 and are supported by the County.	Comment noted. See response to comment 24.04	No
	24.08	The State Water Board has mistakenly treated non-detect samples with high detection limits as exceedances.	Commenter's assertion is correct the Draft Staff Report incorrectly overturned several recommendations approved by the Santa Ana and San Diego Water Boards based on an incorrect interpretation of the data results. Those decisions that were overturned have subsequently been reverted back to the original recommendations approved by the Santa Ana and San Diego Water Board and is reflected on pages 15-18 of the Revised Draft Staff Report.	Yes
	24.09	While most samples have a detection limit of 10 ng/L, a number of samples had detection limit as high as 50 ng/L (discussed as being a lab issue under quality assurance in the Orange County 2008-09 MS4 annual report). Every sample in the record though has non-detectable values for chlorpyrifos and the Santa Ana Regional Water Board appropriately concluded that the non-detect samples with detection limits higher than the evaluation guideline were not usable and excluded them in the listing assessment.	See response to comment 24.08. The evaluation guideline used for Chlorpyrifos was 9 ng/L which is from the California Ocean Plan Water Quality Control Plan Ocean Waters of California 2009. In the cases where the samples had a reporting limit higher than the objective (9 ng/L), the samples were rendered unusable for assessment purposes.	No
	24.10	After excluding high detection limit samples, Upper and Lower Newport Bay exceedance rates are 0/48 and 0/32 respectively. Therefore, they both qualify for "delisting" and the recommendation should be reverted to that	Please see response to comment 24.08. After additional review of Decision 32994 for Upper Newport Bay and Decision 34041 for Lower Newport Bay, it has been determined that the Santa Ana Regional Water Board correctly applied Section	Yes

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		approved by the Santa Ana Regional Water Board[.]	4.1 of the Listing Policy and the waterbody-pollutant combinations should be Delisted from the 303(d) list (being addressed with U.S. EPA approved TMDL). The decisions have been reverted back to the original recommendation proposed by the Santa Ana Regional Board.	
	24.11	San Diego Region (Region 9): Staff Report Appendix I: Factsheets, Decision ID 48504, Prima Deshecha Creek for Chlorpyrifos -- Similar to the discussion above for Lower and Upper Newport Bay, after excluding high detection limit samples, the recommendation for Prima Deshecha should be "Do not List" (0/6).	Please see response to comment 24.08. After additional review of Decision 48504 Prima Deshecha Creek, it was determined that the San Diego Regional Water Board correctly applied Section 3.1 of the Listing Policy. The decision has been reverted back to the original recommendation of Do Not List proposed by the San Diego Regional Board.	Yes
	24.12	Los Angeles Region (Region 4): Staff Report Appendix H: Factsheets, Decision ID 32520 The Coyote Creek listing for dissolved copper, line of evidence 83899, does not use hardness adjusted values as required by the California Toxics Rule. If hardness adjusted values were used, the exceedance rate would be 0 exceedances out of 26 samples, not 6 out of 26 as is currently shown. It should also be noted that line of evidence 83899 data was not included in the final exceedance counts.	According to the data used to assess water quality in the ref3871 data file, the assessment was done in accordance to the California Toxics Rule (CTR) hardness adjusted criteria (the formula used can be found in §131.38 of the CTR). This data can be seen in the ref zip file (ref3871) and more specifically, the file titled Co_Orange_Metals_Sediment_O&G_assmt.xls, on the metals_calcs (River) tab. As for the statement that LOE 83899 data was not included in the final exceedance counts, there was a total of 53 samples collected. Since the assessment was for dissolved copper, if you exclude the samples for Total Copper, it results in 26 available samples, which is the amount that the LOE reports.	No
Central Sierra Environmental Research Center Representative: Meg Layhee	25.01	This letter is to convey our organization's support of the recommendations proposed by the Central Valley Regional Water Board (CVRWB) and State Water Board (SWB) to list several waterbodies within the Stanislaus National Forest as impaired under Section 303(d) of the Clean Water Act (CWA).	Comment noted.	No
	25.02	Our Center submitted bacterial data for,	Comment noted.	No

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		including Bell Cr., Bull Meadow Cr., Niagara Cr., Rose Cr., and a tributary to Jawbone Cr. Our Center would just like to convey our support of the SWB proposing the listing of four of these waterbodies within the Stanislaus National Forest (Bell Cr., Bull Meadow Cr., Niagara Cr., and Rose Cr.) as impaired under Section 303(d) of the CWA for violations of indicator bacteria thresholds for REC-1 beneficial used basdon on 2009-2010 data.		
Santa Barbara CoastKeeper Representative: Benjamin Pitterle	26.01	Region 4 justified its recategorization in its response to comments by citing EPA language in the approval letter for the Ventura River Algae, TMDL. Unfortunately, the EPA language was mischaracterized and misquoted in Region 4 Staff's response to comments. Regional Water Board staff quoted (in their response to comments) the EPA as saying, "EPA has determined that it is unnecessary at this time to establish separate actions for the pumping and water diversion in Reaches 3 and 4 of the Ventura River". For the record, what the EPA actually wrote was, "EPA has determined that it is unnecessary at this time to establish separate nitrogen and phosphorus TMDLs for the pumping and water diversion impairment listings for Reaches 3 and 4 of the Ventura River". Further, the EPA also wrote, "EPA's proposed TMDLs were developed to address water quality impairments caused by nitrogen and phosphorus under current hydrological conditions; EPA did not attempt to delineate the Ventura River's natural hydrological conditions,	<p>The language from the U.S. EPA approval letter dated June 28, 2013 for the State Water Board adopted TMDLs to address algae, eutrophic conditions and nutrient impairment in the Ventura River cited by the commenter is technically accurate. However, the commenter does not include the entire quote which provides context to the diversion and pumping related impairments. The full language from page 2 is as follows:</p> <p>"EPA found that the effects of pumping and water diversions in these reaches were correlated with the impairment of aquatic life and cold water habitat beneficial uses due to nutrient loading and algae growth. Consequently, EPA's draft TMDLs for Reaches 3 and 4 of the Ventura River addressed water quality impairments of designated beneficial uses that were also addressed by the State's TMDLs for algae, eutrophic conditions and nutrients. EPA's proposed concentration-based waste load and load allocations for total nitrogen and total phosphorus were consistent with the mass-based nitrogen and phosphorus loadings specified in the State's TMDLs. EPA's proposed TMDLs were developed to address water quality impairments caused by nitrogen and phosphorus under current hydrological conditions; EPA did not attempt to delineate the Ventura River's natural hydrological conditions, or address other issues related to the pumping and diversion of water in Reaches 3</p>	No

