

Response to Comments¹ on the 2006 Triennial Review

**1. Fontana Union Water Company
Chris Diggs, Director of Operations
June 2, 2006**

Comment:

Fontana Union Water Company (FUWC) supports modifying Beneficial Use Table 3-1 in the existing Basin Plan, because the table is not reflective of current conditions and is not likely to reflect future conditions in certain stream reaches. Although the change in Issue No. 13.2 from COLD to I-COLD for Lytle Creek appears to be intended to make the stream reaches and the beneficial use designations more closely represent existing stream conditions, FUWC believes that a more appropriate designation for this reach of Lytle Creek would be WARM or I-WARM.

Response:

Staff will consider all relevant information from stakeholders on the appropriate designation of beneficial uses for Mill Creek, and Lytle Creek and the Santa Ana River. Staff has elevated the priority of this issue to No. 11 and the revised the description to include, "Lytle Creek: 1) From 1-15 to Korean Christian Camp Bridge or SCE diversion – designate new reaches and COLD or WARM beneficial uses, as appropriate. Designate reaches Intermittent as appropriate." Our goal is to assign beneficial uses that accurately reflect existing uses and conditions in Lytle Creek, and to reflect the conditions of the Federal Energy Regulatory Commission (FERC) license. Staff has agreed to work with a stakeholder work group to determine appropriate beneficial uses for these streams.

In pertinent part, the Basin Plan definition of COLD is, "...waters that support coldwater ecosystems that may include, but are not limited to, preservation and enhancement of aquatic habitats ...," and the definition of WARM is "waters support a warmwater ecosystems that may include, but are not limited to, preservation and enhancement of aquatic habitats ..." To make an appropriate determination of whether the COLD or WARM beneficial use applies, an evaluation needs to be made regarding a waters' ability to support a cold water or warm water ecosystem. Beneficial uses will be designated that protect all uses of a water, including the most sensitive. The reach of Lytle Creek in question supports populations of rainbow trout and speckled dace. Beneficial use designations need to be assigned to protect these aquatic resources. The aquatic ecologist for the San Bernardino National Forest considers speckled dace as a COLD water species, and it is commonly accepted that the different species of trout are considered a COLD water species. The speckled dace is a

¹ Comments presented in this response have been summarized, shortened and/or paraphrased from the original. Original comments are posted on the Santa Ana Regional Board's web site, <http://www.waterboards.ca.gov/santaana/>

species of special concern for the California Department of Fish and Game and the United States Forest Service.

**2. Southern California Edison
Russ Krieger, Vice President - Power Production
June 2, 2006**

Comment:

Southern California Edison (SCE) holds three licenses from the FERC for the operation of hydroelectric projects on Lytle Creek, Mill Creek, and the Santa Ana River. After the diversion of water from these hydroelectric projects, the water is immediately released into pipelines owned and operated by local water supply companies for domestic, irrigation, and other beneficial uses. The proposed changes in Issue No. 13.2 appear to be intended to make stream reaches and the beneficial use designations consistent with the situation that has existed for over the past 100 years. SCE recommends that the stream reaches listed in Issue No. 13.2. be modified to read:

- Lytle Creek from 1-15 to Miller Narrows – change to I-COLD and list as Reach 1;
- Lytle Creek from Miller Narrows to headwaters – list as Reach 2;
- Mill Creek from Highway 38 to the confluence with Mountain Home Creek – list as Reach 2;
- Mill Creek from the confluence with Mountain Home Creek to the upper diversion, Forest Falls – change to I-COLD and list as Reach 3.

Additionally, it is unclear if the “I-COLD” designation is the most appropriate characterization for these three stream reaches, instead of an “I-WARM” or “WARM” designation.

Also, the designation of the three new stream reaches described above may cause other minor changes to Table 3-1 to reflect the appropriate beneficial uses in the stream reaches. The proposed spawning (SPWN) designation for Reach 1 of Lytle Creek may not be appropriate. In addition, the hydropower generation (POW) designation should be removed for Mountain Home Creek and added to Mill Creek Reach 1 and Santa Ana River Reach 5.

