

Santa Ana Regional Water Quality Control Board

Triennial Review of the Water Quality Control Plan for the Santa Ana River Basin

Staff Report

August 15, 2024



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INTRODUCTION

The [Santa Ana Region](#) covers parts of San Bernardino County, western Riverside County, and northwestern Orange County. It encompasses the upper and lower Santa Ana River watersheds, the San Jacinto River watershed, and several other small drainage areas (Figure 1). The [Water Quality Control Plan for the Santa Ana River Basin](#) (Basin Plan) forms the basis for the regulatory programs of the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board). The Basin Plan identifies (1) beneficial uses to be protected; (2) water quality objectives for the reasonable protection of beneficial uses; and (3) a program of implementation for achieving the water quality objectives. Together, the beneficial uses and the water quality objectives established to reasonably protect the beneficial uses are called water quality standards under the terminology of the federal Clean Water Act. The Basin Plan fulfills legal requirements for water quality planning consistent with the Water Code sections 13240 through 13242 and the federal Clean Water Act section 303(c).

The Basin Plan prescribes water quality standards for surface and ground waters in the Santa Ana Region. The Basin Plan also includes comprehensive watershed and groundwater basin management programs to implement water quality objectives, including total maximum daily loads (TMDLs) for surface waters and salt and nutrient management measures for groundwater basins. It describes the Santa Ana Water Board's regulatory programs and actions to address discharges of waste to surface water and groundwater, including waste discharge requirements (WDRs), National Pollutant Discharge Elimination System permits, conditional waivers of WDRs, discharge prohibitions, and remediation programs, among others.

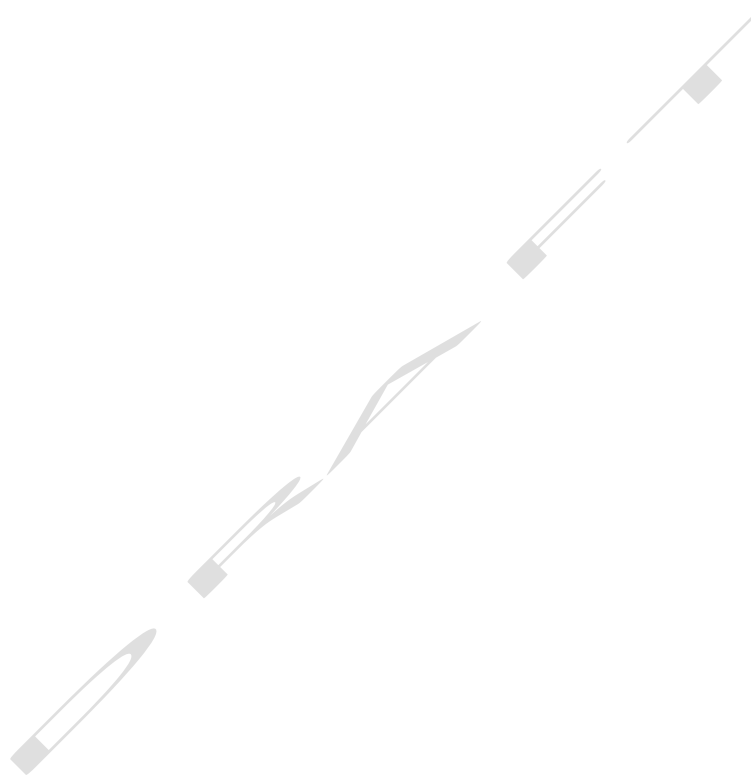
The Porter-Cologne Water Quality Control Act (Wat. Code, § 13240) and the Clean Water Act both mandate the periodic review of basin plans and water quality standards. Section 303(c)(1) of the Clean Water Act and the United States Environmental Protection Agency's implementing regulations at 40 C.F.R. part 131.20 require a state, at least once every three years, to hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. This process is called "Triennial Review."¹ Through this public process, the Santa Ana Water Board evaluates whether the water quality standards should be adopted or revised to protect designated uses and prioritizes potential revisions to water quality standards, potential other projects, and other aspects of the Basin Plan to be addressed over the three-year review cycle. Examples of potential projects or revisions include, but are not limited to, additions and revisions to designated uses, water quality

¹ For ease of reference herein, the periodic review required under state law and the triennial review required under federal law will be collectively referred to as "Triennial Review." Although different state and federal requirements apply, the review under Water Code section 13240 ordinarily is combined with a review of any federal standards in a state water quality control plan.

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criteria, antidegradation policies, and adopted implementation procedures or other general policies. Public and intergovernmental coordination in identifying potential revisions to water quality standards and the Basin Plan is a key requirement of the Triennial Review.

