

ENCLOSURE 7

SUMMARY OF AND RESPONSE TO WRITTEN PUBLIC COMMENTS

ON THE
DRAFT BASIN PLAN AMENDMENTS AND SUBSTITUTE ENVIRONMENTAL
DOCUMENT FOR

Revised Standards for Surface Waters of the Antelope Hydrologic Unit

California Regional Water Quality Control Board, Lahontan Region
2501 Lake Tahoe Boulevard
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INTRODUCTION

In August 2007, the California Regional Water Quality Control Board, Lahontan Region (Water Board) circulated public draft amendments to its water quality control plan (Basin Plan), and supporting documents. The proposed amendments would change beneficial use designations for certain surface waters in the Antelope Hydrologic Unit, and add site-specific water quality objectives (SSOs) for ammonia toxicity. The affected waters, all within the boundaries of Edwards Air Force Base, are lower Amargosa Creek, the Piute Ponds and wetlands complex, and Rosamond Dry Lake. Miscellaneous informational and editorial changes would also be made to the Basin Plan. The draft substitute environmental document concludes that the proposed amendments will not have significant or potentially significant adverse impacts on the environment. The Water Board will consider action on the proposed amendments and substitute environmental document at its November 29, 2007 meeting in Lancaster.

Written public comments on the draft amendments and supporting documents were requested by October 5, 2007. Three sets of written comments were received:

- A letter dated October 5, 2007 from the U.S. Environmental Protection Agency, Region IX (2 pages)
- A letter dated October 5, 2007 from the San Bernardino County Department of Public Works (2 pages)
- A letter dated October 4, 2007 from the County Sanitation Districts of Los Angeles County, with enclosures (38 pages).

This response document has been prepared for inclusion in the Water Board's November agenda packet. Any additional written comments received before the November meeting will be provided to Board members separately.

COMMENTS BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Comments: The letter from the U.S. Environmental Protection Agency, Region IX (USEPA) noted that the USEPA has previously approved water quality standards for the surface waters affected by the proposed amendments, and requested further discussion with State and Regional Water Board staff on the extent of EPA's review of the amendments.

Response: In response to this letter, Water Board staff and the Board's legal counsel investigated the current federal jurisdictional status of LACSD No. 14's receiving waters and discussed it with USEPA and U.S. Army Corps of Engineers staff. Further discussions on jurisdictional issues and the extent of the USEPA's review of the plan amendments may be necessary.

COMMENTS BY SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS

The letter states that the department has no comments. No response is required.

COMMENTS BY THE COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

BACKGROUND

Los Angeles County Sanitation District No. 14 (LACSD No. 14) provides wastewater treatment for the City of Lancaster and part of the City of Palmdale. Some of its treated effluent is disposed to lower Amargosa Creek, which was historically an ephemeral tributary of Rosamond Dry Lake. The creek and effluent are now impounded by a dike, creating a pond-wetland complex known as Piute Ponds.

This Basin Plan amendment project was undertaken following requests by LACSD No. 14 for the removal of certain designated beneficial uses from its receiving waters, and for the development of SSOs for ammonia toxicity in Piute Ponds. LACSD No. 14 provided information, data, and consultants' reports that were used to develop preliminary draft Basin Plan amendments and a technical staff report. Water Board staff's May 2004 drafts were reviewed by two external scientific peer reviewers, and LACSD No. 14 was provided with copies of the peer review drafts. The draft Basin Plan amendments and the section of the staff report dealing with the ammonia SSOs were substantially revised as a result of the peer reviewers' comments. Some updates were made to other sections of the 2007 staff report, including addition of information on the facilities plan that LACSD No. 14 adopted in June 2004.

The District's October 2007 written comments on the public draft Basin Plan amendments and staff report include comments on beneficial uses and other issues that were originally submitted as comments on the peer review drafts in June 2004. LACSD No. 14 did not comment on the 2007 draft substitute environmental document.

COVER LETTER

Comment (Cover letter, first page, second paragraph): The letter summarizes LACSD No. 14's support for the proposed SSOs for ammonia toxicity, for the proposed removal of specific beneficial uses, and for Water Board staff's stated intent to consider further changes in beneficial uses at a later date.

Response: The comment is acknowledged. No technical response is required. However, it should be noted that the removal of the Agricultural Supply (AGR) beneficial use from Rosamond Dry Lake is proposed as part of the current draft Basin Plan amendments, not as a future action as stated in the comment.

Comment (Cover letter, first page, third paragraph): The letter summarizes LACSD No. 14's disagreement with staff's recommended designations of additional beneficial uses for certain waters.

