

**COMMENT SUMMARY AND RESPONSES**  
**2011 – 2013 TRIENNIAL REVIEW**

<b>List of Public Review Comment Letters</b>
1. Calleguas Creek Watershed Committee, Parties Implementing Calleguas Creek Watershed TMDLs
2. County Sanitation Districts of Los Angeles
3. Heal the Bay

<b>Number</b>	<b>Date</b>	<b>Comment</b>	<b>Response</b>
<b>1</b>	<b>December 30, 2011</b>	<b>Calleguas Creek Watershed Committee, Parties Implementing Calleguas Creek Watershed TMDLs</b>	
1.1		The Parties Implementing TMDLs in the Calleguas Creek Watershed (Parties) would like to take this opportunity to provide comments on the Los Angeles Regional Water Quality Control Board’s (Regional Board) “2011-2013 Triennial Review,” noticed on December 1, 2011. In general, the Parties support the modifications made to the priority list in response to comments on the Regional Board’s proposed “2011-2013 Triennial Review Issues to be Addressed” list provided on August 3, 2011. We appreciate that Regional Board staff has reduced the number of items on the list and prioritized resources.	Comment noted.
1.2		As stated in our previous comment letter, the Parties continue to feel it is important that Regional Board staff focus resources toward completing existing	Basin Planning is a continuous planning process and staff has completed or made significant progress on all of the priority projects from the

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		<p>Basin Planning activities and commitments before commencing work on substantial, new issues. We appreciate that two priorities were added to the list to acknowledge this ongoing resource need and feel that these priorities should be maintained and prioritized over new activities.</p> <ul style="list-style-type: none"> <li>▪ Provide support to other Los Angeles Water Board programs including TMDLs, Municipal Permitting, and Stormwater Permitting; and</li> <li>▪ Address legal and regulatory mandates (where required).</li> </ul>	<p>2008-2010 Triennial Review. Staff is committed to the completion of these projects even as a new list of priority projects is established as part of the current Triennial Review.</p> <p>Basin Planning work is integral to all Regional Board programs and staff will provide assistance to colleagues and address Basin Planning matters as they arise.</p>
1.3		<p>As part of this commitment to completing existing Basin Planning activities, the Parties continue to request that Basin Planning activities that have been previously conducted for waterbodies in Los Angeles County be considered for Ventura County where applicable. In particular, the Parties request that the reevaluation of recreational uses being conducted in the Los Angeles River and the High Flow Suspension completed for engineered channels in Los Angeles County be expanded to include Ventura County waterbodies. We feel that these previous triennial review items should be completed for the entire region prior to prioritizing additional items.</p>	<p>Staff will consider developing a high flow suspension Basin Plan Amendment for engineered channels in Ventura County, where applicable. This amendment would only apply during unsafe wet weather conditions and would be modeled after the amendment adopted for Los Angeles County in 2003. This project would ensure consistency in regional policies. This project has been added to the list of basin planning priorities for the 2011-2013 Triennial Review.</p> <p>See response to comment 2.3 and 3.5</p>
1.4		<p>In addition to the requests above, the Parties support the inclusion of a priority to develop technical guidance for making natural source determinations.</p>	<p>Comment noted.</p>