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		<p>or address other issues (emphasis added) related to the pumping and diversion of water in Reaches 3 and 4 of the Ventura River". Other issues include impairments caused by increased temperatures and loss of oxygen due to stagnant flows as well as loss of endangered species and wildlife habitat and loss of recreation – which are both caused solely by loss of flows rather than by any other pollutant. It is inappropriate to place the pumping and diversion impairment in Category 4a because the TMDL will not address these impairments. Rather, the listing should be left as is, or, at a minimum, placed in Category 4C, because all impairments have not been addressed by the TMDL, as confirmed by the correct quotation of EPA's approval letter, and are not caused by any other pollutant. A copy of the EPA approval letter has been attached to this comment letter.</p>	<p>and 4 of the Ventura River.</p> <p>Based on EPA's approval of the State's TMDLs addressing the algae, eutrophic conditions and nutrient impairments, together with other available information regarding Reaches 3 and 4 of the Ventura River, EPA has determined that it is unnecessary at this time to establish separate nitrogen and phosphorus TMDLs for the pumping and water diversion impairment listings for Reaches 3 and 4 of the Ventura River. The State's TMDLs address the same beneficial uses as EPA's draft TMDLs, identify the same stressors as EPA, were developed with reference to the existing hydrological conditions in the watershed, including pumping and water diversion activities, and provide the same nutrient loading capacities. The State's nitrogen and phosphorus TMDLs also apply throughout the Ventura River, its estuary, and all tributaries. EPA finds that the State's nitrogen and phosphorus TMDLs provide equivalent protection of water quality in Reaches 3 and 4 of the Ventura River as EPA's proposed TMDLs. Therefore, EPA is not establishing nitrogen and phosphorus TMDLs for the pumping and water diversion impairment listings. Other State and Federal agencies have additional authorities which may be available to address other potential impacts of pumping and water diversion within Reaches 3 and 4."</p> <p>The commenters definition of and assertions related to the term "other issues" are unfounded within the U.S. EPA approval letter. Rather the approval letter indicates that the State Water Board adopted TMDLs address the nutrient impairments and the correlated impacts due to pumping and water diversion. Neither reaches are being proposed for inclusion into Integrated Report Category 4a; rather, the Reach 3 of the Ventura River is currently proposed for delisting for impairments due to pumping and water diversions (see response to comment 26.02), and Reach 4 of the Ventura River is currently proposed for placement into</p>	

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			Integrated Report Category 4c.	
	26.02	We highlight the following issues that must be corrected before the final documents are approved. A. Inconsistent Listings for Reaches 3 and 4 Are Inappropriate and Illegal. The draft Integrated Report inappropriately and illegally fails to consistently list Reaches 3 and 4 of the Ventura River in Category 5 and/or Category 4C. Reaches 3 and 4 must either remain in Category 5, or, at a minimum, be consistently categorized in Category 4C. There is no basis for entirely delisting impairments for Pumping and Diversions for Reach 3...	See response to comment 7.03. There is sufficient justification for delisting these waterbodies for pumping and water diversions because the original basis for listing was flawed. Ventura River Reach 3 and Reach 4 as a whole will continue to be listed as Category 5 until all pollutant impairments have been addressed.	No
	26.03	...the Integrated Report is internally inconsistent as detailed below. Appendix A (Category 5) is inconsistent with Appendix D (Category 4C) In Appendix A – Category 5, the State Water Board has removed impairments for Pumping and Diversions for Ventura River Reach 3. However, impairments for Pumping and Diversions remain for Ventura River Reach 4 along with a note stating, “This is Category 4c– impairment due to pollution and does not require a TMDL or any other specific regulatory action.” Yet, at Appendix D – Category 4C, shown below, the Integrated Report fails to identify Reach 4 as a Category 4C water. Channelkeeper notes with some alarm that the pumping and diversion impairments have not been added to Appendix D, despite language elsewhere throughout the report stating that this is the case. It is illegal to delist the pumping and diversion impairments from Category 5 (Appendix A) without, at least,	See response to comment 26.02. In California, waterbody-pollutant combinations are assessed consistent with the Listing Policy to determine the overall beneficial use support rating. That overall beneficial use support rating is used by the CalWQA database to determine the overall Integrated Report Category for the waterbody as a whole. This methodology is described on page 22 and 23 of the draft Staff Report. Reach 4 of the Ventura River is impaired due to temperature, ammonia, toxicity, dissolved oxygen, pH, nitrate/nitrite, and benthic macroinvertebrate bioassessments. These pollutant impairments correctly place Reach 4 of the Ventura River into Integrated Report Category 5 as impaired by pollutants needing a TMDL. Similarly, Reach 3 of the Ventura River is impaired due to mercury, toxicity, and benthic macroinvertebrate bioassessments. These pollutant impairments correctly place Reach 3 of the Ventura River into Integrated Report Category 5 as impaired by pollutants needing a TMDL.	No