Response: There is evidence in the record, summarized in the August 2007 technical staff report for the Basin Plan amendments, that the Freshwater Replenishment (FRSH), Rare, Threatened or Endangered Species (RARE) and Preservation of Biological Habitats of Special Significance (BIOL) uses (all recommended for designation) are existing uses of the affected water bodies. Existing uses must be protected whether or not they are formally designated.

The Water Quality Enhancement (WQE) and Flood Peak Attenuation/Flood Water Storage (FLD) beneficial uses already apply to the Piute Ponds wetlands through the "Minor Wetlands" category for the Lancaster Hydrologic Area (HU No. 626.50) in Basin Plan Table 2-1. The proposed Basin Plan amendments include additions of rows to Table 2-1 for specific water bodies that are now included in the "Minor Surface Waters" and "Minor Wetlands" categories. The new rows recognize all categorically designated uses except for the uses proposed for removal.

Comment (Cover letter, first page, fourth paragraph): LACSD No. 14 requests confirmation that the SSOs will be applicable only after the Stage V Lancaster Water Reclamation Plant facilities providing tertiary treatment are operational, and that the interim effluent limitations adopted in 2002 will continue to apply until that time.

Response: Basin Plan amendments take effect following approval by Regional Water Boards, the State Water Resources Control Board (State Water Board), and the California Office of Administrative Law (OAL). If adopted in November 2007, the proposed amendments could be in effect by late 2008. The LACSD No. 14 tertiary treatment facilities are expected to be completed by 2010. A separate Water Board action would be needed to extend the interim effluent limitations.

Comment (Cover letter, second page, fifth paragraph): The letter references two attachments, including comments submitted by the District on the Water Board's preliminary (2004) drafts of the Basin Plan amendments and staff report, and a 2004 consultant's report on beneficial uses.

Response: The comment is acknowledged. Responses to the general and specific comments in Attachment 1 are provided below.

Comment (Cover letter, second page, last paragraph): The District requests copies of written comments received from other parties.

Response: Electronic copies of the comment letters from the USEPA and San Bernardino County have already been provided to LACSD No. 14 staff. A copy of the Water Board's November 2007 agenda item for the Basin Plan amendments will also be sent to LACSD No. 14. The agenda item will include copies of written comments and this response document.

ATTACHMENT 1.

Some of the comments in Attachment 1 cite page numbers in the 2004 preliminary draft staff report and the 1995 Basin Plan. Both of these documents have since been revised. Page numbers in the comments are not necessarily equivalent to those in either the 2007 public draft staff report or the 2007 online edition of the Basin Plan (incorporating approved amendments to the 1995 plan).¹

The comment numbers cited below are those used in Attachment 1. Comments and responses on similar issues have been grouped. Comments that addressed more than one issue are cited under multiple headings.

Some comments request a number of changes in the wording of the staff report. No changes to the staff report are recommended in response to these comments because (1) it is staff's opinion that most of the recommended changes are not necessary (see the responses to specific comments below); and (2) the Board will not be taking formal action to approve the staff report. Several corrections to transcription errors are noted for the record.

PROCEDURAL ISSUES

General Comment 1: The comment recommends that the Water Board take three separate actions on the proposed ammonia SSOs, removals of beneficial use designations, and additions of beneficial use designations.

Response: Separate regulatory actions are not necessary. The Regional and State Water Boards have the option to partially approve and partially disapprove the amendments.

BENEFICIAL USE ISSUES

General Comment 2: LACSD No. 14 disagrees with the designation of the Freshwater Replenishment (FRSH), Rare, Threatened or Endangered Species (RARE), Preservation of Biological Habitats of Special Significance (BIOL), (Floodwater Retention/Flood Peak Attenuation (FLD) and Water Quality Enhancement (WQE) uses and believes that they are not existing uses.

¹ The public draft Basin Plan amendments and supporting documents and the 2007 revised edition of the Basin Plan are available on the Water Board's web page through links at: http://www.waterboards.ca.gov/lahontan/BPlan/BPlan_Index.htm

Response: The 2007 staff report (pages 38-39 and 67-73) provides evidence that the FRSH, RARE and BIOL uses are existing and should be designated. Table 15 in the staff report includes information on sensitive species from reports by LACSD No. 14's consultants. The FLD and WQE uses are already categorically designated for minor wetlands of the Lancaster Hydrologic Area, including the Piute Ponds wetlands. For further information, see the responses to Specific Comments 13, 26, 39, 40 and 41 below.

General Comment 3: The comment notes Water Board staff's intent to address changes in the Ground Water Recharge (GWR) beneficial use at a later date. It requests the inclusion of a footnote in the beneficial use table (Basin Plan Table 2-1) regarding imposition of effluent limitations in relation to the GWR use.

