

BASIN PLAN AMENDMENT TO INCORPORATE A VARIANCE PROVISION FOR THE GROUNDWATER MINERAL  
QUALITY OBJECTIVES  
RESPONSIVENESS SUMMARY FOR NOVEMBER 22, 2005 PUBLIC NOTICE

**Table 1. List of commenters submitting written comments before the close of the public comment period.**

Comment #	Commenter	Date Received
1	Heal the Bay	12/21/05
2	County Sanitation Districts of Los Angeles County	01/06/06
3	State of California, Department of Transportation	01/06/06

Note: The comment # above corresponds to the first number in the Comment Number field in Table 2.

**Table 2. Responsiveness summary for written comments submitted before the close of the public comment period.**

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	LOCATION IN DOCUMENTS
1.1	Although we understand that it is the Regional Board's intent not to allow a variance from mineral water quality objectives for seawater intrusion if it is caused by groundwater overdraft, we suggest adding an express clarification into the amendment.	Regional Board staff has added a finding 10 to the Resolution and additional language to the proposed amendment that clarifies this issue. The changes are shown in the change sheet and revised documents.	Yes	Tentative Resolution and Proposed amendment
1.2	This can be accomplished for instance by adding language in the text of the proposed variance at number 1.a) seawater intrusion (except if caused by groundwater overdraft).	See the response to 1.1 above.	None	
1.3	It should also be clarified in the second bullet on page 9 of the Staff Report under Section IV. Conditions for Granting a Variance. The same language can be used here to clarify the point.	See the response to 1.1 above.	None	
2.1	While we support efforts by the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) to allow relief to dischargers to coastal groundwater basins, we strongly believe that the more appropriate method of providing this relief would be to de-designate the Municipal and Domestic Supply (MUN) beneficial use from the basins.	De-designating the MUN beneficial use of certain groundwater basins is one of the options Board staff evaluated. However, staff concluded that it is more appropriate to specifically address the problem of naturally elevated mineral concentrations by allowing a variance. Board staff concluded that given water supply conditions in southern California, it is prudent to take an environmentally conservative approach to protect regional groundwater resources.	None	

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2.2	(T)he Basin Plan should reflect the Region's beneficial uses. The coastal groundwater basins with elevated concentrations of minerals have not been used in the past, and are not currently being used, for domestic and municipal water supply. We do not believe that it is reasonable to expect that these groundwater basins will be used for such water supply in the foreseeable future.	Beneficial uses include both existing and potential uses. While the MUN use is not currently being achieved for some coastal aquifers with high concentrations of minerals, they have the potential to be used, given the desalinization technologies available today.	None	
2.3	While we recognize the scarcity of water resources in southern California, there are other sources of water that can be developed at a lower cost than use of the coastal groundwater basins, such as the expansion of recycled water projects.	It may be true that other sources of water can be developed at a lower cost but the cost of desalinization has continued to go down over time and could continue to go down more in the future. In the future, depending on the development of various technologies (desalinization, recycling, etc.), desalinization could end up being the most cost-effective supply of water.	None	
2.4	The Districts agree with the points made in favor of the MUN de-designation in the Staff Report, including the conclusion that use of groundwater basins impacted by seawater intrusion as sources of drinking water is "unlikely." We also concur that removing the MUN designation from such basins would more accurately reflect historical, current, and future uses of these basins; that de-designation of the MUN use from these areas would be consistent with the State Water Quality Control Board (State Board) Sources of Drinking Water Policy and previous Regional Board actions; and that the de-designation of these basins will not result in a regulatory vacuum.	Comment noted.	None	

