

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

RESPONSE TO WRITTEN COMMENTS RECEIVED ON PRELIMINARY LIST OF PROJECTS FOR THE 2021 TRIENNIAL REVIEW OF THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO REGION

November 8, 2021

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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Introduction

This report contains the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) responses to written comments received on the [Preliminary List of Projects](#) for the 2021 Triennial Review of the *Water Quality Control Plan for the San Diego Basin* (Basin Plan).

The San Diego Water Board initiated its 2021 Triennial Review on June 18, 2021, with the release of the Preliminary List of Projects and a Notice of Public Solicitation. The public comment period extended for 60 days from June 18, 2021 through August 17, 2021. A public workshop was held on July 20, 2021, and a Tribal Summit was held on August 4, 2021. During the public review period the San Diego Water Board received 11 comment letters from interested stakeholders. Similar comments are presented together and paraphrased where appropriate. Board members will receive copies of each comment letter prior to their consideration of the final Triennial Review work plan.

Comments Received and Responses to Comments

The San Diego Water Board received public comment letters from the following stakeholders:

- A. Mr. John Odermatt, M.S., P.G.
- B. United States Environmental Protection Agency, Region IX (USEPA, Region 9)
- C. San Diego Coastkeeper
- D. Mr. Barry Pulver
- E. Riverside County Flood Control and Water Conservation District
- F. Environmental Law Group LLP
- G. County of San Diego
- H. City of San Diego
- I. Orange County Public Works
- J. South Orange County Wastewater Authority (SOCWA)
- K. Santa Margarita Water District

A. John Odermatt, M.S., PG

1. Comment

General Order 97-52 (SOCWA Master Reclamation Permit) allows discharges of recycled water that is inconsistent with assigned water quality objectives in the Middle San Juan and Middle Trabuco basins.

Response

Order No. 97-52, *Waste Discharge and Recycling Requirements for the South Orange County Wastewater Authority*, includes the following discharge specifications:

- Discharge Specification 1: Discharge specifications for landscape irrigation and other land disposal projects of an effluent containing pollutants in excess of the effluent limitation presented in Table A-1 is prohibited.
- Discharge Specification 7: Discharges of recycled water shall not cause a violation of any Prohibition contained in the Water Quality Control Plan, as well as providing effluent limitations for recycled water.

By meeting these specifications, discharges permitted by and complying with Order No. 97-52 are compliant with the Basin Plan and applicable water quality objectives.

2. Comment

The groundwater quality objectives do not reflect current groundwater TDS concentrations in Middle San Juan and Middle Trabuco basins. Project 5 will fix those conditions and allow recycled water uses to continue in compliance with the basin plan.

Response

The San Diego Water Board is currently reviewing the recently submitted Salt and Nutrient Management Plan for these basins to determine if changing the groundwater water quality objectives to accommodate an increase in recycled water use will be protective of beneficial uses in the subareas.

3. Comment

Projects 5 and 8 need to be high priority, since California is headed to the dry and hot times from climate change. The SD Water Board can make a difference! Import less, discharge less to the ocean and recycle more! We need to prepare for sea level rise and long dry/drought years too. More recycled water uses (indirect and direct potable uses). The Ag WDR needs to incorporate incentive\$\$ for reusing water.

Response

Comment noted.

4. **Comment**

For Project 5, the Board needs to include reuses of tertiary treated wastewater approved by DDW, similar to the requirements included in San Diego Regions Recycled and Subsurface Disposal (Septic Systems) Programs.

Response

Comment noted.

B. USEPA, Region 9

1. **Comment**

EPA supports the projects listed in your Preliminary List. For Project 1, Designation of Tribal Tradition and Culture (CUL) and Tribal Subsistence Fishing (T-SUB) Beneficial Uses to Surface Waters in the San Diego Region, EPA recommends including the subsistence fishing (SUB) beneficial use in the Board's evaluation and assignment of new uses to its waterbodies.

Response

The San Diego Water Board agrees and has updated the project description to include the subsistence fishing beneficial use.

2. **Comment**

To comply with 40 C.F.R. Part 131.20, a state's Triennial Review must include an explanation if the State does not adopt new or revised criteria for parameters for which EPA has published new or updated Clean Water Act (CWA) section 304(a) criteria recommendations. During the Regional Board's 2018 triennial review, the Board completed a comprehensive review and submitted a detailed explanation to EPA dated November 10, 2020. Please update or confirm the information in the 2020 report. The regulation requires a review during each triennial review to ensure that state water quality programs reflect current recommendations

Response

The San Diego Water Board will add information regarding the review of CWA section 304(a) criteria to the final staff report.

C. San Diego Coastkeeper

1. Comment

Project 2: Tijuana River Valley Water Quality Restoration Should be the Highest Priority Project and be Allocated the Bulk of the PYs Allocated to Basin Plan and Triennial Review Project. Coastkeeper agrees that the restoration of the Tijuana River Valley should be the highest priority project and requests that sufficient resources be directed to this Project to ensure successful completion.

Response

The San Diego Water Board has identified human health and ecosystem impacts in the Tijuana River Valley as regional priorities for many years through various resolutions (Nos. R9-2012-0030, R9-2013-0153, R9-2015-0020, R9-2015-0035, and R9-2015-0041) and in the Practical Vision-driven annual operational plans. As such, substantial resources have been allocated to achieve restoration of water quality in the Tijuana River Valley in the most efficient manner practicable. Development of TMDLs for indicator bacteria and trash were initiated during the 2018 triennial review and we expect to complete them this cycle. In addition to basin planning resources, staff from the storm water, NPDES, and enforcement programs are coordinating with basin planning staff as they work on Tijuana River Valley bacteria and trash controls.

2. Comment

Project 2, and the completion of Project 1 (Designation of Tribal Beneficial Uses) and Project 3 (Biological Objectives), should be the sole projects the Regional Board dedicates resources to over the coming three-year period, as these are the projects that will best advance the mission of the Regional Board to protect water quality in our region with the limited PYs and resources available.