Number	Date	Comment	Response
2	December 27, 2011	<b>County Sanitation Districts, Los Angeles County</b>	
2.1		<p>The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate the opportunity to submit comments to the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) on the selected priorities for the 2011-2013 Triennial Review of the Los Angeles Basin Plan, as proposed on December 1, 2011. The Sanitation Districts are pleased to support the Regional Board's final selection of Basin Planning Projects.</p> <p>However, we would like to provide some additional input regarding the Draft Staff Report and Tentative Resolution released on December 1, 2011, as detailed below.</p>	Comment noted.
2.2		<p>As discussed in our October 13, 2011 letter on the Triennial Review priorities, the Sanitation Districts support collaboration with the stakeholder community in basin planning projects. While the Draft Staff Report specifically mentions that the Regional Board will solicit stakeholder involvement during pursuit of several of the recommended basin planning priorities, it does not mention a stakeholder process for input on development of technical guidance for making natural source determinations. Even though the Regional Board has indicated that the technical guidance will be prepared under a contract, the Sanitation Districts believe it is important that stakeholders be allowed an opportunity to participate during development of the guidance.</p>	<p>Stakeholder participation will be solicited during the development of technical guidance for making natural sources determinations. Regional Board Basin Planning staff solicits meaningful stakeholder participation on all projects, during the appropriate phase(s) of the project. As such, the priority project to develop technical guidance for making natural sources determinations will include a stakeholder process.</p> <p>Moreover, the anticipated scope of a contract to develop this project will focus on technical questions and potentially examine these questions in a case study. The contractor will not prepare Regional Board guidance or policy documents.</p>

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2.3		<p>Additionally, the Sanitation Districts appreciate the Regional Board's continued work on the reconsideration of application of REC-1 and REC-2 beneficial uses for engineered channels within the Los Angeles River watershed. The Draft Staff Report states that the regulated community would like this project to be expanded to all watersheds in the Region, but given the resources the project requires, staff will evaluate where it may be appropriate to expand the effort. The Sanitation Districts believe that assessing recreational uses is important and encourage the Regional Board to expand this effort to non-engineered channels and to other watersheds, including the San Gabriel and Santa Clara River watersheds.</p>	<p>As part of the 2008-2010 Triennial Review the Regional Board directed staff to re-evaluate the REC beneficial uses in engineered streams. As described in Section 3 of the staff report, this project is currently underway in the Los Angeles River watershed. This project requires significant staff resources for field reconnaissance, conducting recreational user surveys, compiling information on past recreational use, and evaluating information on future use attainability. Therefore, staff is proceeding with this project in a judicious manner and will evaluate where it may be most appropriate to expand this effort once the project in the Los Angeles River Watershed is complete.</p>
2.4		<p>Lastly, the Draft Staff Report and Tentative Resolution identify development of a Policy to Interpret Narrative Water Quality Objectives as a priority project. The Sanitation Districts see value in developing such a policy to ensure consistency when narrative standards are translated into permits. We support the intention of Regional Board staff, as expressed in the Draft Staff Report, to develop the policy as a decision framework rather than as prescriptive numeric thresholds. A policy that purely lists numeric thresholds could be taken out of context and applied in such a way that could result in unintended consequences. For example, an overly stringent interpretation of narrative groundwater objectives could inhibit expanded use of recycled water. Recycled water is an important resource and</p>	<p>Comment noted, staff appreciates stakeholder support of this project and looks forward to developing this policy with stakeholder cooperation. The Policy to Interpret Narrative Water Quality Objectives will be developed in accordance with all applicable legal and regulatory requirements.</p>

