

Responsiveness Summary - Triennial Review

(to comments received before February 11, 2005)

8. City of Avalon - (Avalon)
9. WaterReuse Association - (WaterReuse)
10. City of Bellflower - (Bellflower)
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12. City of LaVerne - (LaVerne)
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34. United States Environmental Protection Agency-(USEPA)

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8.1	Avalon	2/8/05	The City of Avalon requests that the Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	<p>Neither the federal Clean Water Act nor the state Porter-Cologne Water Quality Control Act makes a distinction between water quality standards for wet weather and dry weather. Under both laws, the Regional Board has a statutory duty to protect designated beneficial uses under both wet and dry weather conditions. Nevertheless, the Regional Board has taken creative measures to implement water quality standards during wet weather in a protective and reasonable manner through TMDLs and implementation provisions for specific objectives.</p> <p>However, Regional Board staff is willing to consider the formation of a task force and, in fact, is already working with similar coalitions on issues of regional concern (e.g. development of ammonia and copper site-specific objectives).</p> <p>The Regional Board has previously outlined in its “DRAFT Strategy for Completing TMDLs and Attaining Water Quality Standards” (December 2002) (Strategy) various levels of potential stakeholder involvement in the development of water quality standards and TMDLs. These include increasingly resource intensive levels of involvement, including (1) the formation of policy and technical advisory committees to address specific issues of concern and (2) stakeholder-led studies such as the one suggested by the City. The Regional Board’s ability to convene and participate in highly intensive stakeholder processes may be limited due to staffing constraints and the demands of multiple projects that are underway at the same time.</p> <p>In summary, the Strategy states that for water quality standard issues where there is a high level of regional interest, formal policy or technical advisory committees may be formed to provide opportunities for more intensive structured discussion</p>

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				<p>of WQS and/or TMDL development issues and approaches.</p> <p>In some circumstances, a coalition of stakeholders may take formal responsibility for completing studies and plans necessary to adopt WQS and/or TMDLs. These stakeholder-led WQS and/or TMDL projects represent the most resource intensive stakeholder effort. Regional Board staff would be intensively involved in each of these efforts but the stakeholder group would be responsible for project management and timely completion of products consistent with the schedules identified in this strategy.</p> <p>In order for the Regional Board to endorse and rely upon these efforts to support timely completion of WQS and/or TMDL decisions, the Regional Board expects to enter into formal agreements with the stakeholder group that confirm the specific project approach, schedules, and commitments. Specifically, these agreements must articulate technical approaches, quality assurance procedures, peer review procedures, stakeholder involvement approaches, and project management details sufficient to ensure timely completion of high quality products. This formal approach to endorsing WQS and/or TMDL work by stakeholder groups is necessary in order to ensure that (1) the work of stakeholder groups is useful in the final State/EPA decisions, (2) the groups have greater certainty that their work will be used by the State and EPA, and (3) where applicable, TMDL consent decree schedules will be met.</p> <p>All interested organizations should submit a formal statement of intent to the Regional Board Executive Officer that specifically describes the WQS and/or TMDLs to be addressed and identifies the proposed lead and participating entities that will take responsibility for the work. After an evaluation by Regional Board management, the Regional Board will</p>

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				<p>determine whether the study is an appropriate investment of staff resources and whether sufficient staff resources are available to oversee the proposed work.</p>
8.2	Avalon	2/8/05	<p>The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.</p>	<p>Neither the federal Clean Water Act nor the state Porter-Cologne Water Quality Control Act makes a distinction between water quality standards for wet weather and dry weather. Under both laws, the Regional Board has a statutory duty to protect designated beneficial uses under both wet and dry weather conditions.</p> <p>Nevertheless, the Regional Board has taken creative measures to implement water quality standards during wet weather in a protective and reasonable manner through TMDLs and implementation provisions for specific objectives. During TMDL development, the Regional Board evaluates the application of water quality standards during dry weather versus wet weather conditions. For example, in the Santa Monica Bay Beaches Bacteria TMDL and other bacteria TMDLs the Regional Board applies a reference system/anti-degradation approach, which results in different requirements with regard to the number of allowable exceedances of the water quality objectives during wet versus dry weather (allowing a greater number of exceedances during wet weather). In the arena of water quality standards, the Regional Board has specifically addressed the inherent danger of recreating in engineered channels during wet weather events, and has suspended the water contact recreation use and associated bacteria objectives during these conditions.</p> <p>Regarding methods to meet the existing Basin Plan standards, the Basin Plan outlines a broad suite of regulatory tools that the Regional Board employs to achieve water quality standards. Furthermore, in the development of TMDLs the Board discusses potential means of compliance with the</p>

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				TMDL. However, the Porter Cologne Water Quality Control Act prohibits the Board from prescribing methods of compliance. In the municipal stormwater permit, the Board outlines an iterative process for achieving instream water quality standards. This process entails the use of Best Management Practices (BMPs) that will be implemented to prevent or reduce pollutants that are causing or contributing to exceedances of water quality standards. (See Order No. 01-182, Part 2)
8.3	Avalon	2/8/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	<p>The Regional Board has stated in many of its recent actions that it strongly supports an integrated approach to water resource management, including compliance with TMDLs. Such an approach looks at a watershed holistically and attempts to reap multiple benefits from implementation of TMDLs. Wherever possible, the Board supports this type of approach as opposed to an approach that relies upon end-of-the-pipe structural solutions, such as large stormwater capture and treatment facilities placed at the bottom of the watershed. The Regional Board has provided ample time in the context of TMDL implementation to evaluate and implement more integrated solutions to water quality problems.</p> <p>However, the Regional Board has a statutory duty to ensure that water quality standards are achieved in the region's waters. The Regional Board acknowledges that some treatment of stormwater will be required in order to achieve the national goal so clearly articulated in the federal Clean Water Act of restoring the biological, physical and chemical integrity of the region's waters.</p>
8.4	Avalon	2/8/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation	See response to 8-1.

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			strategies to achieve appropriate water quality for large storm events.	
8.5	Avalon	2/8/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use - since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	Regional Board staff has acknowledged, and continues to acknowledge that flood control is a reality that we need to factor into some of our decisions (e.g., the Board's adoption of a suspension of recreational uses and associated bacteria objectives in engineered channels during wet weather; the Board's ongoing 401 certification of routine and emergency operation and maintenance of flood control channels). However, staff does not agree that "flood protection" is a "beneficial use" of our waters in the same vein as other uses. We do not use water for flood control purposes as we use water for drinking and swimming, and it does not fit into the regulatory structure in this way. Even if it were appropriate for flood protection to be a "beneficial use", it would not remove the requirements to protect other designated beneficial uses of our waterbodies.
8.6	Avalon	2/8/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to 8-1.
9.1	WateReuse	2/8/05	Our comments relate to Issue R-26, the development of policies and/or standards that would maximize recycled water use while protecting groundwater resources. (Staff Report p.73.) While the WateReuse Association supports this goal, we agree that this Issue should not be scheduled for completion over the 2005 to 2007 timeframe.	Comment noted. No revision requested.
9.2	WateReuse	2/8/05	In fact, we do not believe Issue R-26 should be designated as a high priority for the Regional Board, given that the WateReuse Association has been working actively for over a year with the State Water Resources Control Board to develop guidance on these issues.	The identification of an issue as a high priority does not assume that the Regional Board will take the lead role on an issue. There are a number of statewide issues included in the 2004 Triennial Review that Regional Board staff regards as a high priority.

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				<p>Regional Board staff explained in the staff report supporting the 2004 Triennial Review that statewide issues were included in the Region's Triennial Review for two reasons. First, the Regional Board wishes to emphasize the importance of these statewide issues to the Los Angeles Region by their inclusion in the Triennial Review. Second, Regional Board staff contributes to various degrees to these statewide efforts, which requires the investment of limited staff resources. As a result, it is important that these issues and the required staff resources are included in the evaluation of which Basin Planning issues to address over the next three-year period.</p> <p>Issue R-26 may have multiple facets – some of which may be best addressed at the statewide level. However, other facets of this issue may include evaluation of site-specific objectives based on local water quality conditions. These types of projects are best handled at the regional level.</p>
9.3	WateReuse	2/8/05	We believe it is critical that Regional Boards apply existing laws and policies in a consistent and reasonable manner throughout the State. This is in keeping with the direction of the California Legislature, which has directed the development of “uniform Criteria” to be applied to recycled water projects statewide.	Staff agrees that in general existing laws and policies should be applied in a consistent manner throughout the state unless site specific conditions or other region-specific issues justify a different approach.
9.4	WateReuse	2/8/05	The development of individual regional policies and standards is not only inconsistent with that legislative mandate, but such piecemeal efforts do not make the best use of limited resources. While the staff estimates one-half a person year to complete this work, we question whether new standards and policies with regulatory effect can be developed and adopted with such a limited staff effort.	See response to 9-2 and 9-3.
10.1	Bellflower	2/9/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the	See response to comment 8.1.

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			desirability of including flow based water quality standards into the Basin Plan.	
10.2	Bellflower	2/9/05	The Basin Plan will be updated to include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	See response to comment 8.2.
10.3	Bellflower	2/9/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
10.4	Bellflower	2/9/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
10.5	Bellflower	2/9/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
10.6	Bellflower	2/9/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines.	See response to comment 8.6.

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			We are prepared to work with the Board and devote resources to this effort.	
11.1	Fillmore	2/9/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
11.2	Fillmore	2/9/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	See response to comment 8.2.
11.3	Fillmore	2/9/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
11.4	Fillmore	2/9/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
11.5	Fillmore	2/9/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and	See response to comment 8.5.

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			local storm drains play in protecting life and property.	
11.6	Fillmore	2/9/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
12.1	La Verne	2/9/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
12.2	La Verne	2/9/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	See response to comment 8.2.
12.3	La Verne	2/9/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
12.4	La Verne	2/9/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large	See response to comment 8.4.

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			storm events.	
12.5	La Verne	2/9/05	We are proposing that the Regional Board consider developing a “Flood Protection” beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
12.6	La Verne	2/9/05	We believe that this is a reasonable exercise of the Board’s discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
13.1	El Monte	2/10/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
13.2	El Monte	2/10/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan’s standard.	See response to comment 8.2.
13.3	El Monte	2/10/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board’s good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
13.4	El Monte	2/10/05	The Stakeholder Wet Weather Task Force would develop	See response to comment 8.4.

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			a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	
13.5	El Monte	2/10/05	We are proposing that the Regional Board consider developing a “Flood Protection” beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
13.6	El Monte	2/10/05	We believe that this is a reasonable exercise of the Board’s discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
14.1	Paramount	2/9/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
14.2	Paramount	2/9/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan’s standard.	See response to comment 8.2.
14.3	Paramount	2/9/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has	See response to comment 8.3.

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			never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	
14.4	Paramount	2/9/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
14.5	Paramount	2/9/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
14.6	Paramount	2/9/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
15.1	Signal Hill	2/9/05	Our January request focused on a review of two Porter-Cologne requirements, the creation of a "Flood Protection" beneficial use and a request to expand the "high flow exemptions" for flood control channels (see January 27, 2005 letter).	See response to 8-5. Staff already evaluated the extension of the high flow suspension of the REC-1 use and associated bacteria objectives to a broader array of channels and time periods when developing the "Amendment to Suspend Recreational Beneficial Uses in Engineered Channels during Unsafe Wet Weather Conditions," Final Resolution and Amendments (as adopted on July 10, 2003). Staff determined that a suspension was only appropriate under certain conditions. Using available information, staff identified those water body segments that for their entire length meet the definition of an engineered flood

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				<p>control channel. Engineered channels are defined as inland, flowing surface water bodies with a box, V-shaped or trapezoidal configuration that have been lined on the sides and/or bottom with concrete.</p> <p>These engineered flood control channels are constructed to reduce the incidence of flooding in urbanized areas by conveying stormwater runoff to the ocean or other discharge point as efficiently as possible. These modifications create life-threatening “swiftwater” conditions during and immediately following significant storm events. As a result, the REC-1 and REC-2 uses are not fully attainable during and immediately following these storm events. These flashy conditions result in intermittent dangerous flow volumes and velocities after rain events that prevent the attainment of the use during and for 24 hours following a rain event of ½ inch or greater. The Los Angeles County Multi-Agency Swiftwater Rescue Committee’s protocols are supportive of the Board’s suspension in that the protocols require swiftwater rescue teams to be on alert and require flood control agencies to lock access gates to these channels during these storm conditions.</p> <p>As necessary data become available, staff intend to develop a similar amendment for engineered channels in Ventura County.</p> <p>Because the Board has suspended the water contact recreation use, which represents a fundamental goal of the Clean Water Act for waterbodies, the Board has a statutory duty to re-evaluate the attainability of the REC-1 and REC-2 uses in the future. Furthermore, the Board remains committed to supporting efforts to reclaim engineered channels as natural watercourses and supporting the beneficial re-use of storm water.</p>
15.2	Signal Hill	2/9/05	This letter is sent in our continuing effort to assist the	See responses to 8-1 and 8-2.