Response

The San Diego Water Board agrees that these projects are important to address in its region and commits to designating resources to work on these high priority projects. These projects will advance the agency's mission and support the goals of the Practical Vision.

3. **Comment**

Project 4: Contact Water Recreation (REC-1) Water Quality Objectives Should be Removed from the Draft List. Coastkeeper remains supportive of Regional Board action aimed at identifying sources of REC-1 impairment, including human bacteria inputs, and addressing those sources through Investigative Orders, enforcement actions, and an amendment to the TMDL to include wastewater agencies contributing to impairments through exfiltration. We do not, however, support region-wide or site-specific Basin Plan or TMDL amendments to REC-1 objectives or amendments to how those water quality objectives are assessed. We respectfully request removal of review of REC-1 water quality objectives and/or implementation plans, as we do not believe there exists sufficient data to support such amendments or site-specific objectives.

Response

As discussed in its Practical Vision, the San Diego Water Board recognizes that it can only succeed through continual learning and innovation and the application of sound science in its decision-making. The state of science concerning fecal indicators continues to evolve and the San Diego Water Board is committed to being involved in the development of new indicators to further the science, improve our understanding of the sources, fate, and transport of fecal indicator bacteria, and improve waste management and abatement. Improving the science could improve the assessment and management of the REC-1 beneficial use, which could increase the number of days and locations where water contact recreation can be safely enjoyed by locals and visitors and decrease funds spent on bacteria abatement over time. Furthermore, the placement of a project on the priority list does not guarantee a project will come to fruition but rather indicates the San Diego Water Board will investigate further to determine if the project is sensible and feasible. Should the San Diego Water Board determine to move forward with the project, a separate Basin Plan amendment process (including CEQA and public participation) would be required.

D. Mr. Barry Pulver

1. Comment

A high priority project should be to obtain sufficient resources to allow the Water Board to properly perform Basin Planning activities. The Draft Triennial Review states that the Water Board "is allocated limited personnel years to administer the Basin Plan program, which includes implementing Triennial Review projects," and that that the "number of potential Basin Plan amendments identified exceeds expected available personnel resources." This concern regarding limited resources --a polite way of saying inadequate resources to administer the program -- was echoed by Water Board staff during the July 20, 2021, Virtual Workshop. It is apparent that a high priority project must be able to secure adequate funding.

Response

The San Diego Water Board is judicious in allocating its limited resources on the region's highest priorities and looks for opportunities to leverage existing resources and form collaborative partnerships to increase funding sources. For instance, to implement the prior triennial basin plan work plan, the San Diego Water Board worked in partnerships with local municipalities and stakeholders who provided significant scientific and public participation resources. The San Diego Water Board expects similar partnerships for this cycle and will continue to search for additional opportunities to augment funding.

2. Comment

Highest Priority Should be for Projects that Address Adaptations to Global Climate Change, and Social Equity and Environmental Justice. Adaptations to Global Climate Change.

Projects addressing Global Climate Change should be a high priority for selecting Triennial Review Projects. The following two Triennial Review Projects should be changed to High Priority Projects: *Project 5: Evaluation of Water Quality Objectives for Total Dissolved Solids in the Middle San Juan and Middle Trabuco Groundwater Basins*, and *Project 8: Impediments to Sustainable Local Water Supply* (which should be renamed Removal of Impediments to Sustainable Local Water Supply).

Two areas where the Water Board can take actions relate to (1) sea level rise, and (2) changes in climate that will result in more frequent and more severe droughts, requiring a sustainable local water supply.

Water Quality Objectives for Total Dissolved Solids in the Middle San Juan and Middle Trabuco Groundwater Basins, and Impediments to Sustainable Local Water Supply, should be high priority projects because they will likely require revisions to the Water Quality Objects to continue to protect beneficial uses, and allow for increasing the use of recycled water, resulting in increasing a sustainable local water supply.

The Water Board should consider an evaluation to identify listed beneficial uses that may no longer be valid due to Global Climate Change. Rather than using historic and/or current conditions, this evaluation will look at future conditions. Predicted changes in air temperature and rainfall will likely alter the physical environment of the region, and result in environmental conditions that will no longer support some beneficial uses. This would help direct the Water Board to focus its limited resources on protecting beneficial uses that will continue to exist, such as protecting shorelines and beaches from a rising sea level.

Response

Climate change is affecting both the beneficial uses of the region and implementation programs to protect them. The San Diego Water Board is committed to addressing climate change threats and relies on several guiding documents, including but not limited to the Practical Vision, Resolutions R9-2017-0030 – *Key Beneficial Uses and Key Areas: focusing on What is Most Important*, R9-2018-0051- *Addressing Threats to Beneficial Uses from Climate Change*, as well as Statewide guidance such as *Safeguarding California* the State's adaptation strategy that provides a roadmap to build climate change resiliency, guidance from the Ocean Protection Council, and California's climate change scientific assessments. The San Diego Water Board is also participating in statewide efforts on ocean acidification and harmful algal blooms.

Furthermore, climate change considerations are incorporated into any new Basin Plan amendments and Board staff use available tools when evaluating project proposals received within the different programs. Applicable laws and regulations also serve as guides to identifying program priorities.

3. Comment

The Draft Triennial Review correctly lists *Project 1: Designation of Tribal Tradition and Culture (CUL), and Tribal Subsistence Fishing (T-SUB) Beneficial Uses to Surface Waters in the San Diego Region* as a high priority project as it works to achieve Environmental Justice.

It is clear that the Water Board considers projects that address Environmental Justice a high priority. That high priority should also be used to evaluate projects for the Triennial Review.

The process to identify projects that address Environmental Justice must begin by identifying where Disadvantaged Communities are located. Pursuant to SB 535 (De Leon, Chapter 830, Statutes of 2012), CalEPA designated the highest scoring 25% of census tracts from CalEnviroScreen 3.0 as Disadvantaged Communities.