Number	Date	Comment	Response
		this new policy should not inadvertently limit its use. Furthermore, during the development of the Policy to Interpret Narrative Water Quality Objectives, the Sanitation Districts strongly encourage the Regional Board to consider the factors listed in California Water Code §13241.	
2.5		In summary, the Sanitation Districts support the Regional Board's selection of basin planning priority projects and encourage the Regional Board to consider the input in this letter as it moves forward with project implementation.	Comment noted.
	<b>December 23, 2011</b>	<b>Heal the Bay</b>	
3.1		<p>On behalf of Heal the Bay, we submit the following comments on the Los Angeles Regional Water Quality Control Board's ("Regional Board") 2011-2013 Triennial Review Staff Report dated December 1, 2011.</p> <p>We incorporate our comments from October 2011 regarding the public notice of this Triennial Review, as most of those comments still apply (see Attachment). For instance, the Regional Board should incorporate the Reasonable and Beneficial Reuse Doctrine and State Water Recycling Policy into the Basin Plan, update nutrient objectives in the Basin Plan to protect aquatic life, and provide clear guidance on the use of Best Professional Judgment. In addition to these comments, we have several other comments on the Staff Report and the list of recommended projects for this Triennial Review period that are detailed below.</p>	<p>The commenter has requested that the Regional Board incorporate the Reasonable and Beneficial Reuse Doctrine, the State Water Recycling Policy, and other relevant policies that have been adopted into Chapter 5 of the Basin Plan. Chapter 5 of the Basin Plan includes a list and summary of State Water Board plans and policies and Regional Board Resolutions. The "Reasonable and Beneficial Reuse Doctrine" is not a plan or policy adopted by the State Water Board, but rather is a short hand way of referring to Article 10, Section 2 of the State Constitution and Water Code section 275, which address methods of use and diversion of water, and therefore should not be incorporated into the Chapter on plans and policies. The Regional Board will add the State Water Board's Water Recycling Policy to the Chapter. The Water Recycling Policy will be added to Chapter 5 as part of the Basin Plan administrative update. The</p>

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			<p>Regional Board supports the comment about efficient use of water and is involved in actions to implement the Water Recycling Policy. Currently, through the combined work of US EPA, the State Water Board, and regional boards, the State Water Board is preparing to adopt a statewide Nutrient Policy, which would include water quality objectives and implementation tools to interpret and apply nutrient objectives statewide. This work is being done in collaboration with Los Angeles Water Board staff; staff will continue to actively participate in this work and support the adoption of statewide nutrient objectives.</p> <p>Staff follows US EPA guidance and the State Water Board's <i>Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California</i> (SIP) when conducting a reasonable potential analysis as part of developing NPDES permit limits. These guidance documents allow for the use of best professional judgment. Staff routinely reviews and considers all available data and information as part of the reasonable potential analysis and applies professional judgment to ensure that beneficial uses are protected.</p> <p>Staff is currently working to update Basin Plan Chapter 4 <i>Strategic Planning and Implementation</i> and will consider including a discussion regarding the use of best professional judgment.</p>
3.2		We support several of the projects recommended by	Comment noted.

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		<p>Staff in the Staff Report. Specifically, we support staff pursuing the following projects:</p> <ul style="list-style-type: none"> <li>▪ developing a general policy for interpreting narrative objectives</li> <li>▪ laying out a strategy for addressing CECs in the Los Angeles Region</li> <li>▪ developing the Los Angeles Region Groundwater Quality Protection Strategy</li> <li>▪ providing support to other Regional Board Programs including TMDLs, Municipal Permitting, and Stormwater Permitting</li> </ul>	
3.3		<p>The final recommendation to provide support to other programs should include and prioritize the important task of creating implementation plans for existing EPA drafted TMDLs, such as the Malibu Creek Nutrient TMDL. As an example, this TMDL has been in effect for over a decade and has not been effective because of the lack of an implementation plan with concrete milestones. This should be the first priority on the Triennial Review list.</p> <p>We also support staff's decision to not pursue several of the projects suggested by stakeholders such as the prioritization of human sources in determining compliance with objectives, and tiered aquatic life uses. As discussed in the staff report, these projects are not appropriate and lead to decreased beneficial use protection.</p>	<p>While US EPA established TMDLs do not include an implementation plan or schedule, permit provisions must still be consistent with the assumptions and requirements of available wasteload and load allocations from US EPA established TMDLs. Staff will consider, as resources allow, cooperating with stakeholders to develop implementation plans for specific US EPA established TMDLs. These will be prioritized for cases where the implementation plan will add particular value and assist with implementation.</p>
3.4		<p><b>The Regional Board should not pursue development of technical guidance for making Natural Source Determinations.</b></p>	<p>The development of Technical Guidance for Making Natural Sources Determinations is part of a statewide effort to develop a policy to address instances where water quality impairments are</p>