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			Board in understanding the major concern of local government with the practical problems presented by large storm events. We also wish to further narrow the topics of concern, such that the Board will exercise reasonable discretion and devote resources of this Triennial Review to include wet weather standards in the Basin Plan. The consideration of flow based water quality standards is especially critical in light of the requirements of the Heal the Bay Consent Decree to develop the remaining TMDLs during the next five years.	
15.3	Signal Hill	2/9/05	The Board previously granted a high-flow exemption from the REC-1 standards for up to 24 hours after major flood events in restricted/engineered flood channels. However, it can take weeks for the storm flows in the channels to subside after major rainstorms.	The Regional Board defined the time period for the REC-1 suspension to comport with the policy of Los Angeles County to keep all access gates to flood control channels locked for a minimum of 24 hours following the specified rain event (Burke, J., 2003, personal communication).
15.4	Signal Hill	2/9/05	It is doubtful that this “natural reference” approach will work in heavily urbanized watersheds, since dry-weather flows in urbanized watersheds will carry bacteria from natural sources that won’t be found in natural settings. We believe that a more reasonable approach to setting bacteria standards in our heavily urbanized watersheds will be based on the methods and costs of implementation, as well as the size of the rain event.	<p>Please provide information on what <i>natural</i> sources of bacteria will be found in urbanized watersheds that would <i>not</i> be found in natural settings.</p> <p>If an appropriate reference system cannot be identified for a waterbody, the Regional Board has identified an alternative approach known as the natural sources exclusion approach. Under the natural sources exclusion approach, after all anthropogenic sources of bacteria have been controlled such that they do not cause or contribute to an exceedance of the single sample objectives and natural sources have been identified and quantified, a certain frequency of exceedance of the single sample bacteria objectives shall be permitted based on the residual exceedance frequency in the specific water body. The residual exceedance frequency shall define the background level of exceedance due to natural sources.</p> <p>While costs of implementation are a consideration in adopting</p>

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				water quality standards, the methods and cost of implementation are not the basis for establishing water quality standards. Rather water quality standards are to be set in order to protect beneficial uses of the water.
15.5	Signal Hill	2/9/05	Whether capture and treatment of rain storms will be required in order to comply with current Basin Plan bacteria standards and potential REC-1 beneficial uses must be studied in order to give certainty to local government and businesses concerned about the costs of storm water compliance.	See responses to 8-2 and 8-3.
15.6	Signal Hill	2/9/05	A number of impacted parties are proposing a “Wet Weather Task Force” to work with the Board in studying the need for flow based water quality standards. This stakeholder group is proposing to study the costs for local government and business compliance with the current Basin Plan standards and objectives.	See response to 8-1.
15.7	Signal Hill	2/9/05	We urge the Regional Board to devote resources in this Triennial Review to the Large Storm Exemption and authorize staff to begin working with the Stakeholder Task Force. We believe that this is a reasonable exercise of the Board’s discretion. Delaying this work for another three years will work against the development of reasonable TMDLs under the Consent Decree deadlines.	See responses to 8-1 and 15-1.
16.1	Vernon	2/9/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
16.2	Vernon	2/9/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the	See response to comment 8.2.

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			whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	
16.3	Vernon	2/9/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
16.4	Vernon	2/9/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
16.5	Vernon	2/9/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
16.6	Vernon	2/9/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
17.1	Watermaster	2/9/05	Watermaster hereby requests to be placed on the mailing/distribution lists for each of the eight ongoing projects and 11 high priority projects that will be developed over the next three years.	Request noted. Please subscribe to the Basin Planning e-mail notification list available on the Regional Board's website to receive copies of public notices regarding these Basin Planning issues.
17.2	Watermaster	2/9/05	Watermaster requests the RWQCB to continue to devote time and manpower to identify responsible parties and	Comment noted. Groundwater cleanup activities are a high priority for the Regional Board; however, decisions regarding

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			require those parties to implement groundwater cleanup activities.	allocation of time and resources to identify responsible parties in cases involving groundwater cleanup are outside the scope of the Basin Plan Triennial Review.
17.3	Watermaster	2/9/05	Watermaster requests the RWQCB to establish discharge limits under Item R-5 that are more closely aligned with California Department of Health Services drinking water standards to avoid potential discharge exceedances.	The Basin Plan already contains reference to Title 22 drinking water standards (maximum contaminant levels, or MCLs) and applies those standards to surface and ground waters that are designated as existing or potential sources of municipal and domestic water supply (MUN). For chemical constituents that do not have established MCLs (including emerging chemicals) the Basin Plan contains a narrative objective that states that, "surface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use" (Basin Plan, p. 3-8). In setting permit limits and groundwater cleanup goals for unregulated chemicals, the Regional Board uses the most current health risk-based thresholds to protect the municipal and domestic supply (MUN) use.
18.1	Carson	2/10/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
18.2	Carson	2/10/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	See response to comment 8.2.
18.3	Carson	2/10/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has	See response to comment 8.3.

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			never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	
18.4	Carson	2/10/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
18.5	Carson	2/10/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
18.6	Carson	2/10/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
19.1	Glendora	2/10/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
19.2	Glendora	2/10/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards	See response to comment 8.2.

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			as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	
19.3	Glendora	2/10/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
19.4	Glendora	2/10/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
19.5	Glendora	2/10/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
19.6	Glendora	2/10/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
20.1	Huntington Park	2/10/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
20.2	Huntington Park	2/10/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local	See response to comment 8.2.

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			governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	
20.3	Huntington Park	2/10/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
20.4	Huntington Park	2/10/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
20.5	Huntington Park	2/10/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
20.6	Huntington Park	2/10/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
21.1	LaPuente	2/10/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards	See response to comment 8.1.

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			completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	
21.2	LaPuente	2/10/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	See response to comment 8.2.
21.3	LaPuente	2/10/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
21.4	LaPuente	2/10/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
21.5	LaPuente	2/10/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
21.6	LaPuente	2/10/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of	See response to comment 8.6.

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			reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	
22.1	City of Lomita	2/10/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
22.2	City of Lomita	2/10/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	See response to comment 8.2.
22.3	City of Lomita	2/10/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
22.4	City of Lomita	2/10/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
22.5	City of Lomita	2/10/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams,	See response to comment 8.5.

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			debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	
22.6	City of Lomita	2/10/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
23.1	CDPR	2/11/05	CDPR hereby requests that this priority be changed to "high", and that staff resources be allocated to conduct a Use Attainability Analysis (UAA) to address the removal of the unlimited REC-1 beneficial use at McGrath Lake.	<p>McGrath Lake is identified in the Basin Plan as having an existing water contact recreation (REC-1) beneficial use (Basin Plan, p. 2-6, Table 2-1). An existing use is one that has been present at some time since November 28, 1975, or for which the water quality was sufficiently good to support the use at some time since November 28, 1975 (see Advance Notice of Proposed Rulemaking, 40 CFR Part 131 Water Quality Standards Regulation; Proposed Rule, Federal Register: July 7, 1998, Volume 63, Number 129, Page 36741-36806).</p> <p>The Code of Federal Regulations clearly states that an existing use may not be removed unless a use requiring more stringent criteria is added (see 40 CFR 131.10(g)). As a result, it is not possible to remove the existing water contact recreation (REC-1) designation from McGrath Lake.</p> <p>However, the Regional Board has adopted an alternative approach to removing the recreational use to address situations such as that of McGrath Lake. Specifically, the Regional Board has incorporated implementation provisions for the bacteria objectives set to protect the REC-1 use into the Basin Plan. These implementation provisions recognize that there are natural sources of bacteria, which may cause or contribute to exceedances of the single sample objectives for bacterial indicators set to protect the REC-1 use. They also</p>

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				<p>acknowledge that it is not the intent of the Regional Board to require treatment or diversion of natural water bodies or to require treatment of natural sources of bacteria from undeveloped areas. Such requirements, if imposed by the Regional Board, could adversely affect valuable aquatic life and wildlife beneficial uses supported by natural water bodies in the Region.</p> <p>Under the reference system/antidegradation implementation procedure, a certain frequency of exceedance of the single sample objectives above shall be permitted on the basis of the observed exceedance frequency in the selected reference system or the targeted water body, whichever is less. The reference system/anti-degradation approach ensures that bacteriological water quality is at least as good as that of a reference system and that no degradation of existing bacteriological water quality is permitted where existing bacteriological water quality is better than that of the selected reference system.</p> <p>Under the natural sources exclusion implementation procedure, after all anthropogenic sources of bacteria have been controlled such that they do not cause or contribute to an exceedance of the single sample objectives and natural sources have been identified and quantified, a certain frequency of exceedance of the single sample objectives shall be permitted based on the residual exceedance frequency in the specific water body. The residual exceedance frequency shall define the background level of exceedance due to natural sources. The 'natural sources exclusion' approach may be used if an appropriate reference system cannot be identified due to unique characteristics of the target water body.</p> <p>The appropriateness of these approaches and the specific exceedance frequencies to be permitted under each will be</p>

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				<p>evaluated within the context of TMDL development for a specific water body, at which time the Regional Board may select one of these approaches, if appropriate.</p> <p>These implementation procedures may only be implemented within the context of a TMDL addressing municipal storm water, including the municipal storm water requirements of the Statewide Permit for Storm Water Discharges from the State of California Department of Transportation (Caltrans), and non-point sources discharges. See Resolution 2002-022 and attachments.</p> <p>During the future development of a TMDL, the Regional Board may elect to apply the reference system/antidegradation approach or the natural sources exclusion approach given the importance of preserving the wildlife habitat supported by the lake. Because a mechanism for addressing this issue is available through the TMDL process, Regional Board staff does not recommend a change in the priority for “evaluate individual beneficial uses designation requests” (R-3).</p>
23.2	CDPR	2/11/05	Unlimited REC-1 use is incompatible with the other designated beneficial uses (wildlife, wetlands, rare and endangered species) and with CDPR policies and procedures governing the management and protection of those natural resources;	<p>The implementation provisions for the bacteria objectives, contained in the Basin Plan, recognize that there are natural sources of bacteria, which may cause or contribute to exceedances of the single sample objectives for bacterial indicators set to protect the REC-1 use. They also acknowledge that it is not the intent of the Regional Board to require treatment or diversion of natural water bodies or to require treatment of natural sources of bacteria from undeveloped areas. The Regional Board understands that such requirements, if imposed, could adversely affect valuable aquatic life and wildlife beneficial uses supported by water bodies such as McGrath Lake.</p> <p>Given the availability of these implementation provisions through the TMDL process, Regional Board staff does not agree that the REC-1 use is incompatible with the other</p>

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				habitat-related beneficial uses of McGrath Lake.
23.3	CDPR	2/11/05	A Use attainability Analysis (UAA) will show that unlimited REC-1 water quality goals do not reflect existing or potential uses at McGrath Lake and are therefore inappropriate;	See response to 23-1.
23.4	CDPR	2/11/05	The preparation of a TMDL for Fecal Bacteria at McGrath Lake will be unnecessary if the unlimited REC-1 water quality goal is later removed.	See response to 23-1. The existing REC-1 use assigned to McGrath Lake reflects the presence of water contact recreation at some time since November 28, 1975, or sufficiently good water quality to support water contact recreation. Furthermore, the Basin Plan contains implementation provisions that may be applied during TMDL development, which provide a reasonable and balanced approach to environmental protection where habitat and recreational uses co-exist.
23.5	CDPR	2/11/05	CDPR is the state agency charged with lead responsibility for managing land use and natural resources at McGrath State Beach, which includes McGrath Lake.	See response to 23-2.
23.6	CDPR	2/11/05	A buffer zone shall be established around the state-owned portion of the lake in which no facilities shall be permitted except for interpretive trails and observation pints. These facilities shall be carefully sited so that visitor activities will not diminish use of the area by wildlife.	See response to 23-1 and 23-2.
23.7	CDPR	2/11/05	The General Plan also specifies the beach/ocean as the appropriate environment for water-oriented recreation, including swimming, fishing, surfing and beachcombing. These activities are considered “high intensity” uses, as shown on the Allowable Use Intensity Map.	McGrath Beach is also designated with an existing water contact recreation use in the Basin Plan. In 2003, the Regional Board developed a TMDL for McGrath Beach to address impairment of water quality due to bacteria. See Cleanup and Abatement Order No. R4-2003-0065.
23.8	CDPR	2/11/05	Resources management Plan update (2003) document rare and endangered (listed) species use of the lake area. Among the listed species in the McGrath Lake area are: California least tem, Western snowy plover, California	McGrath Lake is designated with the “Rare, Threatened or Endangered Species” (RARE) beneficial use (Basin Plan, p. 2-6, Table 2-1).