SCE is looking forward to provide Regional Board staff with all the information it needs to address these issues.

Response:

Board staff is committed to working SCE and the other stakeholders address these issues. We have elevated issue No. 11 on the priority list and revised the issue description to be more general and encourage discussion. As stated in response to Comment No. 1, appropriate beneficial uses will be designated recognize the aquatic ecosystems found in these creeks, acknowledging the existing FERC licenses. Since these waters exhibit perennial and intermittent sections, and are affected by water diversions and pumped water discharges,

staff is considering adding a brief narrative as a footnote to Table 3-1 that will describe the streams' variable hydrology and aid in understanding how this variability has affects selection of beneficial uses that apply.

Staff notes that there should be changes in the designation of POW for certain reaches of the waters, as discussed in SCE's comments. The reach in which water is diverted to provide hydrogenation should be designated with the POW beneficial use.

**3. San Bernardino Valley Municipal Water District
Robert L. Reiter, General Manager and Chief Engineer
June 2, 2006**

Comment:

The District and the water agencies, including but not limited to Bear Valley Mutual Water Company and Crafton Water Company, are specifically interested in the following issues (Regional Board's response will follow each comment):

Issue No. 4 Reformat / republish Basin Plan

Resolution Number RB-2006-0042 and Order Number R8-2006-005 should not be incorporated into the Basin Plan. Doing so will short-cut the collaborative process and likely subject the Regional Board to immediate litigation.

Response:

The intent of this issue was to designate staff resources for ongoing efforts to republish the Basin Plan in a format that will be more accessible and easier to use, and to incorporate into the Plan the 2004 TDS - Nitrogen Management Plan and other Basin Plan amendments adopted since 1995. This effort is likely to be assisted by work being proposed by SWRCB staff to update and revise all the water quality control plans in the state using an electronic format and digitally-based information management techniques.

Staff is drafting a Reclamation Guidance Document that will likely be amended to the Basin Plan to guide implementation of the TDS - Nitrogen Management Plan. Staff is also engaged in a collaborative process to develop a strategy for managing imported water recharge and inter-basin water transfers in a manner that implements the TDS - Nitrogen Management Plan. The outcome of this process will also likely be captured in Basin plan amendments.

Comment:

The District and the water agencies are interested in a number of other issues listed in the Triennial Review Priority List. Our interest in these issues stems from the general descriptions of these issues and the far-reaching potential implications of these issues. We seek further clarification of the Regional Board's intent with regard to each of these issues, the nature of the problem to be addressed, and other relevant information.

Response:

Please review the 2006 Triennial Review Description of Issues that is posted on the Regional Board's web site <http://www.waterboards.ca.gov/santaana/> for pertinent information on these issues. It is unlikely that staff will be able to review middle and lower priority issues during this triennial review due to resource constraints.

Comment:

Issue No. 13.1 b. Add RARE to appropriate waters. How is the determination of "appropriate waters" to be made? Does the determination apply to an entire reach as designated in the Basin Plan or only where the specific use presently exists?

Response:

Rare, Threatened or Endangered Species (RARE) waters support habitats necessary for the survival and successful maintenance of plant or animal species designated under state or federal law as rare, threatened or endangered (RTE). Regionwide, a number of perennial and intermittent waters provide habitat that supports various RTE species, e.g., the Least Bell's Vireo and Southwestern Willow Flycatcher, the Santa Ana sucker, San Bernardino Kangaroo Rat and the Santa Ana Wooley Star. A RARE designation likely should apply to the entire stream reach of a water body known to support RTE species. In general, threats to the water quality standards of a stream reach that supports RARE may affect the stream's ability to support RARE everywhere along the reach, not just the locations where RTE species have been found, and therefore, the RARE designation should apply to an entire stream reach where the use occurs.

Comments:

Issue No. 13.1 c. Add SPWN to appropriate waters. How is the determination of "appropriate waters" to be made? How will the reaches, creeks and streams be identified for localized designations?