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		<p>The Staff Report includes a new recommendation for a priority project: “Develop Technical Guidance for making Natural Source Determinations.” We believe efforts to expand the natural source exclusion will weaken protection of aquatic life and should not be pursued as a priority project, especially with the limited staff resources available. Why did the Regional Board seek funding for this specific project when other projects from the last Triennial Review have not even been completed? We often see the regulated community blame birds, other animals, and geological formations for water quality issues in the environment. However, human activities often amplify impacts seen from these sources. If a development creates pooling water, for instance, this could be an attractive nuisance for birds, which means the impacts of these birds are truly caused by anthropogenic sources. In another example, if natural sources of minerals are identified, it should not give dischargers a free pass to discharge levels of these constituents that contribute to a water quality concern. If the waterbody is impaired by these constituents, the TMDL process should identify the sources and assign waste load allocations accordingly to protect beneficial uses. Dischargers to the Malibu Creek often blame the Monterey Geologic Formation for nutrient contributions to the environment. While we occasionally have seen nutrient levels in reference areas that are higher than normal, Heal the Bay’s sampling efforts in this watershed have shown much higher levels downstream of the Tapia effluent discharge point. Rather than wasting resources on this effort to</p>	<p>solely or predominantly as a result of naturally occurring pollutants. The intent of the policy is to streamline the manner in which natural source impairments are addressed statewide, particularly in relation to assessment of impairment and subsequent TMDL development. The consideration of natural source contributions in determining water quality impairments is not intended to weaken water quality protection, rather it will allow limited resources to be directed where they would have the most impact. This is the same rationale behind the Regional Board’s “<i>natural sources exclusion</i>” and “<i>reference system/antidegradation approach</i>” implementation provisions for the bacteria objectives.</p> <p>The issue of impairments due to naturally occurring pollutants has been continuously raised by stakeholders during previous triennial reviews but has not been addressed due to limited resources. The development of technical guidance for making natural source determinations was selected for funding in recognition of the necessity to address this issue as well as the project’s potential for statewide application.</p>



Number	Date	Comment	Response
		weaken water quality protection, resources should be used for projects aimed at improving water quality in the region.	
3.5		<p><b>Regional Board should redirect resources from items in the previous Triennial Review that aim to weaken protection of water quality and redirect these funds at projects aimed to improve water quality in the Los Angeles Region.</b></p> <p>We believe the effort outlined in the 2008-2010 Triennial Review to change certain beneficial use designations from Rec-1 to Rec-2 in the Los Angeles River and other watersheds should cease, as Regional Board resources would be more appropriately used for projects that aim to improve water quality. For instance, as mentioned in our attached prior comments, we do not support the Regional Board initiating the Recreational Use Re-Evaluation (RECUR) process in additional watersheds in our region.</p> <p>Some of the new studies proposed will lead to better protection of water quality, but were not recommended due to resource constraints. Instead of continuing to pursue the removal of beneficial use designations, funding should be used for developing a Pyrethroid Pesticide Water Quality Objective, an important study that was initially proposed yet not recommended in the Staff Report. We disagree with Staff's decision to exclude this study. Pyrethroids are extremely important contaminants of emerging concern, yet they are not currently regulated. Studies</p>	<p>The re-evaluation of recreation beneficial uses in the Los Angeles River Watershed was identified as a priority Basin Planning project in the 2008-2010 Triennial Review and is currently underway. This project continues to be a Board priority. The re-evaluation project will not only evaluate the current waterbody condition, but include a prospective analysis of future use attainability. Staff is aware of numerous efforts by various agencies and organizations to restore urban engineered waterbodies and enhance recreational activities. These efforts and potential implementation of long term restoration plans will also be considered during the recreational use re-evaluation. This re-evaluation may or may not result in changes to REC beneficial use designations.</p> <p>Moreover, the REC-1 designation of the main stem of the Los Angeles River is not in question given the evidence of people recreating in and on the water and results of the analysis by US EPA in 2010, which formed the basis for the agency's determination that the river was a Traditional Navigable Waterway.</p> <p>Staff is not planning to consider expansion of the re-evaluation of REC beneficial uses until the Los Angeles River watershed effort is completed and the outcome of this effort evaluated.</p>