This Staff Report summarizes priorities for the Basin Plan identified by Santa Ana Water Board staff and recommendations by interested parties for consideration in the Triennial Review period of fiscal years 2024-2027. The FYs 2024-2027 Triennial Review High-Priority and Medium-Priority Lists (Priority Lists) and Work Plan identifies the proposed prioritization of Basin Plan projects.



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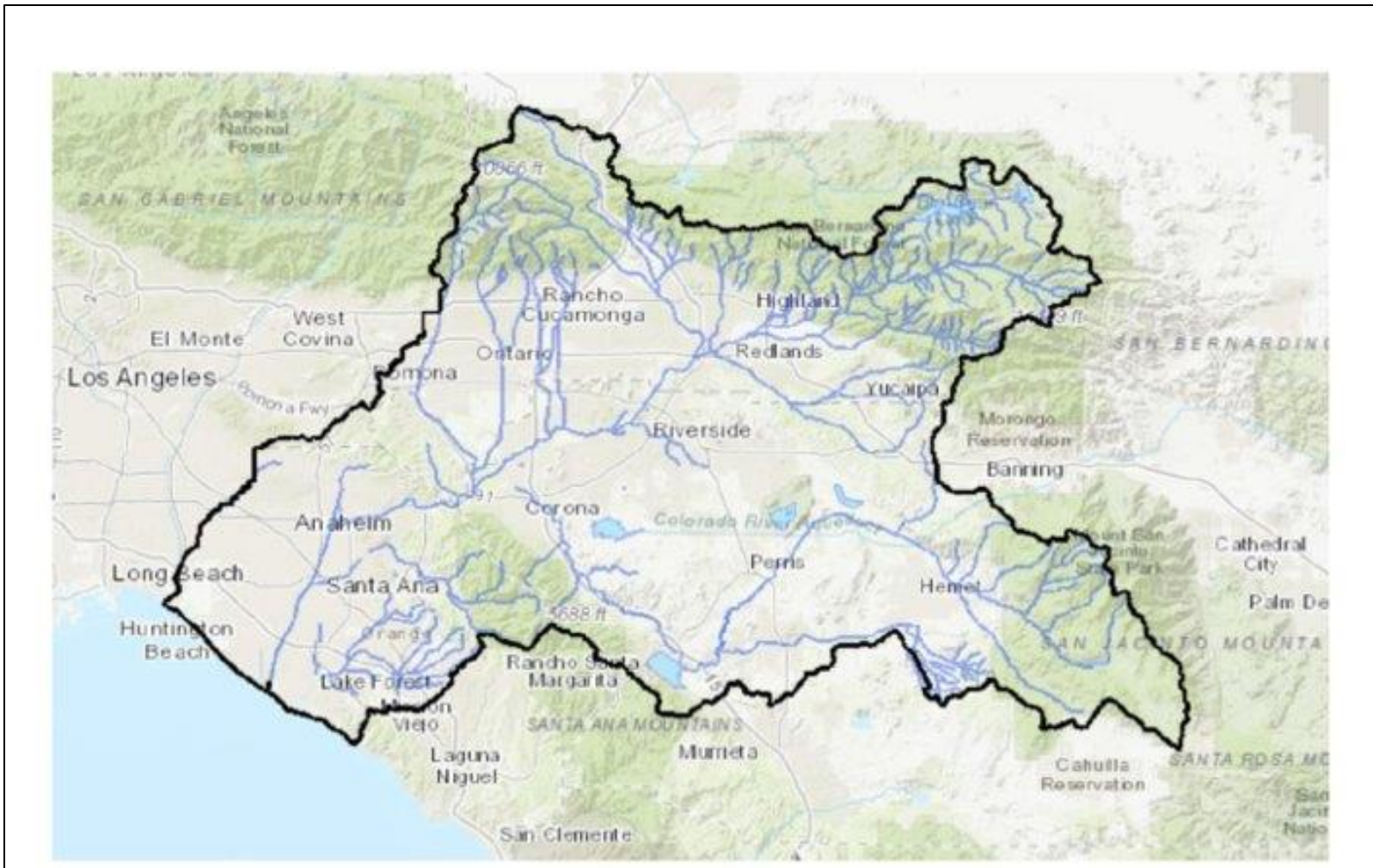


Figure 1: Santa Ana Water Board Boundary

TRIENNIAL REVIEW PROCESS

The Santa Ana Water Board first adopted an interim water quality control plan in 1971 and revised it in 1973. The first comprehensive Basin Plan for the Santa Ana Region was adopted by the Santa Ana Water Board in 1975. Other comprehensive updates to the Basin Plan were completed in 1983 and again in 1995. Since 1995, several amendments have been proposed and adopted to the Basin Plan.