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		subsequently adding the listings to Integrated Report Category 4C. This oversight must be remedied as to both Reaches 3 and 4.		
	26.04	The Final Listing Decision for pumping impairment (ID 44793) presented in the fact sheet, as shown below, is to list pumping on the 303(d) List for Ventura River Reach 4. However, the Regional Water Board Decision Recommendation states that staff concludes this impairment should fall under Integrated Report Category 4C. This is internally inconsistent and must be remedied.	See response to comment 26.03. In Decision 44793 note the question “Impairment from Pollutant or Pollution:” and the identification that it is pollution. That distinction would place a particular impairment into Integrated Report Category 4c if sufficient information was available to determine beneficial use support. However, there is insufficient information to determine use support due to pumping in Ventura River Reach 4. Furthermore, Ventura Reach 4 is impaired due to temperature, ammonia, toxicity, dissolved oxygen, pH, nitrate/nitrite, and benthic macroinvertebrate bioassessments. Until all of these pollutants impairments are delisted the waterbody as a whole will remain in Integrated Report Category 5. Only after all pollutant impairments are removed can a waterbody as a whole be placed into a different Integrated Report Category.	No
	26.05	Further, the Regional Water Board Conclusion still includes misquoted language from the EPA’s June 28, 2013 approval letter for the Ventura River TMDL for Algae, Eutrophic Conditions and Nutrients. As described above, the correct EPA language reads, “EPA has determined that it is unnecessary at this time to establish separate nitrogen and phosphorus TMDLs for the pumping and water diversion impairment listings for Reaches 3 and 4 of the Ventura River”. Further, the EPA also wrote, “EPA’s proposed TMDLs were developed to address water quality impairments caused by nitrogen and phosphorus under current hydrological conditions; EPA did not attempt to delineate the	See responses to comments 26.01 and 26.02.	No

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		Ventura River's natural hydrological conditions, or address other issues related to the pumping and diversion of water in Reaches 3 and 4 of the Ventura River". The Fact Sheet for Decision ID 44793 must be amended to include the correct language from EPA. The State Water Board cannot rely on this misrepresentation of the EPA approval letter as a basis for any listing decisions.		
	26.06	Similarly, the Final Listing Decision for water diversion impairment (ID 44534) presented in the fact sheet, as shown below, is to list "Water Diversion" on the 303(d) List for Ventura River Reach 4. However, the Regional Board Decision Recommendation states that staff concludes this impairment should fall under Integrated Report Category 4C. This is internally inconsistent and must be remedied.	See responses to comments 26.03 and 26.04.	No
	26.07	Again, the Regional Water Board Conclusion still includes misquoted language from the EPA's June 28, 2013 approval letter for the Ventura River TMDL for Algae, Eutrophic Conditions and Nutrients. As previously described, the Fact Sheet for Decision ID 44534 must be amended to include the correct language from EPA, and the State Water Board cannot rely on this misrepresentation of the EPA approval letter as a basis for any listing decisions.	See responses to comments 26.01 and 26.02.	No
	26.08	The Regional Water Board concludes, as shown below (Decision ID 34271), that the original listing for Pumping in Ventura River Reach 3 was based on no data. The inability to locate original data is not the same as there being no data to	See response to comment 26.02.	No

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		begin with. In fact, there is more than enough existing, readily available data to support this listing.		
	26.09	In any case, the Regional Board itself subsequently acknowledges the existence of available data by stating that it's review of "available data" and information indicates that the impairment is due to a non-pollutant or pollution. Channelkeeper concurs that available data and information exists. In fact, Channelkeeper has submitted thousands of water quality data points, agency reports, and other evidence, supporting the impairment listing for pumping and diversions in both Reaches 3 and 4 to both the State Water Resources Control Board and Los Angeles Regional Board. The Fact Sheet for this impairment is not reflective of the breadth of existing data and information, which supports the listing. Rather the Fact Sheet is contradictory – first stating that no data exists to support the listing, then stating that the Regional Board has reviewed available data and is making a determination to modify the listing. The State Water Board cannot ignore this existing, readily available data. See 33 U.S.C. §§ 1313(d), 1315(b); see also 40 C.F.R. §§ 130.7, 130.8; see also <i>Thomas v. Jackson</i> , 581 F.3d 658, 661, 664-665, 667-668 (8th Cir. 2008). The Fact Sheet must be revised reflect the sources of data available that support the listing. Otherwise, the Integrated Report violates Sections 303(d) and 305(b) of the Clean Water	<p>See responses to comments 26.01 and 26.02. The language identified by the commenter is default language populated in CalWQA based on the final listing decision. The language has been revised to appropriately indicate that a delisting is being proposed for Reach 3 rather than identification of an Integrated Report Category 4c impairment. The language in Decision ID 34271 now reads "After review of the available data and information, RWQCB staff concludes that the waterbody-pollution combination should be removed from the section 303(d) list because applicable water quality standards for the pollution are not being exceeded." The commenter refers to data previously submitted as part of the 2012 solicitation period. The data and information was mainly qualitative in nature and examined the impacts of flow alteration in several waterbodies across the state. It is not clear that the waters are flow impaired because flow is variable in nature. Determining if a water is impacted due to flow alterations would require a thorough analysis of historical flow and human related impacts to a defined and expected flow. If the flow is impacted is would then need to be determined at what level are the beneficial uses impaired beyond that naturally expected to occur in times of severe drought or storm events. This complex analysis is undertaken during the development of flow criteria and cannot be determined based on visual and qualitative information.</p> <p>See also responses to comments 2.01, 2.02, 2.03, 2.04, 2.09, and 2.10.</p>	No

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		Act, and the regulations implementing those sections.		
	26.10	Similarly, the Regional Board concludes, as show below (Decision ID 33817), that the original listing for “Water Diversion” in Ventura River Reach 3 was based on no data. Again, the inability to locate original data is not the same as there being no data to begin with.	See response to comment 26.02.	No
	26.11	<p>Also once more, the Regional Water Board appears inconsistent in its narrative with regard to availability of data. In this case, the Regional Water Board proposes “after review of available data and information” to delist Reach 3 for Water Diversion impairment. Unlike for pumping, the Regional Water Board is not proposing to place this listing in Category 4C. This determination is not supported by the available data and information, and no data, studies, or reports are presented as supporting documentation for this decision.</p> <p>In fact, as stated above, Channelkeeper has submitted copious volumes of data and references, which support existing listings for pumping and water diversions in Reaches 3 and 4 of the Ventura River. With regard to notable water diversions, the City of Ventura currently operates a shallow- sub-surface diversion facility at its Foster Park Well field. The sub-surface diversion currently accounts for more than 1000 acre-feet per year of water production by the City of Ventura. The City’s subsurface water diversion is located immediately (approximately</p>	See response to comment 26.09. The State Water Board’s final responses to comments dated April 29, 2015 adequately responded to the comments posed by Santa Barbara Coast Keeper in a letter dated February 5, 2015.	No