Response: Water Board staff reviewed these comments in 2004 and decided not to include the requested footnote in the 2007 public draft Basin Plan amendments. Impacts of the LACSD discharge on ground water quality in the Piute Ponds area are the subject of ongoing study and discussions among LACSD No. 14 staff and Water Board permitting staff. Revisions of effluent limitations and compliance dates related to ground water should be considered separately from the proposed Basin Plan amendments.

General Comment 4: The District requests that the Warm Freshwater Habitat (WARM) beneficial use be interpreted in a limited matter in the context of permitting to recognize the limited nature of the aquatic life community in waters affected by its discharge.

Response: The only water quality objectives in the Basin Plan with special provisions for the WARM use are those for temperature, ammonia and dissolved oxygen. The statewide Thermal Plan is also a part of the Basin Plan, included in Appendix B. Most water quality objectives for the protection of aquatic life (such as the pH objective) apply equally to the WARM and Cold Freshwater Habitat (COLD) uses. Adding further specific direction on interpretation of the existing WARM use to the Basin Plan would require revision and recirculation of the plan amendments. The development of tiered aquatic life uses to provide special treatment for the aquatic communities in LACSD No. 14's receiving waters would require additional scientific studies, and is outside the scope of these Basin Plan amendments.

Specific Comment 1: LACSD No.14 disagrees that the beneficial uses of the surface waters affected by the plan amendments are categorically designated in Basin Plan Table 2-1 and argues that special uses were designated in the Basin Plan's description of its facilities in Section 4.4 of the Basin Plan.

Response: The comment is incorrect. The summaries of wastewater treatment facilities in Chapter 4, Section 4.4 of the Basin Plan are non-regulatory and are provided for information only. Regulatory beneficial use designations are contained in Basin Plan Tables 2-1 (for surface waters) and 2-2 (for ground water

basins). An informational update of the discussion of the LACSD No. 14 facilities (on page 4.4-11 of the 2007 edition of the Basin Plan) is proposed as part of the draft Basin Plan amendments.

Categorical use designations have been included in the Lahontan Region's Basin Plans since 1975.

Specific Comments 13 and 17: Comment 13 finds an apparent contradiction with the WQE beneficial use in a statement in the staff report that constituents of secondary effluent stored in the sediment will continue to influence water quality after the switch to tertiary treatment. Comment 17 questions the extent to which the Piute Ponds provide additional treatment for wastewater constituents.

Response: Comment 13 is correct in that the fate of some of the wastewater constituents in sediment and ambient surface waters is at least "somewhat unknown." However, there is a large body of scientific literature on the cycling of constituents such as phosphorus between sediment and surface waters in aquatic ecosystems. The cycling of nutrients and other constituents is covered in all standard limnology textbooks (e.g., Wetzel, 2001).² In the absence of adequate monitoring data it is not unreasonable to use the literature to predict the behavior of these constituents in Piute Ponds.

The WQE use has been designated categorically for wetlands throughout the Lahontan Region on the basis of a university study³ that reviewed over 1000 scientific references on wetlands and concluded that water quality enhancement is a general function of wetlands. The WQE use recognizes a broad range of wetland functions but does not include any expectation or requirement for wetlands to clean up all pollutants to levels of insignificance. Basin Plan Section 4.9 in the subsection titled: "Wetlands Protection and Management provides direction on evaluation of wetland functions for individual water bodies.

Specific Comment 14: The comment asks for clarification of the extent of designation of the Municipal and Domestic Supply (MUN) use for ground water in Antelope Valley.

Response: All ground water in the Antelope Valley is designated for the Municipal and Domestic Supply (MUN) use. The 2007 version of Basin Plan Table 2-2 is up to date with respect to all plan amendments affecting ground water uses. The Water Board has not adopted any Basin Plan amendments to remove the MUN use from any ground water aquifer in this watershed.

² Wetzel, R.G., 2001. *Limnology: Lake and Reservoir Ecosystems, Third Edition*. Elsevier.

³ Curry, R.R. 1993. *Identification and Location of Beneficial Uses of Wetlands, California Regional Water Quality Control Board, Lahontan Region, Final Assessment Report*, Environmental Studies, University of California Santa Cruz, October 30, 1993.

Specific Comments 21, 22 and 23: The comments request changes in the staff report's discussion of the Agricultural Supply (AGR) beneficial use and recommend that it be removed from LACSD No. 14's receiving waters or changed to a more restricted subset of the use.