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2.5	In the unlikely event that the coastal groundwater basins with elevated mineral concentrations are seriously considered as drinking water sources in the future, a current de-designation would not preclude the Regional Board from designated waters as MUN in the future.	Staff agrees that waters could be re-designated as MUN in the future if de-designated. However, the federal Clean Water Act and state Porter Cologne Water Quality Control Act provide for designation of potential uses as well as existing uses, recognizing the need for foresight to protect potential future uses of water. In the case of groundwater, this is particularly important given the long-term impacts that result from groundwater contamination and the difficulty and expense of remediating groundwater contamination as compared to preventing it in the first place.	None	
2.6	(l)t appears that the underlying reason that the Staff Report recommends the use of Alternative 2 is because of concerns that groundwater remediation may be compromised if the MUN use is removed, because drinking water maximum contaminant levels (MCLs) will no longer be applicable. However the Staff Report itself (page 5) states that de-designation does not result in a regulatory vacuum. Requirements to protect other beneficial uses of the groundwater basins will still be in place. Groundwater remediation will not be compromised as it will need to continue to attain objectives protective of the Region's beneficial uses. Secondly, the Staff Report (page 9) clearly states that groundwater clean-up goals are set based on the State's antidegradation policy (State Board Resolution 68-16), which requires that natural pollutants be reduced to background levels and anthropogenic [pollutants] to non-detectable levels.	The groundwater mineral quality objectives contained in Table 3-10 of the 1994 Basin Plan are not directly tied to beneficial uses. In many cases the justification made by the regulated community for requests to de-designate the MUN use from certain groundwaters was that concentrations of TDS exceeded the State Sources of Drinking Water Policy threshold of 3000 mg/L.  The Regional Board has the discretion to decide whether or not to invoke the exceptions allowed in the Sources of Drinking Water Policy. Board staff concluded that rather than de-designating the MUN use on this basis given the demand for water supply in the region, the region's dependence on imported water, and the current state of desalinization technology, a more appropriate policy response to these requests is to acknowledge the naturally high concentrations of minerals in some groundwater and provide flexibility to permittees in these situations, allowing them to not meet the Basin Plan mineral	None	

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		quality objectives.		
2.7	(I)f the Regional Board chooses to adopt Alternative 2, we request that the variance provision be amended to be applicable to all aquifers, regardless of proximity to the coast, presence of marine sediments, or tidal fluctuations. There is no reason given for limiting the ability to obtain a variance. The primary justification for developing the variance, as presented in the Staff Report (page 1), was because of requests for de-designation due to elevated levels of TDS. Levels of TDS above 3,000 mg/L can be found in aquifers over a thousand miles from the coast in the interior of the continent. The Sources of Drinking Water Policy does not limit the TDS exception to proximity to the coast or interaction with specific sediments. As such the variance should not be tied to proximity to the coast or other arbitrary factors. Rather, variances should be applied based on the exceptions outlined in the Sources of Drinking Water Policy.	The Regional Board has the policy discretion to decide whether or not to invoke the exceptions allowed in the Sources of Drinking Water Policy. One of the reasons the staff recommends limiting the variance to coastal areas (and not inland areas) is that there is a clearer connection to what the natural source of the high minerals is, that is seawater or marine sediments. Inland, it may be harder to decipher what the source of the high minerals is and if that source is natural.	None	
2.8	If the Regional Board chooses to adopt the variance provision, notwithstanding our opposition to this choice, we request that the provision not be limited to groundwater basins impacted by natural conditions. The Regional Board's reasoning for designating all groundwater basins MUN was the Sources of Drinking Water Policy (88-63). The policy clearly states there is an exception to the policy when the TDS exceed 3,000 mg/L (1a.) or there is contamination either by natural processes or by human activity (2b.).	Again, the Regional Board has the policy discretion to decide whether or not to invoke the exceptions allowed in the Sources of Drinking Water Policy. Note also that exception 2b. to the Sources of Drinking Water Policy states that, "There is contamination, either by natural processes or by human activity (unrelated to a specific pollution incident), that cannot reasonably be treated for domestic use using either Best Management Practices or best economically achievable treatment practices." An important phrase here is "unrelated to a	None	

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		specific pollution incident.” It indicates that the guidance is cautious in allowing exceptions to all anthropogenic sources of high minerals.		
3.1	The Department of Transportation has roadways and facilities where short-term and continual groundwater pumping (dewatering) is required. A variance that allows discharge to land or re-injection without adverse impact to the environment would greatly facilitate construction and maintenance operations and reduce costs to the State.	Comment noted.	None	
3.2	We strongly support the Basin Plan amendment that would allow permit-specific variances for discharges with elevated mineral constituent levels due to natural sources in the groundwater.	Comment noted.	None	