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		100 meters) upstream of Reach 3. We are unaware of any available data, studies, or reports that have concluded that such diversions do not result in impairment of Reach 3. Rather, available data and information support this impairment. Therefore, the decision to delist Reach 3 for Water Diversion is inconsistent with the Listing Policy, the Clean Water Act, and facts on the ground. We refer the State Water Resources Control Board to our February 5, 2015 letter as its legal and technical merits remain unchanged. Again, the State Water Board may not ignore this existing, readily available data. See 33 U.S.C. §§ 1313(d), 1315(b); see also 40 C.F.R. §§ 130.7, 130.8; see also Thomas v. Jackson, 581 F.3d 658, 661, 664-665, 667-668 (8th Cir. 2008). The decision to delist Reach 3 for water diversions must be revised so that the existing listing is modified to become a Category 4C listing, at a minimum. Otherwise, the Integrated Report violates the Clean Water Act.		
	26.12	There is ongoing documentation that flow alterations from pumping and diversion continue to degrade Reaches 3 and 4 such that these waters cannot support their designated beneficial uses and water quality standards are not attained. The State Water Board is currently engaged in a significant undertaking in coordination with the Department of Fish and Wildlife and Los Angeles Regional Water Board, to study surface-groundwater interactions and to develop protective instream flow criteria	See responses to comments 2.02, 2.03, and 26.02. The coordinated efforts between the State Water Board Division of Water Rights, California Department of Fish and Wildlife, and Los Angeles Water Board will continue in order to enhance and protect beneficial use support in the Ventura watershed. Action 4 of the California Water Action Plan, Protect and Restore Important Ecosystems, contains a sub-action that states the following: "The State Water Resources Control Board and the Department of Fish and Wildlife will implement a suite of individual and coordinated administrative efforts to enhance flows statewide	No

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		which would achieve attainment of beneficial uses. It is critical that the 303(d) List and Integrated Report accurately describe conditions, as they are best understood, in the river. The revisions highlighted in this letter will ensure that Regional and State Water Board determinations related to these impairments are consistent with the Clean Water Act.	<p>in at least five stream systems that support critical habitat for anadromous fish. These actions include developing defensible, cost-effective, and time-sensitive approaches to establish instream flows using sound science and a transparent public process. When developing and implementing this action, the State Water Resources Control Board and the Department of Fish and Wildlife will consider their public trust responsibility and existing statutory authorities such as maintaining fish in good condition.”</p> <p>The Ventura River was identified as one of five priority stream systems on which work will occur. In the Ventura River Watershed, ground and surface waters are closely interconnected. The Sustainable Groundwater Management Act (SGMA) established a new structure for managing California’s groundwater resources at a local level by local agencies. SGMA requires, by June 30, 2017, the formation of locally-controlled groundwater sustainability agencies in the State’s high- and medium-priority groundwater basins and subbasins (basins). A groundwater sustainability agency is responsible for developing and implementing a groundwater sustainability plan to meet the sustainability goal of the basin to ensure that it is operated within its sustainable yield, without causing undesirable results (which may include depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water). The Upper Ventura River Groundwater Basin (which underlies Reach 4 and can influence the amount of surface flow in the reach) and the Ojai Groundwater Basin (which surfaces at its lower end and provides some flow to San Antonio Creek) are both medium priority basins. Water agencies in both basins are organized in order to comply with these new regulations.</p>	
Santa Clara Valley Urban Runoff Pollution	27.01	SCVURPPP submitted timely comments dated May 12, 2017 to the State Water Board (SWB), Surface Water Quality Assessment Unit	The State Water Board received the May 12, 2017 request for review and examined factsheet 66762 in response to that request for review. See response to comment 27.02.	No

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Prevention Program Representative: Adam Olivieri		requesting that the SWB review the San Francisco Bay Regional Water Quality Control Board's (RWB) listing adopted April 12, 2017 for water column toxicity in Guadalupe Slough (Decision ID 66762). A copy of the May 12, 2017 comment letter is attached as is a copy of the electronic notification that the comment letter had been received by the SWB.		
	27.02	Our May 12, 2017 letter presented additional information and analysis of existing information in the administrative record that we believe provide ancillary lines of evidence that support a conclusion that there is insufficient information to reach the determination that at least one beneficial use is not supported in Guadalupe Slough and that a 303(d) Category 5 listing and TMDL are needed.	The May 12, 2017 request for review correctly states that the data is 20 years old and that several management actions have occurred in those years. There is no recent toxicity data that has been collected to show that the management actions have successfully addressed the toxicity impairment. The commenter also states that the requirements of Listing Policy section 4.1 would be insurmountable given the costs associated with collecting 20 more toxicity tests with zero exceedances. However, fewer samples can be collected in a strategic manner in coordination with the Regional Water Board to illustrate that the management actions have changed the environment and that the data collected prior to the management actions are no longer applicable. This is consistent with section 4.11 of the Listing Policy. Absent any other information specific to water toxicity the correct and conservative action is to recommend retaining the listing of toxicity in Guadalupe Slough until more recent data can be examined showing that the management actions have address the water toxicity impairment in Guadalupe Slough.	No
	27.03	SCVURPPP believes that the weight of evidence supports changing the Guadalupe Slough water column toxicity listing from Category 5 to Category 3 and respectfully requests that the SWB make that change.	See response to comment 27.02.	No
General Public	28.01	There was no public hearing in Los Angeles. Why?	In order to submit the 2014 and 2016 California Integrated Report to U.S. EPA by the end of 2017, the State Water Board required the	No