Response: As part of its original request for removal of a number of beneficial uses, LACSD No. 14 asked that the AGR use be removed from Piute Ponds. Water Board staff decided not to include this change in the proposed plan amendments, or to recommend removal of the use from Amargosa Creek, because, as of early 2004, LACSD was considering diversion of water from Piute Ponds as a possible means of preventing overflows of effluent. AGR is not an existing use of lower Amargosa Creek and the Piute Ponds. However, Basin Plan Table 2-1 does not distinguish between existing and potential beneficial uses.

As noted in the staff report, there is insufficient information available to justify changes in any of the designated beneficial uses of Amargosa Creek above the LACSD No. 14 discharge point at this time. The aerial photographs cited in Footnote 1 on Page 9 of the comments were not provided to Water Board planning staff.

The only change in the AGR use included in the presently proposed plan amendments is removal of the use from Rosamond Dry Lake. Removal of the AGR use from other waters may be feasible in the future, especially if LACSD No. 14 has made a definite commitment to preclude diversions from its receiving waters for agricultural use. However, removal of the AGR use from other waters or adoption of a more narrowly defined use would require revision and recirculation of these Basin Plan amendments, or a new plan amendment project.

Specific Comment 26: The comment argues that the FRSH beneficial use does not apply to Amargosa Creek or the Piute Ponds and wetlands, and includes statements about their non-natural nature due to the presence of effluent.

Response: Amargosa Creek is a natural water body and a water of the state. Although it is ephemeral, it receives water from precipitation and runoff (and probably from ground water percolation in headwater areas) as well as from effluent. Amargosa Creek transfers this non-effluent water to the Piute Ponds and wetlands, where it contributes to the maintenance of water quality to the extent that it dilutes salts from effluent and other sources. Before the construction of the "C-dike", Amargosa Creek provided water directly to Rosamond Dry Lake. The FRSH use is appropriate for the upper and lower segments of Amargosa Creek.

Reports by LACSD No. 14 and its consultants that were used as source documents for the staff report indicate that occasional overflows from the ponds and wetlands to Rosamond Dry Lake are expected to occur during future wet

years, due to stormwater rather than disposal of high volumes of effluent. Unless LACSD No. 14 can show that such overflows will not occur, the FRSH use is appropriate for the Piute Ponds and wetlands.

Effluent is not the only source of freshwater replenishment to Rosamond Dry Lake. It has an area of about 21 square miles, and it receives water from direct precipitation and runoff from multiple tributary areas.

Specific Comment 29: The comment opposes designation of the WARM beneficial use for Rosamond Dry Lake.

Response: Rosamond Dry Lake already has a categorically designated WARM use as a “minor surface water” of the Antelope HU. The Inland Saline Water Habitat (SAL) use is proposed for designation in addition to the WARM use because fluctuations in salinity occur naturally in the ephemeral surface waters of desert playa lakes. As discussed in the staff report, salinity levels in some “saline” lakes qualify them as “fresh” waters during wet years. Multiple aquatic habitat uses have been designated for other waters of the Lahontan Region with fluctuating salinity, such as those of the Surprise Valley HU in Modoc and Lassen Counties. There is insufficient information available about the temperature regime and biota of Rosamond Dry Lake to justify removing the WARM use at this time. Removal of the use would require revision and recirculation of the currently proposed plan amendments, or a new plan amendment project.

Specific Comment 34: The comment notes that saline water quality objectives could apply to Rosamond Dry Lake as a result of the designation of the SAL use, and states:

“unless the Regional Board extends the application of the ammonia site-specific objectives to Rosamond Dry Lake, the Regional Board should consider the social, economic and environmental impacts of the application of more stringent objectives to Rosamond Dry Lake.”

Response: The Basin Plan amendments as proposed in the 2007 public draft (including the designation of the SAL use) do not change the ammonia toxicity objectives for Rosamond Dry Lake. The 2007 staff report (page 10) notes that the USEPA’s saline aquatic life criteria for ammonia toxicity do not apply to inland saline lakes. The Lahontan Basin Plan does not contain any other water quality objectives that apply only to waters with the SAL use.

Toxicity tests on inland saline water organisms would be necessary to develop SSOs for ammonia toxicity for Rosamond Dry Lake. These SSOs would need to be adopted in separate Basin Plan amendments. Since the Water Board has directed LACSD to end overflows of effluent from Piute Ponds, and there are no other current or foreseeable permitted discharges of large amounts of ammonia to Rosamond Dry Lake, the development of separate SSOs is likely to not be a high priority project.

Specific Comment 39: The comment criticizes the applicability of the proposed RARE use designation using the Basin Plan's definition of the use. The comment also recommends clarification of a reference to the California Toxics Rule at the end of the staff report's discussion of the RARE use.