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		<p>in Ballona Creek and in the Sacramento-San Joaquin Delta have shown pyrethroids to be the leading cause of toxic impacts to the aquatic environment.</p>	<p>Staff is continuing to track the statewide projects related to pyrethroid pesticides, including the development of water quality objectives and the Department of Pesticide Regulation re-evaluation. In addition, we are pursuing opportunities to collect data and assess the presence and concentration of pyrethroid in urban waterbodies. Staff will continue these efforts in support of future objective development.</p>
3.6		<p>The Staff Report mentions that staff is considering alternative approaches to the geometric mean calculation for bacteria TMDLs and that “these alternative approaches will provide additional flexibility for compliance determinations.” It is unclear why the Regional Board would have a goal of “flexibility for compliance.” The ultimate goal must be water quality standards attainment. Of note, using a static time-frame like a calendar month or an entire recreational season to assess a very dynamic system is completely inappropriate, statistically unsound, and is not protective of public health. We look forward to working with the Regional Board on this critical public health issue.</p>	<p>Staff agrees that the goal of the bacteria TMDLs is the attainment of water quality standards. Many of the region’s bacteria TMDLs identified specific technical elements to reconsider at a discrete point during the implementation period, one of which was the expression/calculation of the geometric mean objectives/targets. As part of these TMDL reconsiderations, staff is evaluating alternative approaches to the geometric mean calculation that will be fully protective of public health, and which are consistent with the original derivation of the geometric mean objectives, the Regional Board’s reference system approach to implementing the region’s bacteria objectives, and appropriate for southern California conditions.</p> <p>Staff looks forward to a continued dialogue with Heal the Bay on this issue.</p>

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3.7		<p>The Staff Report discusses the status of the re-evaluation of REC beneficial uses and the regulated community's position on expanding the program. The environmental community position on this item is notably absent from the Staff Report. Please see our October 2011 letter for our concerns about this process and any potential expansion.</p>	<p>A summary of the environmental community position regarding the REC beneficial use re-evaluation has been added to the staff report.</p>
3.8		<p>The Staff Report mentions that as part of a priority project identified in the 2008-2010 Triennial Review staff will conduct a "Complete Administrative Update of the Basin Plan" by 2012, specifically stating that "staff is currently working on the updates for Chapter 3 <i>Water Quality Objectives</i>, Chapter 4 <i>Strategic Planning and Implementation</i>, Chapter 5 <i>Plans and Policies</i>, and Chapter 6 <i>Monitoring and Assessment</i>." It is unclear why these sections of the Basin Plan are not included as part of the 2011-2013 Triennial Review. They should be included. How else is the public to determine what the needs, shortcomings, or oversights present are in the Basin Plan as currently written?</p> <p>The Triennial Review is meant to be a review of the whole Basin Plan, not just of existing water quality objectives. Despite the fact that Chapter 3 is incomplete as stated in the staff report, this has not precluded staff from devoting a bulk of the 2011-2013 Triennial Review to projects associated with modifying a number of elements in the Water Quality Objectives chapter. If the staff was bold enough to take on this challenge, then why not address other sections of the Basin Plan? The 2011-2013 Triennial</p>	<p>The administrative update of Basin Plan Chapters 3, 4, 5, and 6 was not included as a priority project for the 2011 – 2013 Triennial Review because it is a priority project under the 2008 – 2010 Triennial Review. Staff is currently working on the updates for all of these chapters. As with Chapters 2 and 7 of the Basin Plan, interested persons will have an opportunity to review these updates and provide comments on them prior to board consideration. Staff is committed to completing the administrative update of the Basin Plan and it is expected that it will be completed within the 2012 calendar year.</p> <p>The triennial review requirement does not mandate a review of the entire Basin Plan. Rather, the triennial review is a federal Clean Water Act requirement (section 303(c)(1)), which directs states to review their water quality standards and modify and adopt standards, as appropriate, once every three years. While California Water Code section 13240 states that basin plans "shall be periodically reviewed and may be revised", the provision does not require a review of the entire Basin Plan every three years. However, the</p>