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			brown pelican and the Silvery legless lizard. The General Plan, thus, clearly establishes water contact recreation as incompatible with natural resources protection at McGrath Lake.	
23.9	CDPR	2/11/05	We believe that a Use Attainability Analysis (UAA) for Rec-1 at McGrath Lake will conclude that the unlimited REC-1 water quality objectives do not accurately reflect the existing and potential uses and should be changed.	See response to 23-1.
23.10	CDPR	2/11/05	The designation of the REC-1 beneficial use at McGrath Lake is based on historic, not existing, use of the lake for sail boat races, etc. These water recreation activities last took place in the 1940's and 1950's, when the lake was larger and deeper that it is today, was held in private ownership, and had an open shoreline that was accessible to the public by car. Since that time, the inflow of sediments has reduced the open water area and lake depth, resulting in a shoreline ringed by wetland (bulrush, arroyo willow, and saltgrass communities).	See response to 23-1. Furthermore, existing uses are identified as such based on meeting either of two criteria: 1) the use has been present at some time since November 28, 1975 and 2) water quality has been sufficiently good to support such use at some time since November 28, 1975 (see Advance Notice of Proposed Rulemaking, 40 CFR Part 131 Water Quality Standards Regulation; Proposed Rule, Federal Register: July 7, 1998, Volume 63, Number 129, Page 36741-36806).
23.11	CDPR	2/11/05	A TMDL for Fecal Bacteria is currently pending for McGrath Lake based on the REC-1 beneficial use designation. If a UAA concludes that REC-1 water quality goals are not appropriate for this water body, this TMDL will be unnecessary. We believe that Water Board resources should be directed to the preparation of a UAA before any staff resources are expended on the TMDL.	See response to 23-1.
23.12	CDPR	2/11/05	In conclusion, as the state's land manager for McGrath Lake, I hereby request that the Water Board reconsider the priority and resources assigned to review Basin Plan beneficial uses during this Triennial Review period, and allocated sufficient resources to conduct a Use Attainability Analysis of the REC-1 beneficial use at McGrath Lake.	See response to 23-1.
24.1	Santa Fe Springs	2/10/05	Regional Board consider devoting a portion of your	See response to comment 8.1.

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			planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	
24.2	Santa Fe Springs	2/10/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	See response to comment 8.2.
24.3	Santa Fe Springs	2/10/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
24.4	Santa Fe Springs	2/10/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
24.5	Santa Fe Springs	2/10/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	See response to comment 8.5.
24.6	Santa Fe Springs	2/10/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three	See response to comment 8.6.

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			additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	
25.1	Whittier	2/10/05	Regional Board consider devoting a portion of your planning resources of this Triennial Review towards completing a Stakeholder Task Force to study the desirability of including flow based water quality standards into the Basin Plan.	See response to comment 8.1.
25.2	Whittier	2/10/05	The Basin Plan will be updated include TMDLs to implement bacteria, metals, sediments and toxics. Local governments are rightfully concerned that these existing water quality standards, when applied to large storm events, will lead to the expensive capture and treatment of storm water. The current Basin Plan is silent on the whether wet weather flows must meet the same standards as dry weather flows and what methods local government would employ to meet the existing Basin Plan's standard.	See response to comment 8.2.
25.3	Whittier	2/10/05	We recognize that the Regional Board has stated in the past that it is not your intention to require expensive storm water treatment. However, the Regional Board has never studied water quality standards when literally applied to storm water. It is probable that the Regional Board's good intentions will not be borne out during implementation of the actual standards.	See response to comment 8.3.
25.4	Whittier	2/10/05	The Stakeholder Wet Weather Task Force would develop a Work Plan governing the study. The Work Plan would recommend studies and activities that would support the Regional Board in developing appropriate beneficial uses, water quality standards and implementation strategies to achieve appropriate water quality for large storm events.	See response to comment 8.4.
25.5	Whittier	2/10/05	We are proposing that the Regional Board consider developing a "Flood Protection" beneficial use- since the	See response to comment 8.5.

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			Basin Plan ignores the important role that the dams, debris basins, retention areas, flood control channels and local storm drains play in protecting life and property.	
25.6	Whittier	2/10/05	We believe that this is a reasonable exercise of the Board's discretion. Delaying this work by three additional years will work against the development of reasonable TMDLs under the Consent Decree deadlines. We are prepared to work with the Board and devote resources to this effort.	See response to comment 8.6.
26.1	Rutan	2/11/05	Both the federal and State Law, moreover, require that such plans be periodically reviewed, as revised as necessary. (Water Code § 13240, CWA § 303(c)(1).) The current basin plan has not been comprehensively updated since 1994. Instead, the Regional Board has relied upon a "patchwork" of amendments, which bear no relationship to the whole document; none of which have addressed the defects in the Basin Plan addressed in this Comment Letter. Accordingly, a comprehensive update of the Basin Plan, pursuant to the 2004 Triennial Review, is required at this time.	<p>As explained elsewhere, the triennial review process is an important component of the on-going standards revision process. However, nothing in the law requires a comprehensive update of the Basin Plan. For a more detailed explanation, see response to comment 28.1.</p> <p>The commenter's reference to a "patchwork" of amendments ignores the fact that most Basin Plan amendments in recent years have occurred as a result of information solicited during the triennial review process. For example, numerous dischargers requested a compliance schedule policy in the Basin Plan to afford additional flexibility in implementing standards. This appeared on a prior triennial review, and the Regional Board adopted a compliance schedule amendment to the Basin Plan within the last three years. The process is not a patchwork of amendments, but the culmination of the triennial review process.</p> <p>Further, the consent decree does not constitute a regulatory change that would warrant a comprehensive Basin Plan update. The consent decree is not a regulatory change. Absent the consent decree, the Clean Water Act already compels the development of TMDLs. Where appropriate, the Regional Board has been able to accommodate water quality standards actions either prior to or as part of a total maximum daily load</p>

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				(e.g., updated bacteria standards preceded the Santa Monica Bay Bacteria TMDL, high flow suspensions of the REC-1 use accompanied or preceded bacteria TMDLs, chloride standard changes are being considered in the Upper Santa Clara River Chloride TMDL).
26.2	Rutan	2/11/05	Moreover, comprehensive revisions to the Basin Plan are necessary because the current Basin Plan is flawed in at least the following four respects: 1) the Regional Board failed to adequately consider “economics” in connection with urban runoff when it adopted the Basin Plan in 1975, or during any revision of the Basin Plan since that time, 2) the Regional Board failed to adequately consider the impacts of the Basin Plan on the need for housing within the region when it adopted the Basin Plan in 1975, or during any revision since that time; 3) the Basin Plan improperly developed various water quality objective based on mere “potential” beneficial uses for waterbodies (contrary to both federal and State Law) and these “potential” use designations remain in the Basin Plan today; and 4) the Basin Plan was not developed based on attaining the highest water quality which is “reasonable,” and “based on water quality conditions that could reasonably be achieved.”	<p>The commenter advances four theories as to why the Basin Plan needs comprehensive revision. Staff discusses below why each theory is either incorrect or misdirected to the triennial review process. (See Response to Comments 26.3-26.21.) Moreover, as detailed in Response to Comment 26.1 and 28.1, there is no statutory duty to comprehensively update the Basin Plan. As information is developed about substantive deficiencies with specific standards (whether the standard is (i) under-protective or (ii) can be revised and is over-protective), the specific standards actions will be considered and incorporated into a triennial review workplan.</p> <p>In passing, staff observes that the commenter repeatedly overstates the dependence of TMDLs on narrative water quality objectives. While some TMDLs implement existing narrative water quality objectives, most involve the derivation of waste load allocations to implement existing numeric water quality objectives. For example, the metals TMDL implements the California Toxics Rule—a federal, numeric water quality standard promulgated by U.S. EPA.</p>
26.3	Rutan	2/11/05	<u>The Regional Board Must Remedy Prior Failures to Consider “Economics” As To Urban Runoff With This Basin Plan Review.</u> Pursuant to the express requirements of Water Code Section 13241, the Board is required to consider “Economic considerations” when it adopts or amends water quality objectives. Similarly, Water Code Section 13000 provides as follows: The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state	The commenter advances four theories as to why the Basin Plan needs comprehensive revision. The first, second, and fourth theories the commenter advances involve procedural objections to the manner in which certain factors (economics, housing, and reasonableness) were considered at the time the Regional Board established objectives. Initially, staff notes that the time to bring procedural challenges to objectives would have been when the Regional Board adopted the objectives and the State Board, Office of Administrative Law

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			shall be regulated to attain the highest water quality which is reasonable , considering all demands being made and to be made on those waters and the total values involved , beneficial and detrimental, economic and social, tangible and intangible. (Emph. Added.)	<p>and U.S. EPA approved the objectives. That was when the procedural objections could appropriately have been evaluated and challenged in court.</p> <p>Importantly, the commenter's procedural objections do not bear on the federal requirement to review water quality standards under Clean Water Act section 303(c) or the federal regulations at 40 C.F.R. section 131.20. The process of adopting the standard is not a part of the water quality standard or a part of the Basin Plan. As a result, any alleged procedural defects—which the Regional Board staff disagree with—are not within the scope of the triennial review. The objectives are in effect and are federal water quality standards.</p> <p>The staff does agree that economic considerations and housing (along with the other factors identified in Water Code section 13241) are to be addressed when establishing a water quality objective or amending an existing water quality objective. The Porter-Cologne Act requires certain “[f]actors to be considered by a regional board in <i>establishing</i> water quality objectives.” (Wat. Code, § 13241, emphasis added.) The objectives referenced were established long ago. The plain language of the Porter-Cologne Act only requires consideration of economics, housing, and other factors when establishing the water quality objectives in the first instance. Moreover, the Water Code does not contemplate a continual reassessment of those considerations, which is what the commenter desires. The section 13241 considerations do not become a part of the Basin Plan and hence are not part of regular review.</p> <p>For the foregoing reasons and as discussed with more specificity in Response to Comments 26.4-26.8, the commenter's objection is legally incorrect and beyond the scope of the triennial review.</p>
26.4	Rutan	2/11/05	Moreover, federal law requires an economic analysis	The authority relied upon by the commenter overstates the role