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Representative: Joyce Dillard			Regional Water Board approved 303(d) lists be submitted to the State Water Board by May of 2017. Due to the breadth of comments received by stakeholders in the Los Angeles Region, the Los Angeles Water Board determined that they would not be able to adequately address the comments and submit an approved regional 303(d) list by the May deadline. Consequently, the State Water Board is administering the approval process for the Los Angeles Water Board consistent with Section 6.2 of the Listing Policy. However, the Los Angeles Water Board held a public workshop on May 4, 2017 to discuss comments from stakeholders and the Los Angeles Regional Board staff's responses to the comments. Subsequent to the board workshop, the Los Angeles Regional Board provided a revised written response to the written comments.	
	28.02	These comments are based on the report by the Los Angeles Regional Water Board.	Comment noted. The scope of the written comments to submit to the State Water Board is the State Water Board's Draft Staff Report.	No
	28.03	There needs to be an incorporation of this report to the intent of the National Water Quality Inventory Report to Congress. The purpose of this exercise is the identification of DESIGNATED USES, as stated in the Federal report, and the criteria to attain the water quality necessary to protect those uses.	Once approved, the 303(d) list for the Los Angeles Region will be incorporated into the 2014 and 2016 California Integrated Report and submitted to U.S. EPA for final approval. Once U.S. EPA approves, they will incorporate California's Integrated Report into the National Water Quality Inventory Report to the U.S. Congress.	No
	28.04	The 2004 National Water Quality Inventory Report to Congress states the Designated Use Categories in this Report. They are: Fish, Shellfish, and Wildlife Protection and Propagation—Is water quality good enough to support a healthy, balanced community of aquatic organisms? Recreation—Can people safely swim or enjoy other recreational activities in and on the water? Public Water Supply—Does the waterbody safely supply water for drinking after standard treatment? Aquatic Life	See responses to comments 28.03 and 28.05. Determining whether the beneficial uses are supported is precisely the work undertaken by the listing process.	No

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		Harvesting—Can people safely eat fish caught in the waterbody? Agricultural—Can the waterbody be used for irrigating fields and watering livestock? Industrial—Can the water be used for industrial processes? Aesthetic Value—Is the waterbody aesthetically appealing? Exceptional Recreational or Ecological Significance—Does the waterbody qualify as an outstanding natural resource or support rare or endangered species? In order to determine if TMDLs are necessary, these questions after the categories should be answered.		
	28.05	In the 2016 INTEGRATED REPORT of Recommended Changes, we see no application of any of the questions summarized in the 2004 National Water Quality Inventory Report to Congress. New Listings have no relationship to use. Please review the following questions (Federal Designated Use) and apply them to the Beneficial Uses: [table follows]	In California, waterbody-pollutant combinations are assessed consistent with the Listing Policy to determine the overall beneficial use support rating. That overall beneficial use support rating is used by the CalWQA to determine the overall Integrated Report Category for the waterbody as a whole. This methodology is described on page 22 and 23 of the Staff Report. The questions listed by the commenters are summarized by U.S. EPA in the final National Water Quality Inventory Report.	No
	28.06	If there are no such uses, then there should be no TMDLs.	All assessments are based on the support of at least one beneficial use. TMDLs are developed after beneficial uses have been shown to be impaired.	No
	28.07	Designations such as “Benthic Community Effects” appears to be fabricated without specific science and application to Beneficial Use and Federal Designated Use.	Benthic community effects decisions assess the aquatic life beneficial uses of a waterbody and are based on the assemblage of benthic macroinvertebrates as an indicator of biological health. This process is transparent and consistent with Sections 3.9 and 6.1.5.8 of the Listing Policy.	No
	28.08	Appendix B-Category 5 Waterbody Segments has no Beneficial Use and a TMDL identified has no designation as to the party responsible for compliance. With “sources unknown”, we see no such compliance as realistic.	Potential sources are identified as unknown until a documented sources analysis has been performed. A source analysis most often occurs as part of the TMDL or other regulatory process. The TMDL typically identifies responsible parties and compliance schedules. Once sources are identified the information is revised in CalWQA as	No

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			appropriate.	
	28.09	Appendix C-Category 4a Waterbody Segments with “sources unknown” and “nonpoint source”, we see no such compliance as realistic with application of Federal Designated Uses.	See response to comment 28.08. Integrated Report Category 4a identifies waters with a U.S. EPA approved TMDL in place.	No
	28.10	Appendix D-Category 3 Waterbody Segments we see no such compliance as realistic and no responsible parties.	Integrated Report Category 3 identifies waters where the readily available data and information is insufficient to determine beneficial use support but the data available does indicate impairment may be probable. These waterbodies should be prioritized for continued monitoring.	No
	28.11	Appendix E-Category 2 Waterbody Segments we see unrealistic categories for Beneficial Uses. We question how any Beneficial Uses were determined, if the waterbody was not used as designated such as MUN, WARM or COLD.	Integrated Report Category 2 identifies waters where available data and information is insufficient to determine beneficial use support. Beneficial uses are identified in the Water Quality Control Plan (Basin Plan) for the appropriate regional water board.	No
	28.12	We question the frequency of monitoring programs and its relationship to base data and ambient water quality determination.	Before determining if water quality standards are exceeded, the Water Boards have discretion in establishing how data and information are to be evaluated, including the flexibility to establish the scale of the spatial and temporal data and information that are to be reviewed. See section 6.1.5 of the Listing Policy for more information.	No
	28.13	The TMDL program appears to have no relationship to Responsible Parties and NPDES discharges that the public can become involved in. Science, in its application, appears to be unclear and random.	See response to comment 28.08. The assessments found within the Integrated Report have been made consistent with the Listing Policy with an abundance of transparency and supported by the scientific methods outlined in the Listing Policy.	No
Center for Biological Diversity Representative: Emily Jeffers	29.01	On behalf of the Center for Biological Diversity (the Center), we submit these comments to the State Water Resources Control Board to request that all available information on ocean acidification be analyzed in the final 303(d) list for the 2014 and 2016 California Integrated Report. As detailed below, the Center has	The Listing Policy requires that only data and information be considered that meet the minimum quality assurance requirements as it outlined in “Data Quality Assessment Process,” Section 6.1.4 of the Listing Policy: “Even though all data and information must be used, the quality of the data used in the development of the section 303(d) list shall be of sufficient high quality to make determinations of water quality standards attainment.” The variable pH data do not	No