Response: The RARE use has been designated for many waters in the Lahontan Region where rare, threatened or endangered species occur or where restoration of such species to their former habitat is planned by state or federal authorities. The RARE use is not restricted to federally designated critical habitat, and not all waters currently designated RARE are within such habitat. The current RARE use designations in the Lahontan Basin Plan were reviewed and approved by the State Water Board, the U.S. Environmental Protection Agency and the California Office of Administrative Law.

The comment regarding the California Toxics Rule (CTR) is acknowledged and will be included in the administrative record. The CTR standards do not apply to waters of the state that are not waters of the United States. The intent of the reference in this context was to state that the CTR standards are based on scientifically defensible criteria and could be adopted as SSOs if SSOs for certain toxic constituents should become necessary.

Specific Comment 40: The comment opposes designation of the BIOL use for the Piute Ponds and wetlands. It contends that these waters do not meet the Basin Plan's definition of the use because they are not natural habitat, and that the staff report's examples of special recognition of these waters by other entities do not justify designation of the use.

Response: The definition of the BIOL beneficial use refers to protection of natural resources, not natural habitats. The sensitive bird species that use the ponds and wetlands are natural resources in themselves. The staff report cites examples of potential official designations or informal designations by other entities to emphasize the biological importance of the ponds and wetlands. When approving its 2004 facilities plan, LACSD agreed to continue its 1981 agreement with the Department of Fish and Game and Edwards Air Force Base (EAFB) for protection of the ponds.

The conclusion to the section of the Water Board's staff report that deals with the BIOL use states:

"The Piute Ponds and wetlands are important not only as habitat for individual wildlife species but also as biological communities with statewide and international value because of their position on the Pacific Flyway. Several agencies and organizations have recognized the Piute Ponds and wetlands as ecologically significant and deserving of protection, and protection is being provided by EAFB and LACSD No. 14. Because of these factors the BIOL beneficial use can be considered an existing use, and formal designation is appropriate."

Specific Comment 41: The comment opposes application of the FLD beneficial use to the Piute Ponds wetlands.

Response: The FLD use has been designated for almost all wetlands of the Lahontan Region, and already applies categorically to the Piute Ponds as “minor wetlands” of the Lancaster Hydrologic Area. Like the WQE use, the FLD use was recognized as a general function of wetlands in the university study cited in Footnote 3.

The Piute Ponds wetlands receive natural stormwater runoff from the undisturbed portions of the Amargosa Creek watershed, although the creek itself has been hydromodified in urban areas. The storage capacity of the ponds for floodwaters can be expected to vary with the volume of the ponds at the time of a runoff event. However, as noted in the staff report, the planned reduction in the volume of effluent in the ponds under LACSD No. 14's facilities plan should provide additional holding capacity for flood waters.

The discussion of the FLD use in the staff report cites a study of flooding at EAFB that indicates that the Piute Ponds wetlands are within a 100-year to 500-year flood plain.

PRESENTATION OF INFORMATION AND DATA IN THE 2004 DRAFT STAFF REPORT

General Comment 5: LACSD No.14 objects to the discussion of historic and existing water quality and effluent quality in the technical staff report, and requests the deletion of a number of tables of data from the report. The comment recommends use of the “Ecological Benefits Comparison” approach for use attainability analysis proposed in a consultants’ report.

Response: California Environmental Quality Act (CEQA) case law⁴ requires lead agencies to assess environmental impacts in relation to the existing environment. Existing water quality and effluent quality are part of the existing environment. The draft substitute environmental document references the staff report but recognizes that effluent quality and ambient water quality will change (and ambient water quality most likely will improve) after the implementation of tertiary treatment.

Water Board staff reviewed the proposed “Ecological Benefits Comparison” methodology and felt that it was too general and qualitative to serve as scientific justification for changes in beneficial uses. The use of actual water quality data and scientific criteria, with recognition of their limits, is preferable.

⁴ See, e.g., *Environmental Planning and Information Council of Western El Dorado County v. County of El Dorado* (1982) 131 Cal App. 3d 350 at http://ceres.ca.gov/ceqa/cases/1982/el_dorado_043082.html

Specific Comments 16, 19, 20, 24, 28 and 33: The comments recommend that a variety of specific changes be made to clarify or amplify the tables of water quality data in the staff report.

Response: These comments are acknowledged and will be included in the administrative record. Changes are not being proposed in the staff report in response to these comments because the Board will not be taking formal action on the report.

Comment 24 notes apparent inconsistencies between two tables. The data in the tables come from reports by LACSD No. 14 and its consultants. Differences in cited concentrations reflect different source documents. Different units (such as milligrams per liter vs. micrograms per liter) are used in some tables to reflect the units used in specific criteria documents.