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			<p>when Basin Plan are adopted or amended. The regulations to the CWA require that <i>economic</i> factors be considered in developing water quality management plans (40CFR § 130.6(c) Federal law also mandates that implementation measures necessary to carry out the plan, including <i>financial and economic, social and environmental impacts</i>, all be considered. Specifically, 40 CFR § 130.6(c)(3) requires that the State include in its Water Quality Management Plan “the identification of anticipated municipal and industrial waste treatment works, including facilities for treatment of storm water-induced combined sewer overflows, along with programs to provide <i>necessary financial arrangements</i> for such works.....</p>	<p>of economics at the federal level. The commenter’s citation to 40 C.F.R. section 130.6(c), in particular, is misleading. First, the relevant section does not involve the establishment of water quality standards. Second, the water quality management plan described in section 130.6(c) is broader than just the Basin Plan, and also includes several program elements addressed by the State Board (e.g., the State Board’s Non-Point Source Policy) and other third parties (e.g., 208 Plans that were established by the Southern California Association of Governments (SCAG) and others). Third, the Basin Plan explicitly addresses and identifies various programs for management and waste water treatment facilities as required by the subparagraphs cited by the commenter. Fourth, all of the citations to 40 C.F.R. section 130.6(c)(4)(iii), (5), (6) (discussing economic and fiscal analysis and financing schedules) involve the implementation of non-point source management and control through the areawide planning process of section 208(b)(2) of the Clean Water Act. (33 U.S.C. § 1288(b)(2).) The areawide planning obligations of section 208 have largely been abandoned by U.S. EPA and subsumed by other Clean Water Act programs, but many of the identified financial arrangements, analysis, and scheduling obligations were the responsibility of the local areawide planning agency (i.e., SCAG) when the 208 plans were originally developed.</p> <p>See generally Response to Comment 26.3 for the reasons that the comment is outside the scope of the triennial review.</p>
26.5	Rutan	2/11/05	<p>Federal law further provides that “[e]conomic, institutional, and technical factors shall be considered in a continuing process of identifying control needs and evaluating and modifying the BMPs as necessary to achieve water quality goals.” (40 CFR § 130.6(c)(4).) In identifying BMPs for urban storm water control to achieve water quality goals, a “fiscal analysis” of the</p>	<p>See Responses to Comments 26.3-26.4.</p>

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			necessary capital, operational and maintenance expenditures is required (40 CFR § 130.6(c)(4)(G).)	
26.6	Rutan	2/11/05	The regulations also require the identification of agencies necessary to carry out the plan along with their “ financial capabilities ,” and a “ financing schedule and the consideration of the <i>economics</i> , social and environmental impacts” of any proposed amendments to the Water Quality Management Plan (40 CFR § 130.6(c)(4)(G).)	See Responses to Comments 26.3-26.4.
26.7	Rutan	2/11/05	Despite the clear requirement that “economics” be considered in the development of the Basin Plan, neither at the time the Basin Plan was originally adopted, nor at any time the Basin Plan has since been revised did the Regional Board fully and properly consider the “economic” impacts of applying water quality objectives to non-point sources, or to storm water and urban and rural runoff. In fact, even though the Regional Board previously specifically acknowledged the need to subsequently analyze the economic (and other) impacts from storm water and urban runoff, no such economic evaluation has occurred.	<p>With respect to the commenter’s particular objection that the prior consideration of economics did not consider the economics associated with regulating municipal storm water discharges as a point source discharge, even if true, the comment would not require a comprehensive reconsideration of the Basin Plan’s objectives. As noted in Response to Comment 26.3, section 13241 considerations only apply when establishing objectives. But even then, those considerations are subject to the overarching federal requirement that water quality standards be established that (1) designate beneficial uses and (2) identify the criteria to protect the uses. (40 C.F.R. § 131.3(i).) “Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the [Clean Water] Act. (<i>Ibid.</i>) As a minimum requirement, water quality criteria (i.e., objectives) must be “sufficient to protect the designated uses.” (40 C.F.R. § 131.6(c).) Water Code section 13241 specifically addresses “water quality objectives,” which are equivalent to the criteria component of federal water quality standards.</p> <p>Even if there are new sources or new regulatory schemes established, the water quality standards are the goals to which those programs must be tailored. (40 C.F.R. § 130.3.) A central scheme of the Clean Water Act is to establish the level of water quality necessary to protect beneficial uses and to</p>

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				<p>implement the goals and policies expressed by Congress. (See, e.g., 40 C.F.R. § 130.3 & 33 U.S.C. § 1313.) The criteria or water quality objectives necessary to protect an established, designated use do not change because a new class of discharges has been regulated. In fact, what the commenter advocates turns the entire Clean Water Act on its head. The objectives must still be consistent with the federal law requirement to protect the uses, enhance the quality of water, and “serve the purposes of the [Clean Water] Act.” (40 C.F.R. § 130.3.) The fact that municipal storm water is now regulated as a point source does not change the criteria or water quality objectives necessary to protect designated uses.</p>
26-8	Rutan	2/11/05	<p>Although the Board has previously, informally, and in a cursory fashion, rejected the extensive economic analyses set forth in these studies, in light of the continuing development of TMDLs for the Region, combined with the Receiving Water Limitation language prohibiting exceedances of water quality standards and objectives in the existing Los Angeles County Municipal (NPDES permit, these studies must be formally and fully evaluated, and the economic impacts discussed therein considered in the course of the Board’s 2004 Triennial Review of the Basin Plan. Further, this requested consideration of these studies and the evolving circumstances of the economic impacts of applying these water quality objectives to urban runoff should then be reflected in modifications to the Basin Plan, in accordance with the requirements of the State and federal law.</p>	<p>The commenter’s economic contentions are noted, but they are beyond the scope of this triennial review. As the commenter is aware, the Regional Board has performed its own economic analysis of the costs. The numbers are orders of magnitude less. Further, the costs detailed by the commenter assume a worst-case scenario and assume advanced treatment for all storm water discharges. At this point in time, the Regional Board and the municipal storm water permit still follow the BMP-based approach advocated by the State Board and U.S. EPA. This has been reaffirmed on numerous occasions. In addition, the Brown & Caldwell Study has been disavowed by Cal-Trans, the agency that requested the report.</p> <p>It should be noted that assuming full compliance with the California Toxics Rule drives the most extravagant costs assumptions. The California Toxics Rule is a federal water quality standard promulgated by U.S. EPA and it applies to all inland surface waters within the region. (40 C.F.R. § 131.38(d)(2)(ii).) While the California Toxics Rule is a numeric translation of the narrative toxicity objective in the Basin Plan, it is important to recall that such an objective is necessary. Water quality standards must “serve the purposes of the [Clean Water] Act.” (40 C.F.R. § 131.2(i). The Clean</p>

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				Water Act unequivocally states: “It is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited.” (33 U.S.C. § 1251(a)(3).) The narrative toxicity objective and the California Toxics Rule reflect this congressional policy. As a result, the extravagant costs alleged by the commenter’s studies are not associated with specific designations or objectives in the Basin Plan.
26.9	Rutan	2/11/05	<u>The Regional Board Must Remedy Its Prior Failures to Consider The Need For Developing Housing Within The Region When Establishing Water Quality Objectives For Urban Runoff.</u>	For the same reasons noted in Responses to Comments 26.3, 26.7, and 26.8, the commenter’s procedural objections as to the Regional Board’s past consideration of housing is beyond the scope of the triennial review. Again, the staff disputes the contention that the Regional Board inadequately considered housing when previously establishing objectives. Moreover, the two studies proffered in support of the housing impacts associated with the Los Angeles River Metals TMDL are essentially directed at the impacts of the California Toxics Rule—a federal water quality standard promulgated by U.S. EPA.

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26.10	Rutan	2/11/05	<p><u>The Regional Board Must Correct The Basin Plan's Defect Of Establishing Water Quality Objectives Based On Potential Beneficial Uses, Rather Than Actual Or Probable Further Beneficial Uses.</u></p> <p>Thus, water quality standards must be based on the "uses to be made" or waterbodies, given the "past, present and probable future beneficial uses" of such waterbodies. Moreover, the Regional Board is required to be reasonable" in establishing beneficial uses and setting water quality objectives. (See Water Code §§ 13000, 13241.)</p>	<p>The broad objection to designation of "potential" uses does not warrant a comprehensive update to the Basin Plan; however, as specific problems are identified that satisfy criteria for removing potential uses, then the Regional Board may consider revisions to the water quality standards. Like the first two theories, this objection is more of a procedural challenge than a substantive challenge. Basin plans for all nine of California's regions designate at least two categories of uses: existing and potential. In the Central Coast, Lahontan, and Santa Ana regions the beneficial use tables do not distinguish between existing and potential uses, and the presence of a use means that it is either existing or potential.</p> <p>The "potential" designation is shorthand for waters where there is not sufficient evidence of an existing use, and embraces the federal concept of "uses to be made of" (40 C.F.R. § 130.3) and the state requirement to protect "probable future beneficial uses" (Wat. Code, § 13241(a)). Waters with a "potential" use were previously designated and that potential use designation was made taking into account the federal regulations and Water Code section 13241. This is reflected, in part, by the commenter's reference to Basin Plan, page 2-1, describing some of the aspects of potential uses. The "potential" label is merely the Regional Board's (in fact all water boards) nomenclature and there is nothing wrong with using the "potential" designation.</p> <p>The fact that the Regional Board's Basin Plan distinguishes between existing and potential uses is a valuable distinction for dischargers. Existing uses (which are most the use designations in the Basin Plan) can never be removed. (40 C.F.R. § 131.10(h)(1).) In contrast, the potential use designations may be removed in certain circumstances if use attainability analyses are conducted. (40 C.F.R. § 131.10(g).) This recently happened with certain recreational uses in concrete channels during high-flow conditions and also year-round in parts of Ballona Creek.</p>

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26.11	Rutan	2/11/05	The Basin Plan identifies “existing” and “potential” beneficial uses, along with “intermittent” beneficial uses. (Basin Plan section 2-1.) Yet, a Basin Plan that relies on “ potential beneficial uses ,” rather than the present or probable future beneficial uses to establish water quality objectives contravenes the Porter-Cologne Act and the Clean Water Act.	See Response to Comment 26.10.
26.12	Rutan	2/11/05	The problem is not merely one of semantics. Under the Basin Plan “potential” beneficial uses can be designated for waterbodies for any one of five reasons, including: 1) implementation of the State Board’s policy entitled “Sources of Drinking Water Policy”, 2) plans to put the water to such future use; 3) “potential to put the water to such future use”, 4) designation of a use by the Regional Board as a regional water quality goal, or 5) public desire to put the water to such future use. (Basin Plan, Section 2, p.1.) Thus, the Board’s definition of “potential” use goes far beyond a “probable future use.” For example, the mere fact that there is public “desire” to put a waterbody, does not mean such use can be reasonably achieved in the foreseeable future or that it is a probable future use. This, such “potential” uses are not “probable” future uses.	See Responses to Comment 26.10. As explained there, the “potential” designation is shorthand for waters where there is not sufficient evidence of an existing use, and embraces the federal concept of “uses to be made of” (40 C.F.R. § 130.3) and the state requirement to protect “probable future beneficial uses” (Wat. Code, § 13241(a)). Moreover, the list identified from Basin Plan page 2-1 is not an exhaustive list, but only identifies some of the factors included in the process of designating “potential” uses. The individual designations are evaluated for compliance with the Clean Water Act and Porter-Cologne Act at the time the designations are made. As additional evidence is received, potential uses may be revisited to determine whether the designated use still conforms to the standards of the Clean Water Act and the Porter-Cologne Act.
26.13	Rutan	2/11/05	Moreover, the designation of “potential” beneficial uses, instead of “probable future beneficial uses” or “uses to be made,” as required by law, has led to numerous improper beneficial use designations in the Basin Plan. For example, the Basin Plan currently lists “REC-1” as a potential beneficial use for various concrete-channelized waterbodies, waters which are often intermittent and which are off-limits to the public, including the Alhambra Wash, the Arcadia Wash, and the Santa Anita Wash. (A REC-1 designation means that a waterbody is used for recreational activities involving body contact	As noted in Responses to Comments 26.10-26.12, as information is developed about substantive deficiencies with specific, potential use designations, the specific standards actions will be considered and incorporated into a triennial review workplan. The commenter’s only specific comment concerns certain potential REC-1 designations associated with certain concrete-lined channels. These channels are already subject to a limited de-designation during times of high-flow conditions. This was the result of a prior Regional Board triennial review workplan.