Once Disadvantaged Communities are identified, the next step is to identify projects within those communities that should be a high priority for the Triennial Review. The Integrated Report which lists Category 5 water quality limited segments identified according to CWA Section 303(d). Category 5 water body segments are those where standards are not met and a Total Maximum Daily Load (TMDL) is required. TMDLs require a Basin Plan Amendment, and therefore are valid Triennial Review Projects.

The Final 2010 Integrated Report (CWA Section 303(d) List/ 305(b) Report) lists several Category 5 water body segments in Disadvantaged Communities located in the Portside communities of San Diego, National City, Chula Vista, El Cajon. These limited water body segments include:

- Chollas Creek
- Forrester Creek
- Paleta Creek
- Paradise Creek
- Telegraph Canyon Creek
- As well as many segments along San Diego Bay.

These waterbodies should be considered as high priority Triennial Review Projects, and the priorities of the Triennial Review projects should be re-evaluated using Environmental Justice as a high priority

Response

High priority environmental justice projects are included in the 2021 priority list and include developing total maximum daily loads (TMDLs) for the Tijuana River and designation of the new Tribal beneficial uses to specific waterbodies. The [2021 Practical Vision](#) includes chapters to *Implement Racial Equity and Environmental Justice Measures* and *Partner and Consult with Tribal Nations*. The Practical Vision focuses the San Diego Water Board's efforts to achieve outcomes based regulatory approaches based on science and facilitates community engagement and collaboration. Due to the limited resources, the San Diego Water Board is not able to address each high priority project during each triennial review cycle.

The San Diego Water Board has spent significant resources over the last 20 years on many environmental justice sites not just in the TMDL program but also with the many regulatory tools in the different Water Board programs. For instance, legacy pollution in sediment, soil, and groundwater is a significant problem in many underserved communities and the San Diego Water Board Site Cleanup Program is making efforts to address these issues. The Site Cleanup Program has provided oversight and/or enforcement for water quality impacts at many industrialized sites located along the San Diego Bay shoreline, as well as other sites involving soil or groundwater remediation within underrepresented communities. Examples of environmental justice efforts made within the TMDL program include TMDLs for Chollas Creek which were developed and adopted in 2002 and 2007. The work done implementing the TMDL may produce data that can focus future restoration efforts to address other pollutants in underrepresented communities.

4. **Comment**

Editorial Revisions, Minor Clarifications or Corrections should be an included Project. This Project was included in the 2018, 2015, and 2011 Triennial Reviews, but not included as a Project in the current Draft Triennial Review.

This Project is also needed because the Basin Plan, as posted on the San Diego Water Board's website, has not been updated in over 5 years. A review should be made to ensure that the Basin Plan is up-to-date, or if additional information should be included.

Response

The San Diego Basin Plan is a living document that requires periodic updates. All changes to the Basin Plan, even simple updates, must undergo formal rule-making processes that take time to develop.

The 2018 Triennial Review included a non-regulatory Basin Plan amendment where text was changed to reflect current information. This amendment was completed in Fall 2021 and an updated version of the Basin Plan was recently posted on the San Diego Water Board [webpage](#). During this triennial review cycle, the San Diego Water Board does not expect to see changes to laws, regulations, etc. that would justify a non-regulatory update. However, non-regulatory updates can be included within one of the planned regulatory amendments.

E. Riverside County Flood Control and Water Conservation District

1. Comment

Project 6: Santa Margarita River Nutrient Total Maximum Daily Loads. As part of this work, a large amount of information has been developed regarding the sources of nutrients in the watershed. The District requests that this information be reflected in the project description. In particular, the project description should acknowledge agriculture (i.e., irrigated lands) as the primary source of nutrients in the watershed, as the goals of the project will not be able to be achieved without addressing agriculture.

Response

The current project description already identifies irrigated lands as a major source of nutrients. For purposes of the Triennial Review, the project description is intended to convey a broad view of the overall project to the public and does not provide explicit project details, nor is it intended to limit the scope of the project.

2. Comment

Project 6: Santa Margarita River Nutrient Total Maximum Daily Loads. Through the course of the project, and as stated by Regional Water Board staff in the July 20 workshop, the focus of the project has shifted to the development and implementation of a TMDL Alternative, rather than a traditional TMDL. To reflect the current (and preferred) approach, the District requests that the title of the project be modified to "Santa Margarita River Nutrient TMDL Alternative" and the goal of the project be changed to "Adoption of a TMDL Alternative addressing nutrient impacts in the Santa Margarita River."

One of the potential outcomes of the project is consideration of modifications to the beneficial uses and/or dissolved oxygen objectives in the lower portion of the River to better reflect the intermittent nature of that reach. If a use attainability analysis (UAA) and/or site-specific objective (SSO) is developed, Basin Planning resources would be needed to develop the resulting Basin Plan Amendment. The project description should include a sentence describing the potential for a UAA and/or SSO to be developed and brought to the Board for consideration.

Response

In accordance with the United States Environmental Protection Agency (USEPA) memorandum *Information Concerning 2016 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions*, alternative restoration approaches to addressing impairments to Category 5 waterbodies are available. However, these waterbodies will remain on the Clean Water Act Section 303(d) list of impaired water bodies and still require total maximum daily loads (TMDLs) until water quality standards are attained. Thus, a TMDL analysis for nutrients (nitrogen and phosphorus) will be performed to identify sources and appropriate loadings from those sources, and address all the components of a TMDL analysis as defined by the [USEPA](#).