Specific Comment 33: The comment notes that the monitoring data in the staff report for Station RS1 are for stormwater and questions whether the USEPA's 4-day average freshwater aquatic life criteria, especially the criterion for aluminum, should be applicable.

Response: The staff report recognizes that the data for RS1 reflect a single storm event. Although it is ephemeral and has been extensively hydromodified, Amargosa Creek is a water of the State. The use of USEPA aquatic life criteria for assessment of the limited available data is appropriate. Detailed discussions of the background and features of each criterion are not within the scope of the staff report.

EFFLUENT- DOMINATED WATERS

General Comment 8: The comment asks that special consideration be given to the fact that LACSD No. 14's receiving waters are effluent-dominated when setting water quality standards and "in requiring potentially costly studies and monitoring."

Response: The comment lists Rosamond Dry Lake among the effluent-dominated receiving waters. While the historic overflows onto the lake bed from Piute Ponds were effluent-dominated, the water from precipitation and runoff that ponds on the rest of the lake bed is not. A scientific study reviewed in the technical staff report for the Basin Plan amendments indicates that water ponds on the lakebed every other year on the average.⁵ The Water Board has ordered LACSD No. 14 to end overflows of effluent from Piute Ponds to Rosamond Dry Lake, and once this is done, none of the ephemeral surface waters of the lake should be considered effluent-dominated.

⁵ Lichvar, R. G. Gustina, and R. Bolus, 2002. Duration and Frequency of Poned Water on Arid Southwestern Playas, WRAP Technical Notes Collection (ERDC TN-WRAP-0202P, U.S. Army Engineer Research and Development Center, Vicksburg, MS.

Regarding special treatment for effluent-dominated waters in standards development, the presence of effluent is a major reason for the proposed removal of the MUN and COMM uses, and is also a factor in removal of the REC-1 use. The effluent-dominated nature of LACSD No. 14's receiving waters is the reason for the proposal of ammonia SSOs less stringent than the existing regionwide water quality objectives.

The draft substitute environmental document recommends (but does not require) additional monitoring because of the limited nature of historical monitoring data and the need for better documentation of the impacts of wastewater effluent on the existing beneficial uses.

Specific Comment 12: The comment asks for the addition of a reference in the staff report to the effluent-dominated nature of Amargosa Creek, Piute Ponds and Rosamond Dry Lake in relation to future permitting activities.

Response: The paragraph referenced in the comment is a general explanation of the relationship between beneficial uses and water quality objectives in the Lahontan Region as a whole. The addition recommended in the comment is not needed. Amargosa Creek above the LACSD No. 14 discharge point, and Rosamond Dry Lake as a whole are not effluent-dominated. The effluent-dominated nature of the lower Amargosa Creek and the Piute Ponds and wetlands is recognized elsewhere in the staff report.

Specific Comment 35: The comment objects to a statement about the applicability of antidegradation considerations in permitting any future discharges to Rosamond Dry Lake and contrasts it with an earlier statement regarding the non-natural conditions of Piute Ponds.

Response: The state Nondegradation Policy (State Water Board Resolution 68-16) applies to all waters of the state, whether they are natural or artificial. Rosamond Dry Lake is a natural water body, although part of the lakebed has been affected by historic LACSD No. 14 discharges. The statement about antidegradation considerations (on page 62 of the 2007 staff report) is meant to emphasize that such considerations would be important in any future permitting and enforcement activities because there are no site-specific water quality objectives for Rosamond Dry Lake in the Basin Plan.

CRITERIA VS. STANDARDS

General Comment 6: The comment objects to the staff report's use of the federal California Toxics Rule and National Toxics Rule standards as guidance for assessment of water quality data.

Response: As noted in the response to the USEPA Region IX comments above, the federal jurisdictional status of the waters affected by the Basin Plan amendments may need further discussion. If these waters are not waters of the

United States, the California Toxics Rule standards do not apply to them as regulations. However, the CTR and NTR standards are based on scientifically-derived USEPA national human health and aquatic life criteria, and are valid tools for assessment.

General Comment 7: The comment questions the use of the word “standards” in the title of the proposed amendments and the lack of specific new water quality objectives to protect the beneficial uses proposed to be designated for certain waters.

Response: The word “standards” is used in the titles of the Basin Plan amendments and supporting documents because they include revisions to both beneficial uses and water quality objectives. As the staff report explains, water quality standards in California include beneficial uses, water quality objectives, and a non-degradation policy. This interpretation of the term “standards”, which is routinely used by State and Regional Water Board planners, is confirmed in the State Water Board’s Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program” in Section IIB, titled “Porter Cologne Water Quality Control Act Planning Requirements.”⁶

New water quality objectives are not needed in connection with the proposed designations of beneficial uses. See the response to Specific Comment 11 under the “Other Issues” heading below.