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		<p>Review should have included assessments and evaluations of existing strategic plans and implementation strategies to determine if and why Regional Board actions are not achieving stated goals and outcomes, and proposed modifications to policies or programmatic approaches to meet existing water quality objectives, as opposed to simply modifying water quality objectives or assessment methodologies to fit compliance objectives.</p> <p>Examples that could have been considered by the staff were:</p> <ul style="list-style-type: none"> <li>▪ assessing and evaluating enforcement over the past three years;</li> <li>▪ conducting an assessment of the region's resources (designated beneficial uses, coastal and riparian wetland habitats, and non-identified water-ways) and the changes to these resources over time.</li> </ul> <p>In addition, 2011-2013 Triennial Review contains no discussion or assessment on current monitoring efforts conducted by the Regional Board, or others, as they relate to the Basin Plan's Monitoring and Assessment. Are the Regional Board's current stations effective in their location, constituents monitored, and frequency of monitoring? If funding is an issue, then what mechanisms are staff using to advert the loss of local monitoring programs? Simply relying on third-party monitoring programs is insufficient to protecting the public's receiving waterbodies and habitats. Effective polices require sufficient, quality data to inform actions.</p>	<p>Regional Board does generally conduct this <i>periodic review</i> of the Basin Plan at the same time as the triennial review of water quality standards.</p> <p>The commenter's proposed project of evaluating enforcement over the past three years or tracking changes to resources are not within the scope of the triennial review or a periodic update of the Basin Plan.</p> <p>Program performance assessments are best addressed by staff in those programs and through the Water Board's Annual Performance Report (<a href="http://www.waterboards.ca.gov/about_us/performance_report_1011/">http://www.waterboards.ca.gov/about_us/performance_report_1011/</a>), which presents information on how well Water Board programs and/or strategies are working. The annual Performance Report is utilized by both the State Water Board and regional boards to evaluate program success and/or the need for improvement.</p> <p>Los Angeles Water Board staff conducts, oversees, and participates in numerous regional and statewide monitoring programs including the Surface Water Ambient Monitoring Program (SWAMP), Groundwater Ambient Monitoring and Assessment (GAMA), TMDL development monitoring, and the Bight Regional Monitoring program. The findings from these various monitoring programs are generally available on Water Board program websites and/or are presented in TMDLs. As described earlier, staff is currently updating Chapter 6 of the Basin Plan,</p>

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			<p><i>Monitoring and Assessment.</i> The updated chapter will include a discussion of important active monitoring programs such as SWAMP and GAMA, among others and how these programs work together to assess regional water quality.</p> <p>Additionally, the 2011-2013 Triennial Review includes a priority project to develop a Region-wide CEC strategy, which will include monitoring. CECs present a new and significant water quality concern and designing a Region-wide monitoring program is a critical building block in order to advance CEC research, including water quality standards development.</p> <p>Strategic questions regarding monitoring location, frequency and constituents are primarily addressed in the context of the specific monitoring programs and in consideration of the purpose of the monitoring.</p> <p>Finally, all available relevant data and information are used by staff when making both technical and regulatory decisions. Discharger compliance monitoring is fundamental to the Los Angeles Water Board's regulatory programs, providing valuable data for board decisions. Compliance monitoring is designed to address targeted concerns and as such complements other regional ambient condition or trend monitoring programs.</p>

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3.9		We encourage the Regional Board to address the aforementioned issues as part of the 2011-2013 Triennial Review.	Comment noted.