However, in recognition of the current direction of the San Diego Water Board to develop a Water Quality Restoration Plan, the title has been changed to “Santa Margarita River Nutrient Total Maximum Daily Loads, Water Quality Restoration Plan” and the goal has been updated to “Adoption of a Water Quality Restoration Plan or Total Maximum Daily Loads”. In addition, text has been added to the project description to clarify that if the Water Quality Restoration Plan does not achieve applicable Water Quality Objectives in the Water Quality Control Plan for the San Diego Basin, TMDLs will be prepared for formal adoption. Before the Restoration Plan would be determined to be unsuccessful, compliance with NPDES permits and WDRs will be assessed and enforced. Consistent with federal regulations, traditional regulatory TMDLs will be promptly prepared for Board consideration if the permitted discharge requirements are not sufficient to achieve the WQOs.

3. Comment

Project 6: Santa Margarita River Nutrient Total Maximum Daily Loads. Based on the latest approved State Water Board 303(d) listings (2014-2016 Integrated Report) and supported by the draft 2020-2022 303(d) list, the Santa Margarita River is listed for nutrients (nitrogen and phosphorus) and is not listed for eutrophication. Further, water bodies attaining standards generally "support" beneficial uses. Language in paragraph 2 of the project description should be corrected as follows:

To address the impairment for nutrients, the San Diego Water Board is currently developing a Water Quality Restoration Plan (Restoration Plan) for the Santa Margarita River with numerous stakeholders to ensure that discharges to the river do not exceed the capacity (or maximum daily load) the river can assimilate while still supporting its designated beneficial uses.

Response

The Santa Margarita River is listed for numerous pollutants, including nitrogen and phosphorus, also known as nutrients. Nutrient reduction is the focus of the current project. Eutrophication is a condition caused by excess nutrients. The term “eutrophication” used in the brief project description was not meant to suggest the River is listed for eutrophication, but rather restoration plans are meant to address this condition which can occur with the presence of excess nutrients. Eutrophication responses have been documented in the Santa Margarita River including low dissolved oxygen and excessive algal biomass.

4. Comment

Project 3: Biological Objectives for Water Bodies in the San Diego Region. The District requests that the Triennial Review Project No. 3 include language to acknowledge that additional Basin Planning resources will be needed during the 2021 Triennial Review period to support implementation of the objectives.

Response

Adoption of Basin Plan amendments is a multi-step process. The initial phase of the Biological Objectives project from the 2018 Triennial Review list is complete. The project is on the 2021 Triennial Review list to show resources will be spent to conduct the second phase of the amendment adoption. The second phase work, described in the second paragraph of the project description, includes taking the Basin Plan amendment to the State Water Board, the Office of Administrative Law, and finally USEPA for approval.

These tasks require San Diego Water Board use of Basin Planning resources. Implementation of the objectives can only be done once all of these tasks are complete. Furthermore, the project description is intended to convey a broad view of the overall project to the public in general and does not provide explicit project details, nor is it intended to limit the scope of the project.

5. **Comment**

Project 1. Designation of Tribal and Culture (CUL), and Tribal Subsistence Fishing (T-SUB) Beneficial Uses to Surface Waters in the San Diego Region. While the District is generally supportive of the priorities expressed in the Preliminary List, we offer the following considerations for three of the priority projects based on our experience in working with the Regional Water Board and stakeholders over the past several years. These projects include (in order of priority for the District):

Project 6. Santa Margarita River Nutrient Total Maximum Daily Loads

Project 3. Biological Objectives for Water Bodies in the San Diego Region

Project 1. Designation of Tribal and Culture (CUL), and Tribal Subsistence Fishing (T- SUB) Beneficial Uses to Surface Waters in the San Diego Region

Response

Thank you for your comment. The San Diego Water Board has allotted staff time and resources to each of these projects for fiscal year 21-22. These projects are expected to move forward during the 2021 Triennial Review cycle if there are not any unforeseen changes in staffing or funding.

F. Environmental Law Group LLP

The Environmental Law Group LLP submitted comments on behalf of various industry stakeholders including the Industrial Environmental Association, Building Industry Association of San Diego, Construction Industry Coalition on Water Quality and other affected stakeholders

1. **Comment**

Should the secondary MCL for iron, incorporated into the Basin Plan solely for aesthetic reasons more than forty years ago, and not based on any finding of harm to human health, aquatic life, or the environment, be a primary receiving water limitation that is applicable to the Industrial and Construction General Stormwater Permits (General Permits)?

Response:

The commentor questions the use of U.S. EPA's secondary MCL drinking water guidance to set WQOs, specifically for iron, for receiving waters. Furthermore, the commentor requests guidance on interpreting specific permits. The interpretation of permit requirements is important to permittees, the public, and to maintaining healthy waters throughout the region. However, the role of the Triennial Review is to establish projects that may lead to a Basin Plan amendment, which is not the appropriate regulatory tool to offer timely guidance on permits that change over time. Your comments have been provided to our Storm Water staff who are available to discuss permit interpretation and implementation.

To further answer your questions about water quality standards and permits, please refer to the letter from the San Diego Water Board sent to the Environmental Law Group LLP dated August 6, 2021.

2. Comment

If the secondary MCL for iron as listed in Table 3-2 is an applicable receiving water limitation for the General Permits, can the Regional Board state why such a standard is necessary to protect human health, aquatic life, or the environment?

Response

Secondary maximum contaminant levels, that are codified in the California Code of Regulations and separately adopted into the Basin Plan, are set for reasons other than threats to human health and the environment. For waters designated with the municipal (MUN) beneficial use, the basin plan incorporates the secondary MCLs to protect sources of drinking water. In the case of iron, excess amounts in water may cause aesthetic or technical effects that include issues with color, odor, taste, corrosion, staining, scaling, and sediments. These types of water quality impacts can negatively affect any of the designated beneficial uses or lead to nuisance conditions.

3. Comment

If the secondary MCL for iron listed in Table 3-2 is an applicable receiving water limitation for the General Permits, does this standard still apply even when the water body has been excepted from municipal use in Table 2-2?