The primary purpose of a Triennial Review process is to review water quality standards and solicit public comment on potential issues to be addressed through subsequent Basin Plan amendment projects. Public engagement helps inform and prioritize potential revisions to the Basin Plan. These Basin Plan amendment projects are referred to as the Triennial Review High Priority List. The Triennial Review process is continuous, meaning that once a three-year review period ends, the process begins again.

The Triennial Review process is a public planning process that helps ensure that water quality standards are current, based on science, and protect the designated uses. Through this process, the Santa Ana Water Board identifies high-priority Basin Plan projects to be addressed during the Triennial Review period after considering a variety of factors, including the protection and restoration of beneficial uses, public input, agency priorities, compliance with legal requirements, the complexity and urgency of the project and anticipated completion time, staff resource capacity, and budgetary constraints. This process results in a prioritized list of Basin Plan amendment projects but does not determine the specific method or strategy staff will use to address the projects. By itself, the Triennial Review process is not a rulemaking process. Instead, the Santa Ana Water Board will follow applicable rulemaking procedures, including any necessary environmental review or external scientific peer review, when considering amendments relating to the Triennial Review projects. Thus, the Triennial Review process may or may not result in amendments to the Basin Plan over the course of the 3-year review period.²

As noted above, a variety of factors inform the placement of a potential project on the Triennial Review High Priority List to be further investigated and potentially addressed through subsequent Basin Plan amendments. These projects are listed in the order of priority in which they should be investigated and evaluated as a basis for a future amendment over the next three state fiscal years (FY), 2024-2025, 2025-2026, and 2026-2027. The proposed priorities and schedules also reflect work that is already in

²The identification of an issue during a triennial review does not necessarily mean that any amendment will be made to the Basin Plan. The decision as to whether to proceed with a proposed Basin Plan amendment is only made after staff reviews the technical and legal considerations associated with an issue and determines that development of a Basin Plan amendment is supported by evidence and is appropriate.

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progress, that has been carried over from a prior triennial review due to resource availability, and implementation commitments (for the review or adoption of water quality objectives) in established TMDLs.

Furthermore, the High Priority-List of projects estimates the staff time required to investigate the projects and amend the Basin Plan. As a result, the triennial review also serves to develop a work plan for the period of July 2024 through June 2027.

Each Triennial Review generally occurs in three phases.

- Phase 1: Santa Ana Water Board staff conducts an internal review of the water quality standards and identifies potential projects for possible Basin Plan amendments.
- Phase 2: Public input is solicited in this phase. The Santa Ana Water Board staff holds public meetings and solicits comments from interested parties and tribes on potential projects and prioritizes issues to be addressed.
- Phase 3: Adoption of the final Triennial Review Priority Lists and Work Plan by the Santa Ana Water Board.

Phase 1 of the Triennial Review began with internal review in September 2023 when the Santa Ana Water Board staff reviewed the water quality standards and other aspects of the Basin Plan to identify potential issues that can be addressed through a Basin Plan amendment. Once potential issues were identified, they were placed on a preliminary list of high priority Basin Plan projects for further investigation to be addressed during the Triennial Review period.

In addition to the high-priority list, the Santa Ana Water Board staff also developed a medium-priority list for projects that are unlikely to be completed during this triennial review period due to other compelling regional priorities. The Santa Ana Water Board staff will continue to focus on these medium priority projects and staff will monitor and collaborate with interested parties on these projects as necessary.

Phase 2 of the Triennial Review includes public participation and stakeholder involvement. On December 27, 2023, Santa Ana Water Board staff sent out notices to California Native Tribes, inviting them to participate in the Triennial Review process, and submit suggested revisions or additions to the Basin Plan. On December 28, 2024, the Santa Ana Water Board staff sent out an electronic notification of a public scoping meeting to hundreds of interested parties informing them of the initiation of the Triennial Review process and the upcoming public scoping meeting. On January 31, 2024, Santa Ana Water Board staff held a public scoping meeting at the Santa Ana Water Project Authority office to present and describe the preliminary draft priority list of projects developed by staff, and to receive oral comments and suggestions.