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			with water, e.g. swimming or wading.) Such uses are entirely unsuitable for concrete-channelized waterbodies, and as shown by news accounts every storm season, allowing such a use may be extremely dangerous or even deadly. Thus, it is improper to designate a REC-1 use for a concrete-channelized waterbody where there is no evidence of an actual legal or probable future REC-1 use. (See State Board Order WQO 2005-0004, Exh. J.)	
26.14	Rutan	2/11/05	Thus, for example, although it is “possible” that some currently concrete-channelized waterbodies could someday be used for some type of REC-1 activities, such activities are certainly not “probable future beneficial uses” of such waterbodies. It is, thus, inherently “unreasonable” to designate concrete-lined storm channels which are closed to the public because of safety concerns as potential REC-1 waterbodies. Thus, it was, and is, improper for the Board to consider such “potential” uses in setting water quality standards for these waterbodies, and this defect in the Basin Plan should be considered and corrected as a part of the 2004 Triennial Review.	As noted above, these issues are subject to on-going review as evidence is received. The process for removing the uses is the structured scientific analysis under 40 C.F.R. section 130.10(g). Staff disagrees with the statement that the designations are inherently unreasonable. See also Responses to Comments 26.10, 26.12, and 26.13.
26.15	Rutan	2/11/05	Moreover, as the Board has recently began to develop and issue TMDLs for water bodies throughout the Region, it is particularly important that the use designations in the Basin Plan to be corrected; otherwise improper use designations in the Basin Plan will lead to unreasonable numeric limits and excessive implementation measures being imposed through inappropriate TMDLs.	See Response to Comment 26.1, indicating that where appropriate the Regional Board has incorporated standard actions into TMDL implementation plans or had the standards action precede the TMDL adoption.
26.16	Rutan	2/11/05	The Board’s designation of “potential” uses in the Basin Plan, instead of actual and probable future uses, is improper. Improperly designated uses will lead to improper water quality objectives and standards, and	See Responses to Comments 26.10, 26.12, 26.13, 26.14, and 26.15.

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			unreasonable and unachievable TMDLs. The Board must thus act to correct this problem by re-designating beneficial uses based on “past, present, and probable future” beneficial uses, or the “uses to be made” rather than mere “potential” uses, in the course of the 2004 Triennial Review.	

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26.17	Rutan	2/11/05	<p><u>The Regional Board Must Establish Water Quality Objectives That Can Reasonably Be Achieved.</u></p> <p>Despite this clear mandate to adopt water quality objectives that can “reasonably” be achieved, the Basin Plan is rife with unreasonable and unachievable objectives. Not only has the Board acted improperly in failing to adequately consider economics and housing when it adopted the Basin Plan, and in setting beneficial uses, it has further adopted “unreasonable” water quality objectives and requirements.</p>	<p>The commenter’s final theory is that the previously established objectives are somehow unreasonable in contravention of a “reasonableness” standard in the Porter-Cologne Act. As previously noted in Responses to Comments 26.2 and 26.3, this is essentially a procedural objection to prior standards actions and it is beyond the scope of the triennial review. Whether a previous Regional Board “establish[ed] such water quality objectives in water quality control plans <i>as in its judgment</i> . . . ensure the reasonable protection of beneficial uses. . . .” (Wat. Code, § 13241, emphasis added) is not within the scope of the triennial review. That is a procedural consideration of a prior Regional Board.</p> <p>Further, as previously noted the water quality objectives are the criteria component of federal water quality standards. As a result, they must be established at levels “sufficient to protect the designated uses.” (40 C.F.R. § 131.6(c).) In other words, there may be occasions when the federal requirement that criteria be “sufficient to protect designated uses” trumps the “reasonable protection of beneficial uses.” However, there is no evidence that the objectives are unreasonable.</p> <p>Similarly, in the coastal marine environment (to which everything in the Los Angeles basin drains), the Legislature has established a more specific and stringent policy directive. In Water Code section 13142.5, subdivision (a), the Legislature identified a critical need to treat discharges in the coastal zone that affect “wetlands, estuaries, and other biologically sensitive sites,” “areas important for water contact sports,” “areas that produce shellfish for human consumption,” and “ocean areas subject to massive waste discharge” and “where feasible, to restore past beneficial uses of the receiving waters.” In discussing this requirement, the Legislature stated a variety of factors to be considered, but explicitly excluded “convenience of the discharger.” (Wat. Code, § 13142.5(a).) As a result, prior regional boards would have needed to consider this specific legislative directive in considering the broader “reasonable protection of beneficial uses.”</p>

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26.18	Rutan	2/11/05	These objectives are unreasonable on their face, in that they impose absolute standards, without regard for whether or not they can be reasonably achieved.	<p>To the extent the commenter identifies specific objectives as unreasonable, the commenter makes unsupported assertions that ignore the plain language of the objectives. The two objectives cited by the commenter are the narrative objectives concerning floating materials and solid, suspended, or settleable materials. (Basin Plan, pp. 3-9, 3-16.) The commenter asserts that the objectives are facially unreasonable because they impose absolute standards. This statement is incorrect. Both objectives require that floating materials and solid, suspended, or settleable materials not be present “in concentrations that cause nuisance or adversely affect beneficial uses.” (<i>Ibid.</i>) This clause is very important because it establishes two conditions under which the materials may not be present: first, if the material is at a concentration that causes nuisance, and second, if the material is at a concentration that adversely affects beneficial uses.</p> <p>Neither narrative objective establishes an absolute and neither is unreasonable. The first concentration threshold is to prevent nuisance. Importantly, the Water Code does not allow the discharge of waste to create a nuisance, and the prevention of nuisance is not limited by any reasonableness requirement in the Porter-Cologne Act. (See, e.g., Wat. Code, §§ 13050(h)-(i), 13225(a), 13263(a), and 13241.) Moreover, the definition of nuisance means that certain factors would need to be evaluated before a determination of nuisance could be made. (See, Wat. Code, § 13050(m).) This evaluation would identify the “concentration that causes nuisance.” The second concentration threshold is that the materials must not “adversely affect beneficial uses.” Again, this is not an absolute, but requires a determination of “adverse” effects. That means the concentration would need to be assessed and it is not a rigid, absolute as characterized by the commenter. In fact, the language “adversely affects beneficial uses” can be viewed as a reflection of the reasonableness language in</p>

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				section 13241. Neither objective is facially unreasonable as claimed by the commenter.
26.19	Rutan	2/11/02 050.	For example, the Board has interpreted these narrative objectives to require the unreasonable and in effect, impossible, numeric water quality objective of “zero” trash in the Los Angeles River and Ballona Creek. (See Trash TMDL, Echs. “F” p. 16.)	The commenter notes that the two narrative objectives have been interpreted in two different trash TMDLs to mean zero trash. (In fact, there are three trash TMDLs in the region where the wasteload allocation and load allocations have been established at zero trash.) While it is beyond the scope of the triennial review, the characterizations in the comment bear correction. First, the trash TMDLs involved the specific interpretation of the narrative water quality objective into a numeric waste load allocation for a specific pollutant. This is required by section 303(d) of the Clean Water and U.S. EPA’s regulations. (33 U.S.C. § 1313(d), 40 C.F.R. § 130.2.) Second, this interpretation was performed in the context of an unusual pollutant that does not assimilate like many other pollutants. Third, this interpretation was performed in the specific context of beneficial uses that contain an aesthetic component, and hence a policy determination by the Regional Board. Fourth, the comment incorrectly characterizes the numeric waste load allocation as a “water quality objective,” which it is not. Instead, it is a waste load allocation, which is not a water quality standard. (Compare 40 C.F.R. §§ 130.3 and 131.3(i) with 130.2(h).)
26.20	Rutan	2/11/02 050.	The Regional Board similarly tentatively interpreted the Basin Plan to require unreasonable numeric water quality objectives when it sought to include in a Proposed Metals TMDL for the Los Angeles River that the numeric targets for the TMDL be based upon those targets set forth in the California Toxics Rule (“CTR”) promulgated by the EPA in 2000. (Proposed Metals TMDL, Exh. “E,” p. 26) The	The final objection based on a purported “reasonableness” failing has to do with the Los Angeles Rivers Metals TMDL, which has not yet been approved by the Regional Board. First, the comment is beyond the scope of the triennial review because it does not address items within the Basin Plan that are subject to review. Second, the commenter repeats the incorrect statement that TMDLs establish water quality

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			<p>Basin Plan is unreasonable in this regard because both EPA and the State of California have indicated the CTR was not intended to be applied to the regulation of storm water discharges.</p>	<p>objectives. In fact, they do not as explained above. Third, the metals TMDL will be based on the federal California Toxics Rule established by U.S. EPA because that California Toxics Rule establishes the water quality standard for priority pollutants (including the subject metals) in inland surface waters in California. (40 C.F.R. § 131.38(a).)</p> <p>Fourth, the commenter conflates the California Toxics Rule, with a separate policy used by the State Board to implement the California Toxics Rule. The State Implementation Policy (SIP) for the California Toxics Rule provides procedures, including equations, for applying the California Toxics Rule to certain discharges. The State Board has said that those procedures (i.e., the SIP) do not apply to storm water discharges. However, the California Toxics Rule, as a water quality standard, is applicable to all inland surface waters and hence all discharges to inland surface waters. When another representative of the Coalition for Practical Regulation raised the commenter's point at a recent State Board hearing, the State Board rejected the commenter's contention as "illogical." (State Board Hearing on Revisions to the SIP, Item 3 (Feb. 24, 2005).) The State Board noted that water quality standards apply regardless of the source of the discharge.</p> <p>Similarly, in support of the metals TMDLs, the U.S. EPA has rejected the commenter's contention. In fact, the U.S. EPA quote offered by the commenter is inapposite. That quote simply says when establishing the numeric criteria in the California Toxics Rule that's all U.S. EPA was doing: establishing the criteria. A broader issue of how the criteria would be translated into permit requirements for storm water discharges was "beyond the scope of the rule." The quote does not support, nor does U.S. EPA believe that the California Toxics Rule is not an applicable water quality standard for determining wasteload allocations for municipal</p>

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				storm water discharges.
27.1	CICWQ	2/11/05	We believe that it is imperative that the Board revise its proposed 2004 Triennial Review Priorities List to review the region's water quality standards, particularly as they apply to stormwater, to determine the feasibility of creating a new beneficial use category (and associated water quality objectives) for flood protection (and to address its relationship to other designated uses already included in the Basin Plan), and to explore the feasibility of alternative approaches to protection of so-called "potential" beneficial uses.	See responses to 8-5 and 26.10.
27.2	CICWQ	2/11/05	County to be the 4 th least affordable county nationwide in the third quarter of 2004- the latest period for which data are available. The organization blames "excessive regulation" for much of the lack of affordability. Yet, the Triennial Review fails to even mention or consider this fact.	Comment noted.
27.3	CICWQ	2/11/05	We believe that it is imperative that the Board revise its 2004 Triennial Review Priorities List to address the applicability of water quality objectives to storm flows and other critical flow conditions and resolve conflicts between various basin planning provisions. This is critical due to the housing affordability crisis and job loss potential of the continual reliance on outdated and inappropriate water quality standards.	Comment noted. See response to 8-2.
27.4	CICWQ	2/11/05	These considerations are important enough to us that we are willing to support the formation of a Stakeholder Task Force as outlined in the Coalition Letter dated February 11, 2005. We look forward to working with you on this process.	Thank you; offer noted. See response to 8-1.
28.1	Burhenn	2/11/05	The proposed 2004 Triennial Review Basin Plan review does not meet the legal requirements for a Triennial	The triennial review workplan and the process for developing the workplan complies with all applicable legal requirements.