Correspondence from Lori Okun dated August 6, 2021 indicates that certain water bodies that are designated as exempt from municipal use in Table 2-2 may still have the 0.3 mg/L applied for reasons not identified in the Basin Plan. For any water body that is exempted from municipal use in Table 2-2, but which the RWQCB believes the 0.3 mg/L MCL for iron should apply, can the RWQCB identify the reasons for applying this standard? This information is not stated in the Basin Plan and is critical for understanding permittee obligations under the General Permits.

Response

The beneficial use for Municipal and Domestic Supply (MUN) does not represent all of the beneficial uses that may apply. The State Water Board has defined more than 30 beneficial uses that are used in water quality control plans statewide. In the San Diego region specific waterbodies may be designated with multiple beneficial uses.

Resolution 88-63 is the statewide policy for "Sources of Drinking Water" and describes conditions when waters may be exempted from adhering to drinking water standards. It does not remove beneficial uses from waters and it does not affect other water quality standards that may apply to protect other designated beneficial uses that are not MUN. The San Diego Water Board's action to exempt waters from MUN based on compliance with policy does not change other designated beneficial uses or the water quality standards that protect them.

4. Comment

Is a "desired goal" that "appears to be 0.1 mg/L total P" (a value which appears to be below natural atmospheric conditions) a primary receiving water limitation that is applicable to the General Permits?

Response

See Response to Comment F.1.

5. Comment

If this apparent "desired goal" is an applicable receiving water limitation for the General Permits, can the Regional Board state why a standard that is twenty times less than the standard set by EPA in the Multi-Sector General Permits and the State of California in the General Permits necessary to protect human health, aquatic life, or the environment, specifically in Region 9?

Response

Water quality standards in the regional Basin Plans are often, but not necessarily, copies of statewide or national standards. They are set to protect beneficial uses in specific regions based on local data and/or conditions. As allowed under the California Water Code, water quality control plans, like the San Diego Basin Plan, set water quality standards. Permits set prohibitions, and requirements, and provide guidance on how to comply with water quality standards for specific activities that use or can impact water quality.

Although not every region has established numeric objectives for nutrients, the San Diego Water Board, through prior rule-making processes, established narrative and numeric WQOs for nutrients. Note that USEPA is requiring all states to develop nutrient criteria, and in response, the State of California is currently developing biostimulatory substances provisions that will be applicable throughout the state. For more information on the statewide initiative, please see the State Water Board's web site: [Biostimulatory Substances Objective and Program to Implement Biological Integrity | California State Water Resources Control Board](#).

6. Comment

If the Regional Board finds that either the secondary drinking water standard for iron (at .3 mg/L) or the apparent desired goal for phosphorus (at .1 mg/L) is an applicable water quality standard that is incorporated into the General Permits, the next question is how should alleged exceedances of these values be measured?

- a. First, Table 3-2 states that these values are not to be exceeded more than 10% of the time during any one year period. However, the Industrial General Permit requires storm water samples to be collected four times during the July 1 through June 30 storm water year.¹ This raises questions of how the 10% value can be applied to this sample set.
- b. Second, Endnote a (with respect to phosphorus) states that, "These values are not to be exceeded more than 10% of the time unless studies of the specific body in question clearly show that water quality objective changes are permissible and changes are approved by the Regional Board." In the approximate forty-five years since these goals were suggested, has the Regional Board considered whether water quality

objective changes are permissible for any of these water bodies? What would be required for such an evaluation?

- c. Third, where should storm water samples be collected in order to consider whether there has been an exceedance of these values? In the case of *Gary Lundsford v. Arrowhead Brass and Plumbing* (Case 2:16-cv-08373-PA-KS) the United States Department of Justice ("DOJ") filed a motion in opposition to the Court's entry of a proposed Consent Decree (to settle alleged violations of the Clean Water Act) for several reasons. Among these were the adequacy of both the sampling method and the sampling location to determine whether the discharger had caused or contributed to an exceedance of a Water Quality Objective in the receiving water. DOJ, with the apparent concurrence of both US EPA and the State Water Resources Control Board, concluded that: 1) an exceedance of a Water Quality Objective in the receiving water requires long term monitoring; and 2) compliance with the receiving water limitations generally cannot be determined solely by the facility's effluent water quality characteristics.

This is consistent with Finding E.37 in the Industrial General Permit: "Water quality standards apply to the quality of the receiving water, not the quality of the industrial storm water discharge. Therefore, compliance with the receiving water limitations generally cannot be determined solely by the effluent water quality characteristics." Similar language can be found in the Draft Construction Permit. This is reiterated in Ms. Okun's August 6, 2021, letter which stated, "the primary receiving water limitation does not establish end-of-pipe limitations and effluent data alone are generally not adequate to demonstrate a discharger is violating the primary receiving water limitation."

- d. Thus, as part of the Triennial Review, we ask that the Regional Board consider, and if possible, clarify the following in the Basin Plan: If the Regional Board finds that either the secondary drinking water standard for iron (.3 mg/L) or the apparent goal for phosphorus (.1 mg/L) is an applicable water quality standard incorporated into the General Permits, how should alleged exceedances of these values be calculated given that a) Table 3-2 indicates that the value should not be exceeded more than 10% of the time during any one year period; and b) the primary receiving water limitation does not establish end-of-pipe limitations and effluent data are generally not adequate to demonstrate a discharger is violating the primary receiving water limitation?

Response

The commentor asks hypothetical questions for monitoring and assessment to define exceedances of specific permits and include the possibility of Basin Plan amendments for Water Quality Objectives. These issues are important to permittees, the public, and to our efforts to maintain healthy waters throughout the region. However, defining potential responses to exceedances of specific permits is outside the scope of a triennial review project. To further answer your questions, please refer to the letter from the San Diego Water Board sent to the Environmental Law Group LLP dated August 6, 2021.

G. County of San Diego

1. Comment

The County supports the inclusion of the Contact Water Recreation (REC-1) Water Quality Objectives project as a priority for the 2021 Triennial Review and requests that it be included as a Priority 1 project.