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On March 29, 2024, Santa Ana Water Board staff sent out a Notice of Solicitation for Public Comment for the Triennial Review of the Basin Plan to interested parties and California Native Tribes. The notice invited all interested parties to submit comments on the updated draft Triennial Review High-Priority and Medium Priority-Lists or any other Basin Plan issues. Written comments were accepted during a 30-day public comment period. The Santa Ana Water Board staff reviewed and considered all public comments prior to finalizing the final Priority Lists.

On August 15, 2024, Santa Ana Water Board staff sent out a Notice of Public Hearing for Adoption of the Triennial Review of the Basin Plan. The purpose of the public hearing is to solicit comments and gather feedback on the final proposed Triennial Review Priority Lists and Work Plan, which will be considered for adoption by the Santa Ana Water Board. The proposed final Triennial Review Priority Lists of issues reflects consideration of comments made at the public scoping meeting and written comments submitted to Santa Ana Water Board staff.

The final phase, Phase 3, is the adoption of the triennial review priority lists by the Santa Ana Water Board. Additionally, Phase 3 continues over the remainder of the three-year period as the Santa Ana Water Board staff investigates the issues on the lists and considers proposing amendments to the Basin Plan. It is important to point out that placing an issue on the priority lists does not necessarily mean the Basin Plan will be amended within the three-year period.

BASIN PLANNING RESOURCES

The current and assumed future resources for planning activities within the Santa Ana Region (including Basin Plan activities associated with total maximum daily loads) are approximately nine (9) personnel years (PYs) per fiscal year. This level of funding/resources has remained approximately the same for several years. In addition to Basin Plan amendments, Santa Ana Water Board staff are responsible for the implementation of other ongoing Basin Plan projects not explicitly related to triennial review issues. For this reason, the total assumed resources may not exclusively be allocated to projects identified on the Triennial Review High-Priority List. Additionally, staff vacancies may limit the number of projects that can be completed.

The proposed Work Plan reflects Santa Ana Water Board staff's best estimate of the available resources and PYs needed to investigate an issue or complete a project. Schedules for addressing triennial review projects identified will depend upon the complexity of the issue and available resources. Previous experience suggests that unexpected complexity can significantly affect both the schedule and resources required. Historically, stakeholder support for work on Triennial Review issues of particular concern to the stakeholders has enabled the Santa Ana Water Board to facilitate its completion.

PROJECT PRIORITIZATION AND WORKPLAN

The fiscal years 2024-2027 Priority Lists and Work Plan provides prioritization over the three-year triennial review cycle that is informed by multiple factors, including Santa Ana Water Board direction and prioritization; water quality improvements; State Water Resources Control Board (State Water Board) and USEPA guidance; stakeholder input; region-wide applicability; updated scientific or technical information, and current staff resources to complete projects.

To effectively use available resources, Santa Ana Water Board staff has prioritized eleven (11) Basin Plan projects as part of the Triennial Review process. As noted earlier, proposed priorities and schedules also reflect work that is already underway or identified as a priority in previous triennial reviews.

The proposed Priority Lists and Work Plan in Attachment A, B, and C to the tentative resolution also includes work to add descriptive text, graphics, and organization of the Basin Plan and to incorporate all approved amendments. This work is essential to ensure that the Basin Plan remains current and as accessible as possible.

BASIN PLAN AMENDMENT PROCESS

As mentioned previously, not all issues identified as part of the Triennial Review process may lead to a Basin Plan amendment. The decision to proceed with a Basin Plan amendment is made after the Santa Ana Water Board staff reviews the technical and legal considerations associated with an issue and determines that development of an amendment is appropriate. The research for developing a Basin Plan amendment can include scientific literature review; water quality monitoring; or individual studies conducted by staff, contractors, and stakeholders. In addition, other requirements will apply before the Basin Plan is amended, including any applicable requirements for rulemaking, public participation, external scientific peer review, and compliance with the California Environmental Quality Act.

All proposed Basin Plan amendments require adoption by the Santa Ana Water Board. Additionally, amendments must be approved by the State Water Board, the California Office of Administrative Law, and in most cases, USEPA.

USEPA's IMPLEMENTING REGULATIONS AND NATIONAL 304 (A) RECOMMENDED CRITERIA CONSIDERATION

In addition to reviewing applicable water quality standards, USEPA's implementing regulations at 40 C.F.R part 131.20(a) identify additional issues to be considered during triennial review. These issues have been considered during the triennial review process. The Santa Ana Water Board has no new information about Tribal reserved rights applicable to state waters that needs to be considered to establish water quality standards. Further, the Santa Ana Water Board has re-examined waterbody segments

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with water quality standards that do not include the uses specified in Clean Water Act section 101(a)(2) to determine if any new information has become available. The Santa Ana Water Board provided the results of the re-examination to USEPA in a report titled “Santa Ana Regional Water Quality Control Board Use Attainability Analysis Reexamination,” dated April 16, 2024. The report evaluated four waterbodies and concluded that conditions have not changed sufficiently to revise the use designations.