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		submitted numerous studies indicating that waterbodies in California are failing to meet their beneficial uses due to impairments caused by ocean acidification. This increasing acidity is due to atmospheric carbon dioxide deposition and local contributions. The State Water Board is under a legal obligation to examine all available sources of information on pollutants that may lead to an impairment of the state's waters, and has failed to do so in this instance. Ocean acidification must be examined and acknowledged in the 2014 and 2016 Integrated Report.	meet the data quality requirements described in the Listing Policy. Therefore, the research results cannot be used for 303(d) listing. If data for pH specific to California's marine waters are available for assessment during the next listing cycle, that data will be evaluated under the provisions of the Listing Policy using a weight-of-evidence approach to evaluate the lines of evidence based on the applicable water quality standard. The State Water Resources Control Board and the Regional Water Quality Control Boards solicit all readily available data and information prior to the evaluation process. Commenters are encouraged to submit data specific to California's marine waters when solicitation for data is announced, and it will be evaluated for the next 303(d) listing cycle decisions.	
	29.02	California's State Water Board can address ocean acidification in regional waters through the Clean Water Act. California has a duty and authority under the Clean Water Act section 303(d) to solicit and consider ocean acidification data and information during its biennial water quality assessments. EPA has specifically directed states to list waters on the 303(d) impaired waters list that are not meeting water quality standards due to ocean acidification (EPA 2010). Waters identified as impaired by ocean acidification allow local managers to control local sources of pollution, and even address cross-border sources of pollution that contribute to ocean acidification.	When Water Board staff conduct an assessment of water quality for the California 305(b) reporting and 303(d) listing, Water Board staff reviews the data and information collected from monitoring locations around the state that meet the assessment methodology described in Section 6.1.4 and 6.1.5 of the Listing Policy. If data show that water quality does not meet the applicable water quality standard for a pollutant, the waterbody segment is listed on the 303(d) list, which requires a TMDL (Total Maximum Daily Load). The Center for Biological Diversity (Center) provided scientific papers on research showing that carbon dioxide levels are expected to rise, which will in turn cause changes in the ocean chemistry. Staff reviewed the scientific papers provided by the Center; specifically, the research conducted in Central California near Monterey Bay. The research was based on carbon dioxide experiments. As discussed in "Utility of deep sea CO2 release experiments in understanding the biology of high CO2 ocean: Effects of hypercapnia on deep sea meiofauna" Section 4, Discussion, pages 12 through 15, variation in pH observed in the carbon dioxide release experiments did not allow the researchers to examine the biological impact caused by increases in carbon dioxide. It appeared that during the carbon	No

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			<p>dioxide experiments, a pH reduction of 0.6 pH units comparing to the control areas was observed, and the accuracy of the sensors was suspected. During the experiments carbon dioxide concentrations (measured as pH) varied throughout all experiments. This high variability in carbon dioxide and pH made it impossible to interpret the dose tolerance response of animals to hypercapnia that could trigger physiological stress or death for any of the animals studied. The author stated on page 15 that “understanding of the biological and ecological consequences of increased hypercapnia over shallow and deep waters of the world ocean will require knowledge of the physiological responses of organisms as a function of the severity and duration of hypercapnia.”</p> <p>The California Listing Policy requires that we consider only data and information that meet the minimum quality assurance requirements as it outlined in “Data Quality Assessment Process”, Section 6.1.4 of the Listing Policy. The variable pH data do not meet the data quality requirements described in the Listing Policy. Therefore, the research results cannot be used for 303(d) listing.</p> <p>If data for pH specific to California's marine waters are available for assessment during the next listing cycle, that data will be evaluated under the provisions of the Listing Policy using a weight-of-evidence approach to evaluate the lines of evidence based on the applicable water quality standard.</p> <p>After review of the data and information submitted, it was deemed of insufficient quality and inconsistent with the requirements outlined in Section 6.1.4 of the Listing Policy.</p>	
	29.03	In addition to the 2010 memo by EPA directing states to collect ocean acidification water quality data, federal regulations require states to “assemble and evaluate all existing and	<p>See response to comment 29.02.</p> <p>After review of the data and information submitted by the solicitation deadline of August 30, 2010, it was deemed of</p>	No

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		<p>readily available water quality-related data and information to develop the list.” 40 C.F.R. § 130.7(b)(5) (emphasis added). The list must include all waterbodies that fail to meet “any water quality standard,” including numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements. Id. § 130.7(b)(1)(iii) & (b)(3). The Center assisted in that effort by submitting multiple comment letters with relevant ocean acidification data during the comment periods for the 2014 and 2016 303(d) lists. Because the Center was informed that the Regional Water Boards had deferred action on ocean acidification to the State Water Resources Control Board, Center comments were sent directly to the State Water Board. Letters were sent on June 11, 2008; February 4, 2009; May 28, 2010; August 27, 2010; and April 16, 2014. On Feb. 5, 2015, the Center submitted additional information and comments on ocean acidification for consideration in the water quality assessment. Based upon the list of comment letters in Appendix L (References Report) of the Staff Report, these comment letters appear to have been received by the State and Regional Water Boards. However, there was no discussion of the data submitted by the Center; no evidence that the State Water Board satisfied its duty to “evaluate all existing and readily available water quality related data and information to develop the list.” 40 C.F.R. § 130.7(b)(5). The State Water Board may not ignore data</p>	<p>insufficient quality and inconsistent with the requirements outlined in Section 6.1.4 of the Listing Policy.</p> <p>State Water Board staff are actively participating in a Stakeholder Advisory Group to provide feedback on 'Modeling the Effect of Anthropogenic Inputs on Ocean Acidification and Hypoxia in the Southern California Bight.' Part of this project is looking at anthropogenic inputs of CO2 and climate change. Gaining a greater understanding of these inputs will allow the Water Boards to explore ways in which the issues of ocean acidification could be addressed through our regulatory programs.</p>	