Response

The San Diego Water Board considers the REC-1 project a high priority project. The project has been listed as a priority 2 because the development of the project is dependent on other actions being completed first, such as the implementation of Investigative Order R9-2019-0014.¹

2. Comment

The County requests the language of project 4 be modified to allow indicators of risk other than HF183 to be used as a narrative translator. Science is rapidly evolving, and it may be appropriate to include other translators of the narrative objective in addition, or as alternatives to, HF183. As currently written, the narrative translator appears to be limited to HF183 only.

Response

The San Diego Water Board agrees that the state of the science concerning fecal material indicators continues to evolve. Furthermore, the San Diego Water Board is committed to the application of sound science in its decision making. When establishing a new water quality objective, the San Diego Water Board must evaluate whether the proposed parameter is scientifically defensible and protective of the contact recreation beneficial use. It must also evaluate whether a consistent and predictable relationship exists between the enumeration methods and an established indicator/health relationship in the range of the recommended criteria. Therefore, the San Diego Water Board does not have the ability to allow the use of other indicators without proper evaluation. The San Diego Water Board can develop other numeric objectives as newer methodologies emerge and are established as necessary for the protection of human health and the environment. The San Diego Water Board continues to evaluate other indicators of risk to determine their potential as an appropriate numeric translator for a narrative water quality objective.

3. **Comment**

The County is concerned that, as currently drafted, language in the last paragraph of project 4 is counter to the intent of the Regional Water Board's 2014 Triennial Review recommendations and may limit the best application of the latest science. The County supports a risk-based approach for REC-1 bacteria objectives that are incorporated into Bacteria TMDLs. The County requests that the Regional Water Board consider a risk-based approach as an alternative to the current bacteria indicators for REC-1 bacteria TMDLs. Accordingly, the County requests that the last paragraph in the Project 4 description be removed.

Response

The project description has been updated to remove the last paragraph.

4. **Comment**

The County requests that project 3 (Biological Objectives for Water Bodies in the San Diego Region) include language to acknowledge that additional Basin Planning resources may be needed during the 2021 Triennial Review period to support implementation of the objectives.

Response

See Response to Comment E.4.

5. **Comment**

For project 6 (Santa Margarita River Nutrient Total Maximum Daily Loads), the intent has shifted from a traditional TMDL towards the development and adoption of a TMDL alternative, associated changes to the Basin Plan, if needed, and updates to the MS4 Permit. The stakeholders have agreed to implement a Water Quality Restoration Plan to achieve the desired outcomes. The County requests that this shift in the regulatory approach be recognized by modifying the title of the project to "Santa Margarita River Nutrient Water Quality Restoration Plan" and the Goal be changed to "Adoption of a Water Quality Restoration Plan that will serve as a Total Maximum Daily Load".

Response

See Response to Comment E.2.

¹ An Order Directing the City of San Diego, the City of Santee, the City of El Cajon, the City of La Mesa, the County of San Diego, the San Diego County Sanitation District, the Padre Dam Municipal Water District, San Diego State University, the Metropolitan Transit System, and the California Department of Transportation To Submit Technical and Monitoring Reports to Identify and Quantify the Sources and Transport Pathways of Human Fecal Material to the Lower San Diego River Watershed

6. **Comment**

The County recommends that the Regional Water Board consider adding another project to the Preliminary List to initiate a Basin Plan amendment project to revise each of the Chollas Creek TMDLs to remove the County of San Diego as a responsible party.

Response

Thank you for your comment. The San Diego Water Board is aware that the County no longer has jurisdiction over land in the area subject to the Chollas Creek TMDLs, thus the implementing permits will be drafted and assessed accordingly. However, resources for the 2021 Triennial Review Cycle are being allocated towards high priority water quality issues that are consistent with the Practical Vision. This project may be considered for project development if resources allow.

H. City of San Diego

1. **Comment**

Project 1: Designation of Tribal Tradition and Culture (CUL) and Tribal Subsistence Fishing (T-SUB) beneficial uses. The City requests additional information regarding how the new Tribal Tradition and Culture (CUL) and Tribal Subsistence Fishing (T-SUB) beneficial uses will complement existing beneficial uses, in particular, the Municipal and Domestic Water Supply (MUN) beneficial use for impoundments constructed for the primary purpose of water supply. We look forward to working with the tribal governments and the San Diego Regional Water Quality Control Board (Regional Board) in aligning the implementation of these beneficial uses.

Response

Developing a Basin Plan amendment to designate the new beneficial uses to waterbodies will take considerable efforts by the San Diego Water Board, Tribes, and other stakeholders. The project is in its early stages and the approach is being formulated. As the project moves forward the San Diego Water Board will continue to foster a collaborative approach to work with Tribal representatives, State Water Board, U.S. EPA, and other stakeholders.

2. **Comment**

Project 2: Tijuana River Valley Water Quality Restoration. The City supports the Regional Board's efforts in the Tijuana River Valley for the development of a TMDL that appropriately addresses sources.

Response

Comment noted.

3. **Comment**

Project 3: Biological Objectives for Water Bodies in the San Diego Region. The City supports biological objectives based on scientific data. To support this recommendation, the City requests more detail on how modified channels will be able to meet these requirements given that the Southern California Monitoring Coalition, with technical assistance from the Southern California Coastal Waters Research Project, has advised that additional studies are needed to determine if the requirements are achievable, and meet CWC §13241(c) requirement: “Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.”

Response

The San Diego Water Board is encouraged that the Southern California Stormwater Monitoring Coalition is developing a study to fill information gaps in how biological communities are affected by stream channel modifications. We understand the project, if funded, will not begin until fiscal year 2022-23 and results from the study will not be available until well after commencement of the study.

The current Basin Plan amendment for biological objectives with implementation provisions was adopted by the San Diego Water Board in December 2020. While it is still undergoing subsequent approval processes, any changes that may be made to the Basin Plan amendment will be a logical outgrowth of these processes and will not include results from the proposed SMC study. Nonetheless, we expect the study results could assist in protecting and achieving the biological objective throughout modified channels.