40 C.F.R. part 131.20(a) also requires a state to review federally promulgated water quality standards and parameters for which USEPA has published new or updated Clean Water Act section 304(a) criteria recommendations. If states do not adopt new or revised criteria for these, then the state shall provide an explanation when it will submit the results of its triennial review to the USEPA’s Regional Administrator.

The Santa Ana Water Board staff concludes that adoption of 304(a) criteria is best handled by the State Water Board. The State Water Board has the ability to consider criteria on a statewide basis, thus maximizing resources and potential water quality benefits statewide. USEPA’s 2023 update to the National Recommended Water Quality Criteria Tables published pursuant to section 304(a) includes an increased number of pollutants for aquatic life and human health criteria. The State Water Resources Control Board is considering statewide water quality objectives that are related to 304(a) criteria, specifically for nutrients, other biostimulatory substances, cyanotoxins, biological condition provisions, and several pollutants in drinking water including chromium (hexavalent), perfluoro-octane sulfonic acid (PFOS), cadmium, and mercury. If the criteria are adopted by the State Water Board and approved by the USEPA, the water quality objectives will apply to all waters of the state.

Due to the number of new and updated USEPA recommendations, limited resources, and ongoing efforts to update statewide water quality objectives by the State Water Board, Santa Ana Water Board staff did not include consideration of the 304(a) criteria on the Triennial Review High-Priority List. While acknowledging the importance of the 304(a) criteria, many of which were promulgated in the California Toxic Rule, staff will continue to use them as necessary for assessing waters on the Clean Water Act section 303(d) list, and to establish water quality objectives for total maximum daily loads where the California Toxic Rule objectives are outdated.

USE ATTAINABILITY ANALYSIS

Section 101 (a)(2) of the Clean Water Act states that “it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983” (also referred to as “fishable/ swimmable” uses). The Clean Water Act and implementing federal regulations provide special protection for “fishable/swimmable” uses by establishing a rebuttable presumption that all surface

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waters should support these uses and therefore must be designated. A beneficial use is one of the various ways that water can be used for the benefit of people and/or wildlife.

A California Regional Water Quality Control Board (Regional Board) may elect not to designate “fishable/swimmable” uses only after conducting a Use Attainability Analysis (UAA) to overcome the “fishable/swimmable” presumption.

Santa Ana Water Board staff conducted UAAs for several waterbodies in the Santa Ana Region. The UAAs were conducted for the following waterbody segments to de-designate the REC1 use: Santa Ana Delhi Channel, Reach 1, 2, and Tidal Prism; Greenville-Banning Channel, Reach 1 and Tidal Prism; Temescal Creek, Reach 1a and 1b; and Cucamonga Creek, Reach 1 (UAA waters).

USEPA’s regulations at 40 CFR § 131.20(a) require that every three years a state (in this case, the Santa Ana Water Board) must re-examine any waterbody segment with water quality standards that do not include the uses specified in CWA section 101(a)(2) (i.e., fish and wildlife and recreational uses). If new information indicates that the uses are attainable, then the Santa Ana Water Board must revise its standards accordingly through a Basin Plan amendment process.

In April 2024, Santa Ana Water Board staff submitted a report on the status of the Santa Ana Region’s UAA waters to USEPA, thus satisfying the requirements of 40 CFR § 131.20(a). The USEPA is reviewing the report. During this triennial review period, Santa Ana Water Board staff will complete another review of the de-designated water segments.

CONCLUSION AND STAFF RECOMMENDATION

The proposed Triennial Review Priority Lists and Work Plan identifies the high and medium priority issues, anticipated schedule, and the resources expected to be necessary to address the issue. The Work Plan is provided in Attachment A and detailed discussion of each of these issues is provided in Attachment B and C of the Resolution. A summary of the comments received from the Notice of Solicitation for Public Comment, Santa Ana Water Board staff’s responses, and the original written comments can be found on the [Santa Ana Water Board’s Basin Plan webpage](#).

If the Santa Ana Water Board adopts the 2024-2027 Triennial Review Priority Lists and Work Plan, Santa Ana Water Board staff will use further investigate the priority list of issues leading to possible Basin Plan Amendments.

Santa Ana Water Board staff recommends adopting Resolution R8-2024-0054 and approving the 2024-2027 Triennial Review Priority Lists and Work Plan.