Response:

Spawning, Reproduction, and Development (SPWN) waters support high quality aquatic habitats necessary for reproduction and early development of fish and wildlife. Self-sustaining populations of native fish species, including rainbow trout, the Santa Ana sucker and speckled dace, are known to inhabit waters of Lytle Creek, Mill Creek, and the Santa Ana River, and their tributaries. Streams with self-sustaining populations, where reproduction and early development of native fish is taking place, should be designated with the SPWN use to reflect that they do provide suitable habitat necessary for the support of viable populations of native fish species. Identification of waters that are candidates for the SPWN use will be made by staff using the reliable information available, in consultation with stakeholders representing the water supply community, resources agencies, environmental advocacy groups, etc.

General response to the following SBVMWD comments:

Board staff remains committed to working with SBVMWD and its partner agencies and stakeholders to determine appropriate beneficial use designations for of all sections of Lytle Creek., Mill Creek, and the Santa Ana River affected by the 2003 FERC relicensing of hydropower diversions from these waters. This includes establishing whether beneficial uses occur intermittently or perennially, and what are the appropriate stream reaches for the purposes of designating uses of these streams.

Comments:

Issue 13.2. a. Add new reaches and designate appropriate beneficial uses. The reach from Turk Point to Miller Narrows was identified to be too warm for trout during many seasons of the year. The classification should be I-WARM.

Response:

The FERC license of 2003 for Lytle Creek noted that surface flows are visible from the diversion (at Miller Narrows) downstream to the Korean Christian Camp Bridge (a distance of 0.34 miles), and then, for the next 1.2 mile downstream, the stream bed is highly permeable (Turk's Basin) and all flow reaching this area percolates into the stream bed and no stream flow is visible. Below the highly permeable streambed segment, at Turk's Point, the streambed becomes narrower, and stream flows are visible for about another mile, down to the Grapeland Tunnel. (Staff notes that the flow regimes described above prevail in the area of Turk's Basin and downstream reaches during summer and fall, when rainfall runoff and snow-melt induced flows are absent and base flows above Miller Narrows are largely diverted.) The FERC license also stated that small populations of rainbow trout and Santa Ana speckled dace have been found in the bypassed reach (the reach from the Miller Narrows diversion downstream to the FUWC's works). Winter rains and snow melt often result in stream flows that breach the Miller Narrows diversion, and that when this occurs, surface flows in the segment of the creek below the diversion often continue into the spring and summer. All of these factors need to be considered when determining the appropriate beneficial uses of these reach of Lytle Creek.

Comments:

Issue No. 13.2 b. Reach 1 of Mill Creek should be re-designated with a beneficial use of I-WARM.

Response:

At the present, this reach is designated as Intermittent COLD, and prevailing flow conditions suggest the I-COLD designation is appropriate. During dry weather, staff understands that most of the Mill Creek flow stream (which currently includes pumped groundwater) is diverted at the streamflow pickup downstream of the Highway 38 Bridge, however, there is some leakage that provides stream flow for a distance downstream from this diversion. Higher stream flows resulting from winter rains and snow melt overflow or bypass the diversion and often

provide flow to the reach of Mill Creek downstream from the Highway 38 Bridge for several months, into late winter, spring, and occasionally summer.

Comments:

Issue No. 13.2 c. Mill Creek from Highway 38 to above Mountain Home Village is being used as a conveyance facility to move water produced from wells near Mountain Home Village to the Mill Creek streamflow pickup at the Highway 38 Bridge. The well production may be terminated at any time and the reach would then likely dry up. This reach should be designated as I-WARM.

Response:

The premise that flow through this reach will cease if operation of the wells in the Mountain Home area is terminated may need to be evaluated by modeling. It is unclear how much flow would remain in this reach if the well production were to be terminated. In addition to conveying flows from wells near Mountain Home Village to the streamflow pickup at Highway 38 Bridge, this reach of Mill Creek conveys also gains flow from Mountain Home Creek, cienegas and springs, and surface runoff from the surrounding area. It is noteworthy that there is likely a connection between the rainbow trout fishery in Mountain Home Creek and this reach of Mill Creek, and that, in the past, California Department of Fish and Game stocked rainbow trout in the creek at the two large cienegas in this reach.