4. Comment

Project 4: Contact Water Recreation (REC-1) Water Quality Objectives

The City supports projects to assess bacteria contamination in our recreational waters and supports this Project with modifying the baseline criteria. The Human Factor (HF) 183 is a good tool to assist with source tracking of bacteria sources from humans that have a higher potential to cause illness than bacteria from animals. However, HF183 should not be an alternative compliance metric until HF183 standards comparable to Fecal Indicator Bacteria (FIB) REC 1 standards can be developed. The development of an alternative HF183 standard that can be used in place of the current fecal indicator bacteria instead of an additional bacteria-related metric should be a priority due to the potential for illness and public health.

Response:

Comment noted. As part of this project, the San Diego Water Board will be investigating the feasibility of developing a narrative water quality objective with an HF183 translator. When establishing a new water quality objective, the San Diego Water Board must evaluate whether the proposed parameter is scientifically defensible and protective of the contact recreation beneficial use. It must also evaluate whether a consistent and predictable relationship exists between the enumeration methods and an established indicator/health relationship in the range of the recommended criteria.

5. Comment

The City requests the ability to select HF183 as a tool to demonstrate evidence of compliance, but no discharger should be held to compliance standards until such time that there is an order with a clear nexus based on robust scientific data established between numerical HF183 results and the risk to public health. There is one example of HF183 compliance requirements in the South Bay Water Reclamation Plant Permit Order No. R9-2021-0011, found on Page E-28, Footnotes 11 and 12, Attachment E, §4.2.2 on page E-29, and Attachment F, §7.2.2.2 on page F-57. These requirements are not found in the Municipal Separate Storm Sewer System permit; however, the South Bay Reclamation Plant is a sample of how the new analytical method can be applied if adequately supported by analytical data.

Response

Thank you for your comment. Order No. R9-2021-0011 includes HF183 receiving water monitoring requirements when the compliance rate falls below a specified percentage. Information gathered is used for informational purposes rather than for determining compliance with water quality standards. While HF183 can be useful for assessing conditions and prioritizing actions, the approach used in Order No. R9-2021-0011 would not be appropriate for determining compliance with a final TMDL target because the actual TMDL constituent must be assessed.

6. Comment

The City recommends that that Project 4 be modified as suggested and moved up to a priority one (1) classification to protect the millions of citizens and visitors that visit San Diego beaches and parks annually.

Response

See Response to Comment G.1.

7. Comment

Project 5: Evaluation of Water Quality Objectives for Total Dissolved Solids in the Middle San Juan and Middle Trabuco Groundwater Basins. The City is interested in this Project's results.

Response

Comment noted.

8. Comment

Project 6: Santa Margarita River Nutrient Total Maximum Daily Load. The City is interested in this Project's results.

Response

Comment noted. To keep informed about the project please sign up for the "Santa Margarita River Watershed TMDLs" email list at: [Email List Subscription Form | San Diego Regional Board \(ca.gov\)](#)

9. Comment

Project 7: Review of Shelter Island Yacht Basin (SIYB) Copper TMDL and/or Implementation Plan. The City is interested in this Project's results.

Response

Comment noted. Comment noted. To keep informed about the project please sign up for the "Shelter Island Yacht Basin TMDLs" email list: [Email List Subscription Form | San Diego Regional Board \(ca.gov\)](#)

10. **Comment**

Project 8: Impediments to Sustainable Local Water Supplies. The City recommends elevating this Project to priority one (1).

Response

The San Diego Water Board agrees that supporting efforts to increase sustainable and resilient local water supplies is a high priority. This project was not classified as a priority 1 project because significant impediments in the Basin Plan have not been identified, however the San Diego Water Board will continue to assess potential impediments as conditions and technology change.

Additionally, in prioritizing the proposed projects consideration was given to a project's readiness to move forward with developing a Basin Plan amendment and the adoption process.

I. **Orange County Public Works**

1. **Comment**

Project 4: Contact Water Recreation (REC-1) Water Quality Objectives should be assigned Tier 1 priority.

Response

See Response to Comments G.1.

2. **Comment**

Regarding Project 4: the San Diego Water Board should Reopen and revise the Bacteria TMDLs through a Basin Plan Amendment (BPA) to reflect the adopted Statewide Bacteria Provisions.

Response

As identified in the project description, one of the goals during this phase of the project is to initiate a Basin Plan amendment to revise the requirements and/or provisions for implementing the bacteria TMDLs in the San Diego Region. Furthermore, this project also proposes to initiate the development of a narrative risk-based objective that could ultimately be incorporated into the TMDLs. It is prudent to delay the reopening of the TMDL until work on the latter has been completed.

3. **Comment**

Regarding Project 4: the San Diego Water Board should continue to work on completing the short- and long-term action identified in the 2014 Triennial Review Project Evaluation Staff Report and conduct additional as-needed BPA based on the completion of these actions.

Response

In July 2018, San Diego Water Board staff prepared a summary report of the REC-1 Triennial Review Project that made recommendations on next steps. San Diego Water Board staff continue to implement recommendations within its various programs, as appropriate. Furthermore, staff from the various implementing programs continue to meet on a bimonthly basis to share information and coordinate actions.

4. **Comment**

Regarding Project 4: the San Diego Water Board should develop a schedule for when the tasks included in this proposed project will be completed.

Response

A project schedule will be developed when scope of the project has been further developed.

5. Comment

Regarding Project 4: South Orange County Permittees have completed two rounds of Outfall Capture Feasibility Studies which have confirmed that tertiary treated recycled water distributed within South Orange County contains human-specific marker HF183. Water quality permits issued by the State Water Resources Control Board (State Water Board) and the Water Board allow for recycled water discharges under appropriate conditions provided the effluent limitations are met in the discharge. The County requests that the influence of tertiary treated recycled water be taken into consideration when developing a narrative risk-based objective and establishing a numeric translator for HF183. Other lines of evidence should also be considered to help differentiate between HF183 from fresh/untreated human waste sources and tertiary treated recycled water sources.