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			<p>Review. The hearing noticed for March 3, 2005, and the “triennial review” being considered at that hearing do not meet the requirements imposed by Section 303c. The public notice for the workshop held on January 27, 2005 and for the March 3 hearing states that the hearing is to “set priorities for revising and updating the Region’s water quality standards ... over the next three years.” Although, the County and the Flood Control District have no objection to the Regional Board setting priorities for work to be performed over the next three years, the setting of the priorities is not the same as reviewing the standards themselves.</p>	<p>Staff and the Board developed the workplan after numerous public workshops and the Board will consider approving the workplan at a public hearing. The public workshops have solicited information about particular water quality standards that are appropriate for revision. The process satisfies the requirements of Clean Water Act section 303(c) (33 U.S.C. § 1313), the Porter-Cologne Act (Wat. Code, § 13240), the federal regulations (40 C.F.R. § 131.20(a)), and the State Board’s Continuing Planning Process as submitted to U.S. EPA (SWRCB, Report in Support of U.S. Environmental Protection Agency Review of California’s Continuing Planning Process, (May 2001)).</p> <p>The commenter overstates the requirements of the Clean Water Act and the Porter-Cologne Act. Section 303(c) of the Clean Water Act requires that the “State shall from time to time (but at least once each three year period beginning with October 18, 1972) hold public hearings for the purposes of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards.” Section 13240 of the Porter-Cologne Act requires more simply “[Basin plans] shall be periodically review and may be revised.” Neither of these sections requires a comprehensive update of all water quality standards each three years. Instead, the standards are to be review at a public hearing. The Regional Board conducts this review by receiving public input and developing a plan for updating the Basin Plan to incorporate or to refine standards as appropriate. Most of this year’s workplan addresses refinements to existing water quality standards to facilitate discharger compliance and to reflect new advances in water quality science.</p> <p>U.S. EPA generally regards the triennial review process as a process for continually improving water quality—rather than as the commenter construes it a process for removing</p>

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				<p>protections. The applicable federal regulations (regulations not cited by the commenter) demonstrate that the primary focus of the triennial review is to ensure that waterbodies not designated fishable/swimmable are constantly “re-examined” to determine whether the uses are now attainable. (40 C.F.R. § 131.20(a).) If the uses are now attainable, then the water quality standards must be updated to reflect this condition. (<i>Ibid.</i>) This view has been acknowledged by the United States Court of Appeal for the D.C. Circuit: “Triennial reviews consist of public hearings in which current water quality standards are examined to assure that they ‘protect the public health or welfare, enhance the quality of water and serve the purposes’ of the Act. 33 U.S.C. § 1313(c)(2)(A).” (<i>American Paper Institute, Inc. v. U.S. E.P.A.</i> (D.C. Cir. 1993) 996 F.2d 346, 349.) Also, for those water bodies that may be under-protected, the regulation requires states to conduct a more probing “re-examination” rather than the general “review” of water quality standards.</p> <p>As suggested by U.S. EPA regulations (40 C.F.R. § 131.20(a)), the State has incorporated its procedures “for identifying and reviewing water bodies for review” into the state’s Continuing Planning Process. The State Board submits the Continuing Planning Process to U.S. EPA in accordance with section 303(e) of the Clean Water Act and U.S. EPA then approves the Continuing Planning Process if the process conforms to the Clean Water Act. (33 U.S.C. § 1313(e).) In its Continuing Planning Process documents, the State Board has indicated that “The public is given notice of the triennial review, and a public hearing is held by the State or Regional Board where the Board proposes a list of priority water quality issues to be addressed during the next three years. After considering input by members of the public and others, the Board adopts a priority list of issues and a workplan detailing the resources that will be allocated and the expected time</p>

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				<p>schedule for completing the actions specified on the priority list. Triennial review results are transmitted by the State Board to US EPA.” (SWRCB, Report in Support of U.S. Environmental Protection Agency’s Review of California’s Continuing Planning Process (May 2001), p. 33-34.) This process has been acceptable to U.S. EPA. (See, e.g., 65 Fed. Reg. 31682, 31684 (May 18, 2000).) This is the process the Regional Board has followed.</p> <p>In sum, the process the Regional Board has followed for reviewing the water quality standards, receiving information at public workshops, and establishing a priority workplan for the next three years is the process contemplated by the State Board in the Continuing Planning Process and approved by U.S. EPA. U.S. EPA’s comments in the administrative record for this triennial review also demonstrate their belief that it satisfies the requirements of section 303(c) of the Clean Water Act. The Regional Board’s triennial review process satisfies the Clean Water Act and the Porter-Cologne Act.</p>
28.2	Burhenn	2/11/05	<p>Accordingly, the County and Flood Control District requests that the Regional Board comply with Section 303c, and in accordance with that section hold a public hearing for the purpose of reviewing applicable water quality standards themselves and, as appropriate, modifying and adopting standards. The specific standards, including beneficial uses and water quality objectives, that the County and the Flood Control District request be considered at this hearing are set forth in Section II of these comments. If the Regional Board is not prepared to review, modify and adopt standards at the March 3 hearing, then the County and the Flood Control District request that the hearing be continued to a date at which the Regional Board will do so. Alternatively, the County and Flood Control District request that the</p>	<p>As set forth in Response to Comment 28.1, the procedures comply with applicable law. The commenter is free to submit evidence it believes relevant to the triennial review process. Neither the Clean Water Act, its implementing regulations, nor its implementing authority, anticipate that the standards would actually be revised at the triennial review public hearing.</p>

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			Regional Board recognize that the March 3 hearing does not constitute the triennial review required by Clean Water Act Section 303, and the Regional Board schedule a hearing for such a review.	
28.3	Burhenn	2/11/05	The Regional Board is requested to review the water quality objectives for bacteria and modify them to take into consideration natural conditions that cause or contribute bacteria, to determine what are the proper indicator bacteria, and to determine the levels that should be set.	See response to 29.7.
28.4	Burhenn	2/11/05	The Regional Board is requested to review the water quality objectives for bacteria and modify them to take into consideration natural conditions that cause or contribute bacteria, to determine what are the proper indicator bacteria, and to determine the levels that should be set.	Duplicate of Comment 28.3 above.
28.5	Burhenn	2/11/05	The Regional Board is requested review and modify the WARM and COLD beneficial uses designated for engineered flood protection channels in which there is insufficient flow to support those uses. These channels and these designations are set forth on the excerpt from the Basin Plan attached hereto, including but not limited to those channels whose WARM or COLD beneficial uses are designated only as "potential" or intermittent."	Staff disagrees with the commenter's conclusion that flow is insufficient in the channels to support aquatic life uses. In general the beneficial use definitions for aquatic life state, "uses of water that support ecosystems, including but not limited to preservation or enhancement of aquatic habitats, vegetation, fish or wildlife, including invertebrates." Even intermittent flow may be adequate in many cases to support aquatic habitat. Staff is undertaking a project to evaluate the possibility of creating tiered aquatic life uses that may account for some of the physical limitations on the type of community that may inhabit a engineered channel (see O-1).
28.6	Burhenn	2/11/05	The County and the Flood Control District support the inclusion of Priority S-5 (development of numeric or narrative objectives for sediment quality and sediment toxicity) on the proposed priorities list. Sediment management is an important consideration in maintaining flood protection in the County. The County and the Flood Control District request, however, that this be	Comment noted. Staff proposes to address S-5 during this Triennial Review cycle.

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			reviewed now, and not deferred to a later date.	
28.7	Burhenn	2/11/05	The County and Flood Control District request that these beneficial use designations and water quality objectives be reviewed at the triennial review hearing. The beneficial uses and the associated standards form the foundation for adopting Total Maximum Daily Loads ("TMDLs"). If the beneficial use or water quality objective is erroneous, however, then the TMDL itself will be erroneous. Correct and accurate beneficial use designations and water quality objectives must be established before a TMDL is adopted.	See Responses to Comments 28.1 and 28.2. As previously noted, the efforts the commenter seeks could not be accomplished at a triennial review hearing. First, existing uses (which are most the use designations in the Basin Plan) can never be removed. (40 C.F.R. § 131.10(h)(1).) Some of the actions sought by the commenter implicated existing uses. Second, even for designated uses that are not existing uses, the Regional Board and stake holders would first need to complete the structured scientific review of a use attainability analysis before the action could be taken. (40 C.F.R. § 131.10(g).)
28.8	Burhenn	2/11/05	Accordingly, the County and the Flood Control District request review of these beneficial use designations and water quality objectives now, prior to adoption of the TMDLs which will be based on them. If the Regional Board is not going to review the requested beneficial uses and objectives at this time, then the County and the Flood Control District reserve the right to seek review of those uses and objectives before adoption of a TMDL based on those uses and objectives. If no review of the requested uses and objectives occurs either at this triennial review hearing or before adoption of a TMDL, then the County and Flood Control District reserve the right to challenge the TMDL as being improperly adopted because there has been no review in compliance with Clean Water Act Section 303(c).	See Response to Comments 28.1, 28.2, 26.1, and 26.15.
28.9	Burhenn	2/11/05	Reservation of Rights to seek further review and modification of beneficial use designations and Water Quality Objectives.	Comment noted. The Triennial Review is conducted every three years, providing regular opportunities for stakeholders to request further review of water quality standards.
28.10	Burhenn	2/11/05	Nothing in this letter shall be construed to be a waiver of the prior comments made by the County and the Flood Control District with respect to the proposed priorities that the Regional Board is considering. The County and the Flood Control District reiterate and incorporate by	Comment noted.

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			reference their prior comments on those issues.	
29.1	LACDPW	2/11/05	We believe that it is imperative that the Board review the region's water quality standards, particularly as they apply to stormwater, to determine the feasibility of creating a new beneficial use category (and associated water quality objectives) for flood protection, and to explore the feasibility of alternative approaches to protection of "potential" beneficial uses.	See responses to 8-5 and 27-1.
29.2	LACDPW	2/11/05	To facilitate the Board's consideration of these key issues, Public Works and other local stormwater management agencies propose the formation of a Stakeholder Task Force with a mission as outlined below. We are committed to working collaboratively with the Regional Board and other stakeholders who have an interest in the process detailed here.	See response to 8-1.
29.3	LACDPW	2/11/05	As we have communicated to you on previous occasions, we are concerned that the water quality objectives in the Basin Plan were adopted without adequate consideration of these factors and that the Basin Plan does not contain the required programs of implementation (Section 13241 & 13242). Nor were the Basin Plan's beneficial uses designated with due consideration of these factors.	See response to 26.3.
29.4	LACDPW	2/11/05	Most importantly, the Basin Plan's water quality objectives are now being applied to stormwater, contrary to the board's intention when those objectives were adopted. Additionally, other objectives are being applied during critical low flow conditions in a manner that is contrary to the Board's intention when those objectives were adopted.	See responses to 8-2 and 8-3.
29.5	LACDPW	2/11/05	We believe that compliance with these objectives will be technically very difficult for storm water permittees, particularly during high flow periods, as well as very costly, diverting resources away from other important public and social priorities.	Water quality standards are in place to protect the region's waters. Environmental protection is clearly a public priority in the Los Angeles Region. We do acknowledge that technology to control stormwater and

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				improve stormwater quality is still in the developmental stages in some cases. In the municipal stormwater permit, the Board outlines an iterative process for achieving instream water quality standards. This process entails the use of Best Management Practices (BMPs) that will be implemented to prevent or reduce pollutants that are causing or contributing to exceedances of water quality standards. (See Order No. 01-182, Part 2)
29.6	LACDPW	2/11/05	We are concerned that even with these refinements in approach, the cost of complying with bacteria objectives has never been properly analyzed, and a program of implementation is not included within the Basin Plan as required under Water Code Section 13242. We are also concerned that the reference watershed approach may not be workable for the highly urbanized watersheds.	See also response to 15-4. Staff disagrees that the bacteria objectives do not have sufficient implementation measures. The Basin Plan identifies the regulatory tools that will be used to implement objectives and generally provides implementation measures. The suspension of REC-1 uses in certain engineered channels during periods of high flow and the bacteria TMDLs provide further implementation measures.
29.7	LACDPW	2/11/05	Finally, there are a number of outstanding scientific issues related to the use of indicator bacteria as surrogates for human health risk. For example, there are many natural sources of indicator bacteria in the environment and current methods do not allow us to accurately distinguish bacteria from human and nonhuman sources; regrowth in the environment occurs, as does an increase in bacteria concentrations due to sediment resuspension during storm events; and bacteria may not be a suitable indicator of human health risk.	<p>The US EPA does not distinguish between human and nonhuman sources of bacteria based on the conclusion that there are health risks associated with both. Furthermore, the Region's bacteria objectives are based on (1) the most recent recommendations of EPA regarding the most appropriate bacteria objectives to protect public health and (2) a landmark local epidemiological study in Santa Monica Bay that examined the health risks of swimming in the Bay and demonstrated a positive correlation between health risks and the same bacterial indicators that the Regional Board relies upon to protect the recreational beneficial use.</p> <p>The Regional Board is providing funding and staff time to conduct further research into the best indicators of human health risk. The Board will continue to reevaluate our objectives through the Triennial Review process as science evolves.</p>
29.8	LACDPW	2/11/05	Similarly, we recognize that the Basin Plan will be amended to include TMDLs and implementation plans	As the commenter notes, Regional Board staff is already working with stakeholders to develop site-specific objectives

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			for water quality objectives for metals, and we are concerned that the costs and technical burden to comply will be unreasonable for the very high flow volumes that can occur during wet-weather events. We, therefore, propose that this stakeholder process reexamine the water quality standards associated with metals, which would be consistent with the Regional Board's intention to incorporate the site specific objectives for copper that are currently under development (see Triennial Review Priority 0-3)	for copper for a number of waterbodies in the region. The Board is open to other proposals for metals site-specific objective development if there is interest on the part of stakeholders. See response to 8-1.
29.9	LACDPW	2/11/05	Additionally, consistent with statements made by the EPA with respect to the applicability of CTR-based permit limits to storm flows, we believe strongly that the stakeholder process proposed would provide a valid and appropriate means for addressing the implementation of CTR criteria to storm flows via the metals TMDL.	Staff identified the applicability of the CTR and SIP to stormwater discharges as a high priority. These issues will be addressed in upcoming metals TMDLs. The CTR applies to instream water quality and when instream flows are primarily comprised of stormwater discharges, it is clear that these discharges will have to be controlled to achieve instream water quality objectives. The SIP does not apply to stormwater discharges. However, through the TMDL implementation plans, we will discuss how permits will be written to meet instream CTR criteria using other available guidance and regulatory tools. Because the metals TMDLs will be adopted as Basin Plan amendments with ample opportunity for public comment, this issue will be addressed through the TMDL process within the next three years.
29.10	LACDPW	2/11/05	Again, the stakeholder process proposed here would provide a means for addressing the myriad issues related to sediment management within the Region, including issues related to sediment quality and/or toxicity, sediment quantity and transport, and conflicts between sediment management and the beneficial uses specified in the Basin Plan.	See response to 8-1.
29.11	LACDPW	2/11/05	The stakeholder process, if applied to mineral quality objectives, would provide a means for determining the	See response to 8-1.

