

# Appendix D

## Response to Comments

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**2012 Triennial Review**  
**Response To Comments**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**  
**SAN FRANCISCO BAY REGION**

**November 7, 2012**

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## **STAFF RESPONSE TO COMMENTS ON THE SEPTEMBER 2012 TRIENNIEL REVIEW STAFF REPORT AND TENTATIVE RESOLUTION**

We received three comment letters during the public comment period, which closed on October 8, 2012. The comments and our responses are presented here.

Comment letters received:

1. United States Environmental Protection Agency (U.S. EPA, Janet Hashimoto)
2. Westlands Water District (Craig Manson) and State Water Contractors (Terry L. Erlewine)
3. North Marin Water District (Chris DeGabriele)

### **Comment Letter 1: U.S. EPA; October 5, 2012**

**Comment 1.1: “We support the identified priority Basin Planning projects, and thus support the adoption of the proposed resolution. We also concur with the statement “all candidate projects identified in the triennial review warrant investigation”, and encourage continued involvement in projects identified in the 2012 Triennial Review staff report but not included in Attachment A, as staff and external resources become available.”**

We appreciate the supportive comment. We will endeavor to accomplish as much as possible on the priority projects and other lower ranked projects as resources allow.

### **Comment Letter 2: Westlands Water District and State Water Contractors; October 8, 2012**

**Comment 2.1: “We are concerned, however, that despite the high priority given to establishing these [nutrient] objectives, the intent of the draft resolution is for the Regional Board to wait until the State Water Resources Control Board has fully completed its statewide Numeric Nutrient Endpoint (“NNE”) framework before the Regional Board begins to address ongoing nutrient impacts. While additional research and the statewide NNE framework will surely advance the body of knowledge regarding nutrients, the existing literature provides ample support for the Regional Board to develop numeric nutrient water quality objectives now.”**

The intent of the nutrient water quality objectives project is not to wait until the State Water Board has completed its NNE assessment framework before we begin our work in this area. As the project description in Appendix A of the Staff Report indicates, we are already engaged in work to develop a San Francisco Bay NNE framework that will be the foundation for assessing the Bay’s nutrient impairment. Current work on the San Francisco Bay NNE framework includes consideration and selection of appropriate nutrient-related indicators for the Bay, and the San Francisco Bay NNE project is proceeding in parallel to the State Water Board’s NNE efforts.

**Comment 2.2: “In fact, new field data and resulting analyses only continue to confirm that excess ammonium is a proximate contributing cause of the Delta’s declining ecosystem. Accordingly, the Public Water Agencies urge the Regional Board to rely on sound, existing science to address nutrient-related water quality impacts as expeditiously as possible. Indeed, the Public Water Agencies submit that the Regional Board should act now to prevent the harmful impacts of ammonium and other nutrients and to prevent the continuing impairment of the Bay-Delta Estuary and its aquatic life.”**

We appreciate the concerns raised about the health of the Delta ecosystem and are working with dischargers, the State and federal water contractors, public water agencies, and research scientists to develop sound science on the issue of low primary productivity, its causes, and the role of nutrients. We do not rule out the possibility that ammonium could be evaluated as a nutrient-related indicator through the San Francisco Bay NNE framework.

**Comment 2.3: “In addition, the Public Water Agencies request that as part of the project to develop numeric nutrient water quality objectives, the Regional Board staff identify and develop appropriate amendments to the Basin Plan’s implementation plan and monitoring program to regulate and monitor nutrients. Such amendments would include the use of waste discharge requirements orders to impose effluent limits that reduce nutrient loadings.”**

We agree. The development of nutrient water quality objectives would include preparation of an implementation plan and a monitoring program that would be part of a Basin Plan amendment. Appropriate nutrient load requirements would be considered in the development of the implementation plan. The San Francisco Bay NNE project is currently developing indicators of nutrient impairment and an assessment framework that would be used in a monitoring program.

### **Comment Letter 3: North Marin Water District; September 11, 2012**

**Comment 3.1: “Stafford Lake Reservoir is not a cold water resource. Since Stafford Lake Reservoir is used for municipal water supply, there is no contact recreation or boating permitted in or on the lake. Table 2-1 of the Basin Plan lists Stafford Lake as having existing cold freshwater habitat (COLD) and existing water contact recreation (REC-1). Both of these Basin Plan designations are in error. We are not planning to request a Basin Plan amendment but wish to document on record that Stafford Lake does not support cold water fisheries nor is body contact recreation permitted in Stafford Lake. If the SFBRWQCB should ever make changes in the Basin Plan, these designation changes might be made as a minor administrative revision.”**

We disagree that the cold freshwater habitat (COLD) beneficial use of this water body could be removed through a minor administrative revision based on the commenter’s declaration about the absence of cold freshwater habitat. In order to remove the COLD

beneficial use, there would need to be documentation provided that the use did not exist as of November 28, 1975, and does not currently exist. In addition, removing the designation would require a Basin Plan amendment.

The issue of water contact recreation (REC-1) in drinking water reservoirs where contact recreation is prohibited by the reservoir owner or operator was specifically addressed in our response to comments document for the 2010 Basin Plan amendment that updated beneficial use designations. In that response, we noted that it is common across the State for basin plans to designate REC-1 as an existing beneficial use for reservoirs, usually with a footnote or similar notation that public access is limited (designating the use by E\*). This is because contact recreation is considered a presumptive use under the federal Clean Water Act, which refers to the fishable, swimmable goals for waters of the United States. Further, in order to inform the public that such E\* designations for REC-1 do not convey a right to water contact recreation in these reservoirs, we added the following sentences to the discussion of the water contact recreation beneficial use in Basin Plan Section 2.1.15:

*Public access to drinking water reservoirs is limited or prohibited by reservoir owner/operators for purposes of protecting drinking water quality and public health. In some cases, access to reservoir tributaries is also limited. For these water bodies, REC-1 is designated as E\*, for the purpose of protecting water quality. No right to public access is intended by this designation.*

Moreover, in Basin Plan Section 2.2.1, we changed the definition of E\* in the legend for Table 2-1 to the language below:

*Water quality objectives apply; water contact recreation is prohibited or limited to protect public health.*