Response

Comment noted. This will be considered once the scope of the project is further developed.

6. Comment

Regarding Project 4: consider incorporating a weight of evidence approach to improve the assessment of health risks associated with contact water recreation, as FIB offer limited insights.

Response

Comment noted.

7. Comment

Regarding Project 4: the development of a proposed narrative risk-based objective should be considered a supplement to the current Bacteria TMDL objectives. Copermitees should be given the option of complying with either the existing Bacteria TMDL objectives or the proposed narrative objective, not both. Requiring Copermitees to comply with both is burdensome, costly, and inconsistent with the findings of the Cost-Benefit Analysis and the Regional MS4 Permit. The Regional MS4 permit includes multiple compliance pathways for the Bacteria TMDLs, therefore compliance with the proposed narrative risk-based objectives should be added as an additional compliance pathway.

Response

Comment noted.

8. Comment

Regarding Project 4: the Southern California Stormwater Monitoring Coalition (SMC) has initiated a project from its 2019 research agenda called Linking Indicators of Fecal Contamination to Human Health Risk. The goal of this project is to quantify human fecal indicators such as HF183 and human pathogens concurrently in stormwater, and to incorporate these measurements into a quantitative microbial risk assessment (QMRA) modeling framework that provides the tools to link human fecal indicator concentrations to human health risk. This information will aid in the interpretation of human fecal indicator concentrations measured in stormwater and stormwater impacted receiving waters. The County requests that the Water Board consider incorporating the findings from this SMC project into revisions of the wet weather objectives for the Bacteria TMDL as part of Project 4 efforts.

Response

Comment noted. The San Diego Water Board will evaluate all available information and data in the potential development of a new water quality objective.

9. Comment

Regarding Project 4: Correct the Bacteria, Project I – Twenty Beaches and Creeks TMDL adoption date on the notice to February 2010. It incorrectly states the bacteria TMDL was adopted in February 2020.

Response

Comment noted. The date has been corrected in the staff report.

10. Comment

Project 3: Biological Objectives for Water Bodies in the San Diego Region. The project discussion identifies that additional Water Board staff time is needed to obtain final approval of the BPA Biological Objective which must be approved by the State Water Board, the Office of Administrative Law (OAL), and US Environmental Project Agency (USEPA). At this time, the County offers the following comment with respect to the proposed project:

In reviewing SMC data from streams sampled in south Orange County, when compared to natural streams, partially and fully engineered streams which double as flood control channels have significantly lower California Stream Condition Index (CSCI) scores. Understanding the reasons behind these lower scores and the potential for these engineered channels to achieve the numeric water quality objective associated with this proposed BPA (.79 CSCI score or above), is critical to their ability to continue to provide adequate flood protection to surrounding communities. The SMC is currently developing a scope of work for a project from its 2019 research agenda titled *Establishing a Framework for Characterizing How Channel Modification and Surrounding Development Affects Ecological Potential of Streams in Southern California*. This project, which would begin in fiscal year 2022-23 if funded, is designed to help fill information gaps in how biological communities are affected by stream modification and will develop an approach to interpret biological data from highly altered streams which are engineered to provide flood control function. The County requests that this project incorporate findings/results from this SMC project (assuming it is funded) to inform how the proposed BPA should be applied to these types of stream reaches.

Response

Please see response H.3.

11. Comment

Project 8: Impediments to Sustainable Local Water Supplies

In addition to being responsible for Regional MS4 Permit compliance through the implementation of the WQIP, the County continues to actively participate in the South Orange County Watershed Management Area Integrated Regional Water Management (IRWM) Group. The County considers capture and beneficial use of dry weather flows and stormwater both an essential tool in the toolbox to address two WQIP Highest Priority Water Quality Conditions – unnatural water balance and channel erosion, and a key collaborative mechanism to achieve sustainable local water supply (incl. potable water offset). Based upon these priorities, the County offers the following comments with respect to this proposed project:

1. Creating sustainable water supplies in South Orange County includes offsetting imported water, which accounts for more than 90 percent of South Orange County's water supply. Facilitating non-potable water reuse should be added to the Water Board's evaluation and addressed in the resultant issue paper prepared by Water Board staff to reduce

- impediments to producing both potable and non-potable local water supply; and
2. Supporting production of local recycled water is a priority for the South Orange County IRWM Group, as expressed in the 2018 IRWM Plan goals, objectives, and strategies supportive of multi-benefit, multi-agency projects.

Regarding opportunities for collaboration and coordination with other agencies and stakeholders, the County generally supports the potential for multi-benefit projects reflected by several of the projects listed in the Preliminary List. The County will track and engage with the Water Board to develop projects included in this list that promote integrated, multi-benefit resource protection and enhancement that aligns with the South Orange County IRWM Plan.

Response

The project is meant to be inclusive of all types of augmentation to local water supplies. The project will identify functional areas in the Basin Plan that impede efforts to increase local water supplies and evaluate if a Basin Plan amendment is necessary.

J. South Orange County Wastewater Authority (SOCWA)

1. Comment

Intent of the letter is to express support of Project 5 – Evaluation of Water Quality Objectives for Total Dissolved Solids in the Middle San Juan and Middle Trabuco Groundwater Basins.

Response

Comment noted. Staff are currently reviewing the Salt and Nutrient Management Plan (SNMP) submitted in August 2021 for consistency with the Recycled Water Policy.

K. Santa Margarita Water District

1. Comment

Intent of the letter is to express support of Project 5 – Evaluation of Water Quality Objectives for Total Dissolved Solids in the Middle San Juan and Middle Trabuco Groundwater Basins.

Response

Comment noted.