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			frequency, duration, and magnitude components of these water quality objectives. This process could also be used to develop a program of implementation for mineral quality objectives.	
29.12	LACDPW	2/11/05	First, currently used beneficial use categories are not sufficiently refined to differentiate between different types of water bodies (e.g. concrete-lined versus natural bottom) and different types of conditions. Thus, there is no beneficial use category or water body designation for flood protection, even though many of the region's channels have been engineered for just this purpose.	See response to 8-5.
29.13	LACDPW	2/11/05	Additionally, the somewhat generic categories do not recognize the different conditions that prevail in arid and semi-arid regions, where the dry season typically can last for 8-10 months, and rains often come in extreme episodic events that can cause extremely high flows.	<p>Although it poses a challenge to capture and treat variable storm flows, the Regional Board has a statutory duty to implement regulations that will protect the designated beneficial uses of the region's waters, including downstream coastal lagoons, estuaries, beaches, bays and harbors.</p> <p>Board staff is currently working with EPA on a study to evaluate the application of tiered aquatic life uses, which would if applied in the Los Angeles Region further refine the description of aquatic life beneficial uses of our waterbodies by taking into consideration inherent physical conditions that determine in part the type of aquatic community in the waterbody.</p>
29.14	LACDPW	2/11/05	Finally, implementation of water quality objectives for "potential" beneficial uses (as opposed to existing beneficial uses) is clearly contrary to the Regional Board's intent when potential uses were initially assigned to the Region's water bodies, and implementation of water quality objectives for several water bodies currently designated with potential beneficial uses will require significant and potentially unreasonable expenditures of public resources.	See responses to 8-1 and 27-1.
30.1	CSDLAC	2/11/05	Instead of conducting the requisite triennial water quality	See response to 28.1.

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			standards review mandated by the clean Water Act, the Los Angeles Regional Board has transformed this review into a priority setting process. While priority setting is an important task for any agency, we believe that this priority setting process does not comply with the triennial review requirements of the Clean Water Act. Section 303©(1) of the Clean Water Act (CWA) expressly requires the State water pollution control agency (in California, the State Board and Regional Boards) to, at least every three years, hold public hearings “for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards.	
30.2	CSDLAC	2/11/05	To facilitate the Board’s consideration of a number of key issues, we propose the formation of a Stakeholder Task Force, as outlined in a separate letter dated February 11, 2005 from the Districts and several other entities, which is incorporated herein by reference. The Districts are committed to working collaboratively with the Regional Board and other stakeholders who have an interest in water quality standards in the Los Angeles region, and are willing to consider contributing resources to support this process.	<p>See response to 8.1.</p> <p>Furthermore, Regional Board staff has already been participating in such a stakeholder task force spearheaded by the Coalition for Environmental Protection, Restoration and Development (CEPRD). The task force includes the County Sanitation Districts of Los Angeles County among many others. As the Regional Board understands the mission of this group, it is to identify Basin Planning projects or specific TMDL-related projects that are of common interest to stakeholders and then to initiate stakeholder-led studies to gather the requisite data to support a future Basin Plan amendment or TMDL.</p> <p>Regional Board staff has also been working with individual stakeholders or smaller groups of stakeholders who are interested in undertaking specific projects, namely site-specific objective studies, for waterbodies to which they discharge (e.g. ammonia site-specific objective study, copper site-specific objective study).</p>
30.3	CSDLAC	2/11/05	We believe that one of the most important priorities that has overlooked is to include an item to allow staff to	Regional Board staff has within resource constraints tried to accommodate Basin Planning needs as they arise during the

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			respond to the need for modifications to standards in specific locations that might arise during the triennial review period. Often is it difficult to anticipate the exact priority issues that may arise within the region; such as interest in refining water quality standards through the development of site-specific water quality objectives. Sometimes interest in projects such as these arises through permit compliance issues, and cannot always be anticipated in advance.	development of other Basin Plan amendments or TMDLs. As an example, during the last three years the issue of updating the region's freshwater ammonia objectives spawned several other projects including adoption of saltwater ammonia objectives for inland waters such as enclosed bays, estuaries and harbors; evaluation of early life stages of fish; and development of site-specific objectives for certain waterbodies. Furthermore, though not foreseen as a priority in the 2001 Triennial Review, staff has committed time to other site-specific objective studies for copper, which will facilitate development and implementation of metals TMDLs.
30.4	CSDLAC	2/11/05	The Districts also would like to take this opportunity to urge the Regional Board to compete work on Issue o-6, Ammonia Site Specific Objectives, as soon as possible, since there is an impending deadline under the Santa Clara River Nutrient TMDL for its completion this spring, and all of the technical work on this project has been completed for well over a year.	Comment noted. Regional Board staff intends to bring the item to the Board in May 2005.
30.5	CSDLAC	2/11/05	The District support the Regional Board's initiative in conducting the Tiered Aquatic Life Use Pilot Project. We would note that it will be important for the RWQCB to carefully consider the characterization of reference conditions in this region's mostly highly-modified urban streams, since it clearly is not appropriate to compare them to natural streams uninfluenced by human activity. We also would like to propose that staff consider using the lower San Gabriel River watershed as the case example for the Los Angeles region, due to the fact that many of its characteristics are similar to other watersheds and the fact that there is a lot of water quality and some bioassessment data already available for this watershed.	Comment noted. Tiered aquatic life uses are intended to address some of the inherent physical constraints that may limit the type of aquatic life inhabiting a particular waterbody. After evaluating the applicability of tiered aquatic life uses in the region, staff will consider the lower San Gabriel River among other waterbodies in the region as a potential case example.
30.6	CSDLAC	2/11/05	The Districts would like to suggest that the range of proposed actions that might occur as a result of the ongoing fish consumption study currently underway is	Comment noted. Staff has revised the description to note that consumption rates may be higher or lower than those used in the development of the national criteria. These different

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			broader than that which is stated. It is quite possible that the study will also find areas where fishing effort and/or consumption is “de minimus,” and/or where fishing is solely for artificially stocked fish, which may have different implications from a water quality standards point of view.	consumption rates could either increase or decrease the objectives set to protect human consumption of organisms.
30.7	CSDLAC	2/11/05	As noted here, this issue really is a statewide issue, and it is therefore most appropriate for the SWRCB to take the lead on this. We recommend that this issue be made a low priority, in recognition of the fact that the water quality objectives associated with protection of aquatic life uses are not refined enough to be revised for these types of protected areas, and in any case, EPA considers the aquatic life water quality criteria for toxic pollutants (such as those in the California Toxics Rule) to be protective of all aquatic life-related beneficial uses.	This issue is important for consistency among statewide and regional plans as the nomenclature for some of these areas is being revised. For example, areas previously known as Areas of Special Biological Significance (ASBSs) are now called Surface Water Quality Protection Areas (SWQPAs). Furthermore, the California Department of Fish and Game is changing its nomenclature for marine protected areas. For the sake of clarity and consistency it is important to revise the definition of the “Preservation of Biological Habitats” beneficial use to reflect these statewide changes.
30.8	CSDLAC	2/11/05	We strongly recommend that this issue be made a high priority, and be examined through a stakeholder process. We believe that there is flexibility in water quality standards that could potentially resolve a lot of contentious issues if some uses designated as “potential” uses were re-examined and perhaps a different approach to implementation was employed.	While this issue was identified as a medium priority, another issue may address this at least in part. Specifically, Regional Board participation in a workgroup on effluent dominated waterbodies (S-8) was identified as a high priority. There are two general approaches to protecting effluent dominated waterbodies, while providing some regulatory flexibility where possible. The first is to evaluate how beneficial uses are applied and protected in these waterbodies, while the second is to evaluate how water quality objectives set to protect the beneficial uses are applied. Potential uses such as municipal and domestic supply are one area of evaluation being considered by the workgroup.
30.9	CSDLAC	2/11/05	The Districts believe that the issue of both <i>how and where</i> Basin Plan mineral objectives should be implemented is an extremely important issue for various stakeholders in both the Calleguas Creek and Santa Clara River watersheds. In particular, the Upper Santa Clara River watershed is in the midst of TMDL activities	Comment noted. Issue O-4 is identified as an ongoing project to be addressed over the next three years.

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			related to chloride, and these issues of how and where Basin Plan mineral objectives should be implemented will have a great bearing on final waste load allocations for chloride.	
30.10	CSDLAC	2/11/05	We recommend that Basin Planning Issue R-5: Guidelines for Interpreting Narrative Objectives be taken off the list for this Triennial Review inasmuch as characterizing and evaluating the impacts of emerging chemicals is premature at this stage. In general, there is insufficient data available for these chemicals upon which to base regulatory decisions. Better analytical methods, occurrence data, treatment data, and health and ecological effects data are needed.	Staff disagrees that this should be taken off the list for this Triennial Review cycle. This issue has two parts: 1) developing a policy for interpreting narrative objectives and 2) revising existing narrative objectives or developing new narrative objectives. Emerging chemicals are listed as just one example of a new narrative objective. A policy for translating narrative objectives into numeric targets in TMDLs or effluent limits in permits would ensure a consistent approach to applying the narrative objectives in the Basin Plan and would provide the regulated community with greater certainty regarding regulatory requirements to meet narrative objectives.
30.11	CSDLAC	2/11/05	As a closing comment, we are concerned about the development of a policy that would allow the use of criteria and guidelines developed and/or published by other agencies and organizations in establishing TMDL targets or permit limits without an assessment of the factors in Water Code Section 13241 that are required for establishing water quality objectives.	All with the adoption of any water quality standards or implementation procedures, the Regional Board would follow all applicable laws.
30.12	CSDLAC	2/11/05	The Districts believe it is not necessary for the Regional Board to expend efforts on a Basin Plan amendment to address hardness-averaging period. Instead, this could be addressed by the Regional Board during the permitting process. This ensures that the permit writer, which is familiar with the effluent discharge and receiving water characteristics and monitoring locations, is able to effectively evaluate the existing data to establish effluent limitations that are “fully protective of aquatic life but not unnecessarily stringent” as stated in the issue description page 39 of the staff report. Furthermore, the	Comment noted. While it is true that this issue can be addressed on a case-by-case basis during TMDL development or permit issuance, staff believes that an amendment that outlines a general approach for selecting these values, while including site-specific and discharge-specific considerations, would be valuable to ensure consistency in approach throughout the region.