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		before it, nor fail to address relevant information in making its decision regarding which waterbodies to include on the 303(d) list. See <i>Brower v. Evans</i> , 257 F.3d at 1067 (agency may not “completely fail[] to address some factor consideration of which was essential to making an informed decision”); <i>Sierra Club v. Hankinson</i> , 939 F.Supp. 865, 870 (N.D. Ga 1996) (“The Court is further concerned with Georgia’s apparent failure to use ‘all existing readily available water quality-related data and information . . . such as . . . available EPA databases.’”). Best available information, as submitted in our letters and summarized below, indicates that certain waters in California should be listed as impaired due to ocean acidification. The State Water Board must evaluate the data presented by the Center in comment letters, and provide an explanation as to why it was not sufficient for making an impaired waters listing due to ocean acidification. 40 C.F.R. § 130.7(b)(5) (duty to evaluate all existing information).		
	29.04	The best available science supports that ocean acidification is already affecting coastal waters of California by impairing the capacity of organisms to produce shells and skeletons, altering food webs, and affecting the dynamic of entire ecosystems such as kelp forests, saltmarshes, and oysters beds (Cooley & Doney 2009; Cheung et al. 2009, 2010; Brown et al. 2014; Ekstrom et al. 2015; Chan et al. 2016; Seijo et al. 2016; Swezey et al. 2017). Small	See response to comment 29.02.	No

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		<p>increases in water acidity can substantially reduce the ability of marine organisms to grow, reproduce and survive. Shelled mollusks such as oysters and pteropods are especially at risk because they are vulnerable to rapid decalcification, dissolution, and mortality (Barton et al. 2012; Gazeau et al.2013; Hettinger et al. 2013). Shelled mollusks such as oysters are keystone species in coastal areas that provide great economic value and ecosystems services such as water filtration, coastal protection, and habitat (Newell 2004) and they are at risk due to corrosive waters. Ocean acidification has already affected oyster populations in estuarine waters of the U.S. PacificNorthwest (Barton et al. 2012, 2015; Timmins-Schiffman et al. 2012). Ocean acidification is also already affecting important shelled organisms such as pelagic pteropods (Ohman et al. 2009; Bednaršek et al. 2014, 2016, 2017; Bednaršek & Ohman 2015). Pteropods are small sea snailsthat use the aragonite form of calcium carbonate to secrete their spiral shells (Bednaršek et al. 2012) and are important food for salmon, forage fish, and even whales. Pteropods may be the best indicator for water impairment due to their striking vulnerability to ocean acidification because their delicate aragonite shells (Comeau et al. 2012; Bednaršek et al. 2012, 2017; Stanford's Woods Institute for the Environment et al. 2016; Weisberg et al. 2016). Changes in their abundance and survivorship of these organisms can result in cascading effects that</p>		

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		<p>ripple through the food web affecting other marine organisms from fishes to whales. California's coastal waters are vulnerable to ocean acidification because coastal upwelling and ocean currents are increasingly carrying more anthropogenic CO₂ to the region (Chan et al. 2016). Coastal upwelling along the California coast brings deep water rich in CO₂ and low in dissolved oxygen to the continental shelf driving chemical conditions that affect marine life (Feely et al. 2004, 2008; Hauri et al. 2009; Feely et al. 2009; Gruber et al. 2012; Hauri et al. 2013; Bednaršek et al. 2014). Recent declines in aragonite saturation states due to anthropogenic ocean acidification have been compounded by changes in the circulation of the California Current System (Feely et al. 2012), likely connected to climate change (Bakun 1990; Snyder et al. 2003; Sydeman et al. 2014). Thus, California coastal waters are relatively more acidic than other coastal waters in the continental United States, and it is expected that the effects of ocean acidification will become more severe overtime as waters become more acidic with increasing climate change (Bakun 1990; Snyder et al. 2003; Sydeman et al. 2014). Scientists have already observed waters corrosive to sea life reached nearshore shallower areas along the northern California coast (Feely et al. 2008, 2016). Models predict that by the mid-century, surface coastal waters in this region would remain undersaturated during the entire summer</p>		

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		<p>upwelling season and more than half of nearshore waters throughout the entire year (Gruber et al. 2012; Hauri et al. 2013). Along the California coast, ocean acidification interacts with natural and anthropogenic processes that further reduce pH and carbonate saturation state (Feely et al. 2008; Salisbury et al. 2008; Hauri et al. 2009, 2013; Takeshita et al. 2015; Feely et al. 2017). Surface waters already show undersaturation with respect to aragonite due to anthropogenic ocean acidification independently of upwelling pulses, which lead to harsh chemical conditions to vulnerable marine organisms, including areas where pH is lower than 0.2 units from what occurs naturally (Feely et al. 2008, 2016, 2017). In fact, coastal and estuarine waters today are already seasonally undersaturated with respect to aragonite (Feely et al. 2010, 2016, 2017), and models predict that undersaturation will spread to more broader coastal areas and for longer periods (Feely et al. 2009; Hauri et al. 2013). Studies also show that under ocean acidification conditions, contamination effects, chemical toxicity, and heavy metal pollution can be more severe. In more acidic waters, sediments become more toxic as they easily bounds to heavy metals making them more available and thus more toxic for aquatic life (Roberts et al. 2013). For example, ocean acidification increases the toxicity effects of copper in some marine invertebrates (Campbell & Mangan 2014; Lewis et al. 2016). Thus, some coastal</p>		

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		waters are certainly failing to attain adequate water quality standards including, numeric criteria, narrative criteria, waterbody uses, and antidegradation criteria. Waters must be listed even if only one water quality standard is not achieved.		
	29.05	<p>Beyond reviewing the information submitted by the Center, California must also evaluate pH and other monitoring data that is readily available and seek out additional ocean acidification data from state, federal, and academic research institutions. EPA's 2010 memo and Integrated Report Guidance discussed several sources, including the NOAA data (EPA 2010: 7-9; EPA Guidance 30-31). The following are additional sources from which the state water board can obtain and evaluate data from:</p> <ul style="list-style-type: none"> • Central and Northern California Ocean Observation System Data Portal • Bodega Ocean Observing Node • NOAA Pacific Marine Environmental Laboratory Carbon Program • National Estuarine Research Reserve System • Oregon State University, College of Earth, Ocean and Atmospheric Sciences • Ocean Observatories Initiative • NOAA National Ocean Data Center • National Data Buoy Center • University of Washington's Oceanic Remote Chemical Analyzer (ORCA) Group • Northwest Association of Networked 	Please see response to comment 29.02. Section 6.1.1 of the Listing Policy states that the Regional Water Boards and State Water Board shall actively solicit all readily available data and information. Section 6.1.1 also defines all readily available and information as data and information that can be submitting into the CEDEN or its successor database, as directed in the notice of solicitation. In accordance with that provision in the Listing Policy, to administer the listing process, the Water Boards are required to review data and information submitted to CEDEN or its successor database, or that which is submitted and meets the quality assurance requirements in Section 6.1.4.	No