Specific Comments 15, 16, 24, 33, 38 and 39: Several comments object to the use of water quality criteria in the staff report’s assessment of water quality data in relation to beneficial uses. Some comments are critical of the validity of specific criteria.

Response: The use of water quality criteria approved by state and federal agencies, and by other entities such as the United Nations Food and Agriculture Organization and the National Academy of Sciences, in assessment of beneficial uses, is appropriate since they are based on peer-reviewed scientific studies. The external scientific peer reviewers for the proposed Basin Plan amendments did not criticize staff’s use of criteria in assessment of beneficial uses.

The staff report does not imply that criteria have or should have the same regulatory implications as water quality objectives or “standards”. Water quality criteria are recommended limits for the protection of beneficial uses, but they do not become regulatory limits unless they are adopted by states or promulgated as standards by the USEPA.

⁶ See: <http://www.waterboards.ca.gov/nps/docs/oalfinalcopy052604.doc>

Specific Comments 18 and 19: Comment 18 states that the staff report should acknowledge that California Maximum Contaminant (MCLs) are not expected to apply to surface water discharges and that they are long term averages, not instantaneous maxima. Comment 19 asks that a number of changes be made to Table 7, including making distinctions between primary and secondary MCLs.

Response: The primary and secondary California MCLs were promulgated by the Department of Health Services (now the Department of Public Health) as drinking water standards and are used in that Department's regulation of drinking water purveyors. However, the Regional Water Boards have taken separate regulatory actions to adopt them as water quality objectives for ambient surface and ground waters. MCLs have been included in the Lahontan Water Board's "Chemical Constituents" and "Radioactivity" objectives for ambient waters designated for the MUN beneficial use since 1975. The California Office of Administrative Law reviewed and approved the current wording of these objectives in 1995. The objectives include both the primary and secondary MCLs.

Comment 19 is acknowledged for the record. The Water Board will not be taking formal action on the staff report.

Specific Comments 28, 30, and 37: These comments note errors in some of the tables due to mistranscription of data from the original sources.

Response: The corrections are noted for the record. The Water Board will not be taking any formal action on the staff report.

OTHER ISSUES

Specific Comments 2, 3, 4, 6, 8, 31, and 32: Several of LACSD No. 14's specific comments criticize or recommend changes to information or data in the staff report that was taken from specific reference documents.

Response: The comments are acknowledged and will be included in the administrative record. The Water Board's action to approve the Basin Plan amendments and environmental document will not include formal action on the staff report.

Much of the information in the staff report is based on documents and data provided by LACSD No. 14 and its consultants. However, Water Board staff reviewed a number of other scientific references, including reports by the U.S. Geological Survey, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the federal Agency for Toxic Substance and Disease Control (ATSDR). Differences among technical references, or between technical references and information provided by LACSD No.14 may reflect differences in methods, sampling locations, local environmental conditions, or other factors. Water Board staff did not attempt to determine the accuracy of sources cited in

the staff report. The peer reviewers did not criticize staff's use of any of the "external" scientific references cited.

Specific Comments 3, 9, 10, 16, 17, 25, 27, 28 and 38: Several comments recommend alternatives to words and phrases used in the staff report or addition of language. Examples include proposals that the staff report refer to effluent being "reused/recycled" rather than "disposed", and "exceedances" rather than "violations" of water quality objectives. Several comments also suggest that references to "criteria" be changed to "criteria guidance".

Response: The comments are acknowledged and will be included in the administrative record. Changes in the staff report are not being recommended in response to these comments. The Water Board is not taking formal action on the staff report.

Specific Comment 5: The comment requests the basis for distinguishing between the Piute Ponds and wetlands, or delineating the wetlands, in Basin Plan Table 2-1.

Response: Separate entries for the ponds and wetlands are proposed in Table 2-1 to recognize that where wetlands are present in association with the ponds, they have designated FLD and WQE beneficial uses. The table does not reflect a formal delineation or set specific boundaries between the ponds and wetlands.

The Basin Plan (Section 4.9) defines wetlands in the Lahontan Region as areas that are

"inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (including) playa lakes, swamps, marshes, bogs and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds."

The Basin Plan states that the Water Board "will consider wetland boundaries determined by using the U.S. Army Corps of Engineer's 1987 'Federal Manual for Identifying and Delineating Jurisdictional Wetlands' " but does not require use of this manual.