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			issue description on page 39 acknowledges the complexity associated with temporal and spatial variability of hardness data as well as sample size and indicates that these factors must be examined on a case-by-case basis.	
30.13	CSDLAC	2/11/05	If the Regional Board proceeds with this item, we request that it consider specific site conditions in the receiving waters in the Los Angeles region and the factors that may affect receiving water hardness variability (i.e., effluent dominated water bodies and groundwater recharge spreading operations, etc.) and considers the evaluation of appropriate hardness data averaging periods rather than defaulting to a minimum value that is then used to calculate water quality criteria.	Comment noted. See response to 30.12.
30.14	CSDLAC	2/11/05	The Amendment to the Water Quality Control Plan for the Los Angeles Region to Update the Ammonia Objectives for Inland surface waters adopted on April 25, 2002 includes implementation provisions that do not specify what pH and temperature to use to calculate the applicable objectives and permit limits. The Districts believe that this can also be addressed by the Regional Board during the permitting process as conditions may have to be evaluated on a case by case basis by a Regional Board permit writer familiar with discharge conditions. If the Regional Board pursues this issue, we request that the Regional Board evaluate the potential variability of receiving water pH and temperature due to diurnal and seasonal variations as well as impacts associated with urban runoff and effluent dominated water bodies.	See response to 30.12.
30.15	CSDLAC	2/11/05	The District request that rather than calculating an effluent limit based on receiving water pH and temperature, the Regional Board consider the comparison of the ammonia receiving water grab sample with the	Comment noted. Staff will consider this request during the development of an amendment addressing this issue.

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			objective determined using the receiving water pH and temperature measured at that location and at the same time, the effluent ammonia concentration can be compared to the effluent pH and temperature to establish if the plant is operating normally and consistently. This approach is technically sound and ensures that the appropriate ammonia water quality objective is used to determine compliance.	
30.16	CSDLAC	2/11/05	The Districts are aware that much work is underway with respect to bioassessment and the development of biocriteria. However, it is unclear whether the science underpinnings are really available at this time to support the development and implementation of either narrative or numeric biocriteria during the next three years. Therefore, while we support the staff's involvement in this area, we believe that it is premature to identify a proposed action of adoption of new criteria.	Staff agrees that it may not be possible to develop numeric biocriteria within the next three years; however, staff will continue to participate in regional and statewide efforts to lay the groundwork for ultimately adopting biocriteria for the region's waters. Through the Surface Water Ambient Monitoring Program, discharger self-monitoring and citizen monitoring, there is a great deal of bioassessment data being gathered for the region's waters. These data are being used to develop regional indices of biological integrity, which may be refined to be used as numeric biocriteria. Given the tremendous work under way in the field of bioassessment, staff disagrees that it is premature to develop a narrative objective for biological integrity using some of the principles of biological and habitat assessment.
30.17	CSDLAC	2/11/05	The Regional Board has proposed to evaluate whether the Board should adopt secondary MCLs as numeric water quality objectives, and has assigned this issue a medium priority. We recommend that this project be taken off the list for this Triennial Review inasmuch as the California Department of Health Services (DHS) is in the early stages of revising the secondary MCLs, and it would be advisable for the DHS process to be completed before the Regional Board dedicates staff resources to this effort.	Staff agrees that any Regional Board effort should consider proposed actions by DHS to update the secondary MCL. Staff identified this issue as a medium priority and is not recommending action on the issue in this Triennial Review cycle. Therefore, there will be most likely be sufficient time for DHS to review and revise the secondary MCL before the Regional Board would take up this effort.
30.18	CSDLAC	2/11/05	While we support the Regional Board's goal of	See responses to 9.2, 9.3 and 9.4.

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			protecting groundwater while addressing the need to promote water recycling, we do not recommend that the Regional Board proceed with this project on its own as proposed given that the State Water Resources Control Board (State Board) is currently working with the nine Regional Boards and the California Section of the WaterReuse Association on developing guidance on these same issues.	
31.1	Coalition	2/11/05	To facilitate the Board's consideration of these key issues, we propose the formation of a Stakeholder Task Force with a mission as outlined below. We are committed to working collaboratively with the Regional Board and other stakeholders who have an interest in the process detailed here, and are willing to consider contributing resources to support this process as we understand the resource constraints facing the Regional Board, especially in its Basin Planning program.	See response to 8-1.
31.2	Coalition	2/11/05	We recognize and appreciate that the Regional Board adopted during the last triennial review period a Basin Plan Amendment suspending REC-1 uses in certain Los Angeles County engineered channels during and following storm events of a specific size. We also appreciate the Regional Board's attempt to exclude natural sources from the scope of bacteria TMDLs implemented within the Region thus far by using a "reference watershed" approach. However, we are concerned that even with these refinements in approach, the cost of complying with bacteria objectives has never been properly analyzed, and a program of implementation is not included within the Basin Plan as required under Water Code Section 13242.	See responses to 29.6 and 26.3.
31.3	Coalition	2/11/05	We are also concerned that the reference watershed approach may not be workable for the highly urbanized watersheds within our region. Finally, there are a	See responses to 15-4 and 29-7.

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			number of outstanding scientific issues related to the use of indicator bacteria as surrogates for human health risk. For example, there are many natural sources of indicator bacteria in the environment and current methods do not allow us to accurately distinguish bacteria from human and non-human sources; regrowth in the environment occurs, as does an increase in bacteria concentrations due to sediment resuspension during storm events; and bacteria may not be a suitable indicator of human health risk.	
31.4	Coalition	2/11/05	We therefore propose that this stakeholder process re-examine the water quality standards associated with metals, which would be consistent with the Regional Board's intention to incorporate the site specific objectives (SSOs) for copper that are currently under development (see Triennial Review Priority O-3). Additionally, consistent with statements made by EPA with respect to the applicability of CTR-based permit limits to identify alternative approaches to protecting these "potential" beneficial uses via the stakeholder process.	See responses to 27-1, 29-8, and 29-9.
32.1	Oxnard	2/9/05	If wetland mapping were added to this list, the City's concerns about application of REC-1 standards to Ormond Wetlands would be addressed.	Staff has added "define and delineate wetlands based on existing information" to Issue R-1.
32.2	Oxnard	2/9/05	If the Los Angeles Regional Board Basin Plan is in agreement with the EPA guidance, then the complex structure that we think of as the Ormond Wetlands is a combination of surface waterbodies (e.g., Oxnard Industrial Drain, Bubbling Springs, and J Street Drain), estuaries and enclosed bays, wetlands, and uplands, and should be mapped out in the Basin Plan for clarity.	See response to 32-1.
33.1	WSPA	2/11/05	WSPA has prepared this short letter that outlines issues of particular importance during this Triennial Review. We also note that the issues and subjects that discuss	Comment noted.

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			received some support from the board at your Hearing last year- and have also met with receptivity with the Staff. Unfortunately, it appears that the work level required to accomplish these tasks did not fall within the 2.8 person year (PY) available. Hence our advocacy is that the topics below be somehow included within the Regional Board workplan-either by substitution or by combining closely related projects that Staff is supporting.	
33.2	WSPA	2/11/05	<u>Natural Sources Exclusion (0.2 PY)</u> Staff correctly summarized the issue (p.48 R-13) as there is a need to broaden the “natural sources exclusion” permitted in bacterial TMDLs to other naturally occurring constituents, e.g. arsenic and selenium, based on results of the natural loadings study funded by USEPA. As was indicated in the summary, in some cases, “constituents may be naturally elevated above the water quality objective and may exceed the objective more frequently than allowed by the water quality standard.” Thus, in these instances, whether due to natural condition or deposition, it may be appropriate to allow exceedances of an objective similar to that found in a reference system. Staff correctly point out that understanding background conditions is an important aspect to developing TMDLS.	Though Regional Board staff ranked this issue as a medium priority, staff is committed to participating on the technical advisory committee that is overseeing the technical studies necessary to support a future Basin Plan amendment. However, due to the time needed to complete the technical studies, staff does not believe that a Basin Plan amendment can be completed during this Triennial Review cycle; therefore, the issue was ranked as a medium priority. .
33.3	WSPA	2/11/05	<u>Application of Objectives to Peak Storm Flows (P.50-0.5 PY)</u> WSPA encourages the Regional Board to incorporate a study of runoff from large storm events and “whether all beneficial uses and water quality objectives should apply to infrequent and/or substantial stormflows.”	Regional Board staff ranked as a medium priority the development of a policy for addressing peak storm flows and whether objectives should apply to infrequent and/or substantial storm flows. However, if this is a high priority for stakeholders, a coalition of stakeholders may wish to request that the Board support and oversee stakeholder-led studies to address this issue. See responses to 8-1 and 8-2.
33.4	WSPA	2/11/05	<u>Guidance on TMDL Incorporation into Permits (P.70-.25 PY)</u> A critical need that the Staff was unable to include was a project designed to give guidance on TMDL	Regional Board staff ranked as a medium priority an amendment to develop guidance on incorporation of TMDL requirements into permits. This was ranked as a medium

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			incorporation into permit conditions. This project is critically important because it affects virtually all permit holders. As the Review indicated, TMDLs are not self-implementing meaning that permit holders need help in determining how to comply and in what manner.	priority because the Regional Board addresses this issue through each individual TMDL implementation plan. The Regional Board will continue to provide this guidance in this manner.
34.1	USEPA	1/26/05	Over the past several years we have worked closely with your staff on TMDL development and NPDES permitting issues and believe that several proposed items in particular are critical to advancing the water quality standards program in the Los Angeles Region: the development of policies for interpreting narrative objectives (r-5) and the selection of proper input values for determining hardness- and temperature and pH-dependent Basin Plan objectives (R-8 and R-9); clarification related to the application of the tributary rule (R-21); and updates to Basin Plan maps (R-1).	Staff agrees. Issues R-1, R-5, R-8, and R-9 are all identified as high priorities to be addressed over the next three years.
34.2	USEPA	1/26/05	We believe that the recently initiated tiered aquatic life uses pilot project (o-1) will provide critical information related to biocriteria development in semi-arid urban coastal streams with the potential to serve as a model in this evolving area of EPA's water quality program.	Staff agrees. Issue O-1 is identified as an ongoing project, in which staff will continue to invest time over the next three years.
34.3	USEPA	1/26/05	We also appreciate this Regional Board's continued commitment to substantive oversight of efforts to develop site specific objectives for waters of the LA Region (O-6, O-3 and O-2).	Comment noted.
34.4	USEPA	1/26/05	Finally, we support your ongoing commitment to adopt scheduled TMDLs for Ballona and Calleguas Creeks, the San Gabriel River, Santa Monica Bay, Marina Del Rey and Los Angeles/Long Beach Harbors and Estuaries (R-19).	Comment noted.
34.5	USEPA	1/26/05	<u>High Priority Statewide Issues:</u> We strongly support Regional Board staff's ongoing participation in several issues related to the development and implementation of important statewide water quality standards for	Comment noted. Staff recommends addressing all of these issues (O-7, S-4, S-6, and S-8) over the next three years.

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			California. These include efforts to adopt total chlorine residual objectives and implementation procedures for wastewater discharges (O-7); to develop protective nutrient and biocriteria –both important EPA priorities (S-4 and S-6); and to develop a policy related to effluent dominated waterbodies (S-8).	
34.6	USEPA	1/26/05	Related to chronic toxicity, we fully support your staff's ongoing contribution and participation in efforts to develop statewide policy for implementing narrative chronic toxicity objectives in basin plans (S-7); this issue is crucial for advancing water quality protection in the absence of numerical chemical-specific objectives and for limiting emerging pollutants toxic to aquatic life. In the absence of such policy, Regional Board staff's efforts related to toxicity control implementation in NPDES permits are exemplary.	Comment noted.
34.7	USEPA	1/26/05	<u>Other High Priority Issues:</u> During your deliberation on these priorities, should resources become available or priorities be revisited, we encourage the Regional Board to pursue the following basin planning issues: the evaluation of dissolved oxygen objectives (R-11), inasmuch as it relates to the development of nutrient criteria; minor clarifications describing the relation of California Toxics Rule criteria, the State Implementation Policy, and stormwater discharges (R-22); and efforts to address naturally occurring constituents identified as causing water quality problems (e.g., selenium) (R-13).	Issues R-11 and R-22 are identified as high priorities. Staff has determined that R-22 will most likely be addressed through the TMDL process as the metals TMDLs are considered by the Board. As suggested by EPA, Issue R-11 may be addressed as part of the statewide effort on nutrient criteria (S-4), in which Regional Board staff is an active participant. Issue R-13 was identified as a medium priority because it is unlikely that the necessary data to develop a Basin Plan amendment will be available within the next three years. However, the Regional Board is currently funding along with the EPA research on naturally occurring constituents identified as causing water quality problems and is committed to participating in the technical committee that is overseeing this research and data collection.