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		<p>Ocean Observing Systems (NANOOS)</p> <ul style="list-style-type: none"> • Integrated Ocean Observing System • Global Ocean Acidification Observing Network <p>California should obtain and evaluate data on all relevant parameters of ocean acidification that are available from these and other sources including its own water quality database. Coastal and estuarine ocean acidification parameters were not considered in this Integral Report. Thus, California should seek, analyze, and discuss data on water quality parameters relevant to ocean acidification.</p>		
Wood-Claeysens Foundation Representative: Joseph Chrisman	30.01	As the Wood-Claeysens Foundation and its farming tenants work closely with the Farm Bureau in its capacity as the manager of the Ventura County Agricultural Irrigated Lands Group to comply with the conditional waiver (Order R4-2016-0143), we submit this correspondence in support of the Farm Bureau Comment Letter and, in particular, with respect to the comments made regarding the Ventura River and Ventura River Watershed. Consistent therewith, The Wood-Claeysens Foundation requests the removal of the temperature listing for Ventura River Reach 1 and 2 as well as Ventura River Reach 4.	<p>See response to comment 20.08.</p> <p>Although the Los Angeles Basin Plan specifies the narrative objective to protect the cold beneficial use as being a no greater than 5 degree deviation from natural temperatures, the natural temperature for Ventura River Reaches 1, 2, and 4 waterbody have not yet been established. Section 6.1.5.9 of the Listing Policy states that “When ‘historic’, or ‘natural’ temperature data are not available, alternative approaches shall be employed to assess temperature impacts.” Since “historic” or “natural” temperature data were unavailable, Moyle 1976 was selected as an applicable Evaluation Guideline.</p> <p>See responses to comments 17.47, 17.48 and 17.50.</p>	No
	30.02	In addition, the Wood-Claeysens Foundation requests either remove the listing for Ventura River Reach 3 for toxicity based exceedances from outdated data or categorize the listing as 4b. My client and I appreciate the opportunity to comment on the 303(d) list and, in particular,	This comment was adequately addressed by the Los Angeles Regional Water Quality Control Board in Response to Comment 18.43: “Of the 43 samples evaluated, eight samples were in exceedance, which supported a listing decision. The waterbody pollutant combination should be listed until more data supporting a delisting decision become available.	No

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		support the analysis provided by the Farm Bureau of Ventura County.	See response to comment 1.01. Staff encourages commenter to submit data to CEDEN in preparation for the next listing cycle." Furthermore the Listing Policy does not put age limitations on data. The policy uses the weight of evidence approach during data assessment and all data must be considered. While the residential use of diazinon and chlorpyrifos have been restricted by the EPA, use restriction is not the same as water quality standards attainment, nor is it a pollution control program. Therefore data suggesting use attainment must be available prior to delisting.	
Sherwood Valley Homeowners Association Representative: Annette Louder	31.01	On June 18, 2010 (more than seven years ago), Lake Sherwood submitted data for de-listing Lake Sherwood. Additional data was requested by and supplied to the State on April 21, 2011. The State transferred authority to respond to our request to the Los Angeles Regional Water Quality Control Board (LARWQCB) at the end of 2011. Our seven-year journey through the Water Control Board's organizational process for listing/delisting water bodies has revealed a procedural deficiency, i.e. time limits on responding to de-listing requests do not exist.	See response to comment 1.01. The delay in the submittal of the 2014 and 2016 Integrated Report has been unavoidable due to resource constraints across the Water Boards. In 2015 the Listing Policy was amended to include several methods for increasing the efficiency of the creation and submittal of the Integrated Report to U.S. EPA. Those methods will begin being utilized starting with the 2018 Integrated Report as directed by the State Water Board under Resolution 2015-0005.	No
	31.02	LARWQCB is now providing the State a de-listing report that removes Lake Sherwood from the 303(d) list for dissolved oxygen, ammonia and organic enrichment. We appreciate removal from the list for these pollutant. This is gratifying and recognizes the positive results produced by the time, effort and expense the Association has put forth over many years to mitigate these concerns.	Comment noted.	No
	31.03	The report however continues to list Lake Sherwood for algae and eutrophic, unjustifiably	The Los Angeles Water Board appropriately and adequately responded to this comment in its revised response to comment 28.1	No

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		in our opinion, as outlined in the enclosed March 28, 2017 letter to LARWQCB. Furthermore, in reading the State's 2004 Water Quality Control Policy Factors we find no basis for continuing to list Lake Sherwood for algae and eutrophic. Therefore we respectfully request that the State remove Lake Sherwood from the 303(d) list for algae and eutrophic prior to submitting the de-listing report to the Federal government.	as follows: "Per the Listing Policy, section 4.7.1, impairments are delisted when, based on all the readily available data, there is sufficient evidence or data to justify a recommendation for delisting. The USEPA established a TMDL for the Malibu Creek watershed for nutrients to address these listings on March 21, 2003. The assessment of whether or not it is appropriate for the Lake to be removed from the 303(d) list for algae and eutrophic conditions must consider how those conditions interact with nitrogen and phosphorus levels, as discussed in the TMDL, and whether the TMDL targets are being met."	
	31.04	Lake Sherwood has a County approved Lake Management Plan. We are committed to improving the water quality of Lake Sherwood and have spent considerable resources to understand and improve Lake Sherwood's water health for nearly two decades. The Association contracts with a professional licensed company to provide services for a Water Quality Monitoring Program. On a monthly basis, we meet with our six member Lake Advisory Committee to review test results and implement corrective action for a variety of issues as necessary. We are committed to keeping our lake a healthy, useable body of water. Thank you for considering our request.	Comment noted.	No