The 1995 Lahontan Basin Plan designated beneficial uses for wetlands as a result of the 1993 study cited in Footnote 3. The study identified the presence of wetlands throughout the Lahontan Region, including wetlands adjacent to other surface water bodies, and recommended the designation of specific beneficial uses for these wetlands. The wetlands were mapped on a coarse scale but were not formally delineated in most cases. The study report explains the methods used to identify wetlands and recommended beneficial uses. A copy of the report was provided to LACSD No. 14's consultants.

Specific Comment 7: The comment questions the staff report's statement that the Rosamond Dry Lake Bed is "relatively undisturbed" because the report also mentions Edwards Air Force Base's (EAFB's) intent to use the lake for emergency aircraft landings.

Response: A lakebed with an area of about 21 square miles that is disturbed by occasional emergency aircraft landings can be considered "relatively undisturbed" in comparison with nearby urban areas, and with Rogers Dry Lake, which is more intensively used by EAFB.

Specific Comment 11: The comment questions the Basin Plan's non-degradation based approach to water quality objectives and asks that the specific water quality objectives applicable to each beneficial use applicable to each water body affected by the Basin Plan amendments be listed in the staff report "to provide clarity and avoid conflict in the future over what are deemed applicable water quality objectives."

Response: Consideration of whether to provide water quality objectives applicable to each beneficial use is beyond the scope of these Basin Plan amendments. Furthermore, none of the legal citations proffered by the Districts mandate that specific water quality objectives be adopted in the Basin Plan or identified in the staff report as applicable to each beneficial use pertaining to Amargosa Creek, Paiute Ponds, and Rosamond Dry Lake.

The listing of all applicable water quality objectives in the staff report, as requested in the comment is not necessary. The water quality objectives applicable to LACSD No. 14's receiving waters are clearly reflected in the receiving water limitations in its Waste Discharge Requirements.

Specific Comment 14: The comment recommends addition of language to the staff report's discussion of State Water Board Resolution 88-63, the "Sources of Drinking Water Policy" to reference California Office of Administrative Law Determination No. 8.

Response: The Regional Water Boards have incorporated State Water Board Resolution 88-63 into their Basin Plans in separate regulatory actions. The full policy is included in Appendix B of the Lahontan Basin Plan. The policy is referenced in the discussion of the MUN beneficial use in Basin Plan Chapter 2 and in Chapter 6, "Plans and Policies." The Office of Administrative Law approved the Lahontan Basin Plan as being in compliance with the Administrative Procedures Act in 1995.

Specific Comments 28, 37 and 38. The comment notes errors in the staff report's references to LACSD monitoring data for manganese, an external study of thallium in Piute Ponds, and station numbers in an external study of Rosamond Dry Lake.

Response: In Water Board staff's opinion, the suggested corrections are valid, and they are noted for the record. Because the Board will not be taking formal action to approve the staff report, the corrections will not be physically made.

Specific Comment 32: The comment states that LACSD No. 14 staff could not access background data on scientific studies of toxic substances in wildlife tissue from Piute Ponds. These studies were cited in one of the references used in the staff report.

Response: The 2003 Agency for Toxic Substances and Disease Control report is available at: http://www.atsdr.cdc.gov/HAC/PHA/edwardsafb/edw_toc.html. Water Board staff did not obtain background data from the studies mentioned in the comment. As noted above, Water Board staff did not independently verify the accuracy of information from external sources that was cited in the 2004 and 2007 staff reports.

The 2007 staff report cites a later publication on tissue studies at Piute Ponds by the authors of the references in the LACSD No. 14 comment. The Internet address for the Hothem *et al.* (2006) publication is: <http://www.werc.usgs.gov/dixon/pdfs/Hothem%20et%20al%202006.pdf>. If this address is not accessible, a search for the author "Hothem" through the "Products" link at <http://www.werc.usgs.gov> should provide a link to the publication.

Specific Comment 36: The comment objects to a statement in the staff report regarding the relative roles of wastewater and Amargosa Creek in loading of chemical constituents, particularly aluminum, to Rosamond Dry Lake. It cites aluminum data from Station RS1.

Response: The statement (in the discussion of the SAL use for Rosamond Dry Lake) is on page 62 of the 2007 staff report, and is qualified by the word "probably." The aluminum data provided by LACSD No. 14's consultant CDM for a single sampling run are summarized in Table 7. They show higher levels of aluminum at stations downstream of LACSD No. 14's discharge point. (Station RS1 is upstream of this point.) Amargosa Creek flows through an urban area, has been hydromodified, and may receive aluminum from upstream human sources as well as from natural sources. Additional study would be necessary to define the extent of aluminum loading from different sources.