

Comment Summary and Responses

Revision of the Waste Load Allocations of the Calleguas Creek Nitrogen Compounds and Related Effects Total Maximum Daily Load (TMDL)

Commenter
1. Calleguas Creek Watershed Management Plan (CCWMP)
2. United State Environmental Protection Agency, Region 9
3. Teresa Jordan

No.	Date	Author	Comment	Response
1.1	05/19/2009	Donald Kendell	The Calleguas Creek Watershed Management Plan Water Resources/ Water Quality subcommittee appreciates the opportunity to provide comments on the revisions to the <i>Calleguas Creek Watershed Nitrogen Compounds and Related Effects TMDL</i> (Nitrogen TMDL) wasteload allocations on behalf of the CCWMP. The proposed revision reflects work coordinated with watershed stakeholders, the CCWMP Steering Committee, and the Los Angeles Regional Water Quality Control Board. We appreciate the Regional Board's consideration of the identified typographical errors in the Nitrogen TMDL.	Comment Noted.
1.2			We are submitting these comments to provide full support of the approval of the revisions to the wasteload allocations (WLAs) in the Nitrogen TMDL. We feel that the revisions reflect the correct calculation of daily load limits for wastewater treatment plants and appropriately address the variable flows that can occur at the plants.	Comment Noted.
2.1	05/19/2009	Peter	The U.S. Environmental Protection Agency (U.S.EPA)	Comment Noted.

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		Kozelka	appreciates the opportunity to comment on the revision to the wasteload allocations in the Calleguas Creek Watershed Nitrogen Compounds and Related Effects TMDLs. The revised TMDLs correct a typographical error associated with the wasteload allocation for ammonia and establish ammonia mass-based limits dependent on effluent flow rates. U.S.EPA has reviewed the revised TMDLs and find they meet all federal regulatory requirements.	
2.2			U.S.EPA finds the proposed nitrogen compounds TMDLs provide reasonable scientific analysis for addressing low dissolved oxygen/organic enrichment, algae, ammonia, nitrogen, and nitrate and nitrite impairments identified in on California's 2002 303(d) list. The targets established in the TMDLs are consistent with U.S. EPA guidance. We concur with the technical approach to attain water quality objectives via pollutant load reductions for nitrogen compounds.	Comment Noted.
3.1	04/27/2009	Teresa Jordan	This Los Angeles Regional Water Quality Control Board Basin Plan amendment does not meet the "Necessity" standard of the Administrative Procedures Act. This regulatory action is one of convenience. The U.S. EPA approved the TMDL on June 20, 2003, and the mass based daily WLAs for ammonia typographical error was only recently realized by the Regional Water Board staff.	Staff disagrees. The "Necessity" standard of the Administrative Procedures Act section 11353 subsection (b) identifies "Any policy, plan, or guidance, or any revision thereof that the State Water Resources Control Board has adopted..." The typographical error was identified during the Regional Board's renewal of the applicable National Pollutant Discharge Elimination System (NPDES) permits.
3.2			The amendments to the Tentative NPDES permits for the city of Thousand Oaks' Hill canyon Waste Treatment Plant (WTP), the City of Simi Valley Simi Valley Water Quality Control Facility (WQCF), and the Camarillo Sanitary District's WRP public	This amendment is the first step in completing the renewal of the NPDES permits. Once this amendment has completed the approval process, the Los Angeles Water Board will have a separate public hearing for the approval of the permits.

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			<p>comments periods are almost a year old, yet the public hearing has not been scheduled and now the reader is told in the “near future”.</p>	
3.3			<p>Page 6, Attachment A (Resolution No. R4-2008-009), it is stated under Chapter 7. TMDLs Calleguas Creek Nitrogen Compounds and Related Effects TMDL that “This TMDL is effective on July 16, 2003”. This is like backdating a check. The effective date must reflect a time period after U.S.EPA re-approves this TMDL. This means the entities listed on Page 3 of the Resolution may be violating their NPDES permits and by amending the Basin Plan they get a free pass. This means that commenters who reviewed and commented on the 2008 amendments to the tentative NPDES permits for the City of Simi Valley, the City of Thousand Oaks, and the Camarillo Sanitary District facilities did so on inaccurate and incomplete documentation.</p>	<p>Staff disagrees. The original TMDL is still in effect as of July 16, 2003. Resolution No. R4-2008-009 and the basin plan amendment will only go into effect once the State Water Board, the Office of Administrative Law, and U.S.EPA approve them. The NPDES permits and their renewal are not up for comment at this time. These comments should be submitted to the regional board during the appropriate comment period</p>
3.4			<p>It is stated on Page 2 of the State Water Board’s Draft Resolution No.2009-_____, number 1, that “...as corrected by the Los Angeles Water Board Executive Officer on January 23, 2009.” It is stated on Page 6 of Resolution No. R4-2008-009, under Chapter 7, that “This TMDL was revised and adopted by: the Regional Water Quality Control Board on September 11, 2008.” It is also stated on Page 6 of the Resolution, under Chapter 7, that “This TMDL was adopted by: The Regional Water Quality Control Board on October 24, 2002.”</p>	<p>Comment noted, all the dates are correct within their specific context.</p>
3.5			<p>When specifically (date) did the Los Angeles Regional Water Board staff realize the typographical error?</p>	<p>The typographical error was identified during the Regional Board’s renewal of the permits. However, a</p>

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				specific date was not recorded.
3.6			What guarantee does the public have that after 5 years this typographical error is truly the case?	This amendment is consistent with current scientific practice and current U.S.EPA guidance.
3.7			Does this correction help the dischargers, or the aquatic communities and wildlife?	<p>The proposed amendment results does not alter the environmental analysis that was previously completed for the Calleguas Creek Nitrogen Compounds and Related Effects TMDL because correction of the mass based WLAs for ammonia will not result in different implementation actions than those previously analyzed for the Calleguas Creek Nitrogen Compounds and Related Effects TMDL, or different effects upon the environment. The environmentally significant WLA remains the Maximum Daily Effluent Limit (MDEL), which is the technically derived ceiling to the amount of ammonia that can and should be authorized. Correcting the mass-based daily limit to be consistent with the MDEL, as originally intended, has no potential to result in a change in the physical environment. As such, this amendment is both consistent with the prior CEQA documentation, and is itself not a “project” within the meaning of CEQA.</p>
3.8			In Resolution R4-2008-009, Page 3, number 13, first sentence “the basin plan a static factor...” Add “as” before “a”.	Comment Noted.
3.9			In Resolution R4-2008-009, Page 5, number 5, “transmit a payment of applicable as maybe required...” Change “of” to “if”.	Comment Noted.