Comment:

Issue No. 13.2 d. "Mill Creek from Mountain Home Village to upper diversion, Forest Falls – change to I-COLD and list as Reach 3." This reach was determined to be too warm for trout in the summer season and is frequently dry. The beneficial use listing should be I-WARM.

Response:

Staff's observations of this reach suggest a pattern of continuous flow that coincides with the onset of seasonal fall / winter precipitation and rain fall runoff, snow melt, and bypass of SCE's diversion above Valley of the Falls Drive. Summer flows in this reach are intermittent. Rising groundwater may also contribute flow to this reach. Throughout summer 2006, staff has documented flows of about a one cubic per second and water temperatures around or below 20°C., at the crossing over Mill Creek to the Bear Paw Preserve (southeast of the junction of Highway 38 / Valley of the Falls Drive). However, anecdotal information available to Board staff indicates that during the summer, the creek often has no flow at certain times of the day. The FERC licensing agreement notes that fish habitat appears to be poor in this area. During periods when the wet weather seasonal precipitation flow pattern prevails, it appears reasonable that this reach could provide seasonal connectivity and habitat for trout populations. In the summer, there is little likelihood of trout habitat. Consequently, an intermittent designation may be appropriate.

Comment:

Issue No. 13.2. e. Mill Creek upper diversion to headwaters. This reach should be designated I-COLD.

Response:

Board staff and others have documented that upper Mill Creek (above the diversion) flows continuously and water temperatures are cool. It appears that this reach should remain as presently designated, COLD.

Comment:

Issue No. 13.2. f. SAR from Seven Oaks Dam to Power House 1. This reach should be designated I-WARM.

Response:

This reach is mostly in the Dam's inundation "take" area. There are areas of rising groundwater (cienegas) that support linear segments of riparian wildlife and cold water habitat along this reach, as well as areas where beneficial uses are supported by surface flow from upstream reaches. Other sections of the reach are dry much of the year. These factors need to be considered to designate an appropriate COLD or WARM, intermittent or perennial beneficial use. It may be appropriate to subdivide this reach and more accurately reflect the beneficial uses of inundation pool and the river reach upstream of it.

Comment:

Issue No. 13.2. g. SAR from Power House 1 to headwaters – list as Reach 7. This reach should be designated COLD.

Response:

Staff agrees.

**4. Orange County Coast Keeper
Raymond Hiemstra, Associate Director- Projects
June 2, 2006**

Comment:

The issue to consider revisions to the SHEL beneficial use definition to not include human consumption should be dropped from the list. Collecting and consuming shell fish is not a fringe activity and should be fully protected.

Response:

This issue was placed on the Triennial Review list at the request of the County of Orange's Resource and Development Management Department (RDMD). At present, shellfish collected in the Upper Newport Bay do not meet bacteria standards for human consumption. Investigations conducted in response to the fecal coliform TMDL indicate that shellfish collection in Upper Newport Bay is limited to bait purposes.. Board staff will review and consider all pertinent information on this issue, including information from California Department of

Fish and Game, and public comments, in considering whether it is appropriate to recommend basin plan amendments to revise the SHEL use of Upper Newport Bay.

Comment:

Coastkeeper strongly supports the issues to develop/revise nutrient objectives focusing on 303 (d) listed waters, add a water quality objective narrative regarding the excessive growth of macrophyte aquatic plants, and develop a wetland impact mitigation policy. Would like to see the issue of a water quality objective narrative regarding excessive growth of macrophyte aquatic plants receive higher priority.

Response:

Comments noted. The triennial review list reflects Board staff's recommended priorities; the Regional Board may elect to revise them. However, Board staff's experience with the Big Bear Lake nutrient TMDLs suggests that while a macrophyte aquatic plant narrative objective would be appropriate and helpful, the present lack of such an objective does not preclude actions to protect waters affected by macrophyte growth.

Comment:

Drop the issue to remove site specific objectives (SSO) for Cu, Cd, and Pb for the middle Santa Ana River unless there is substantial recent data showing that these metals now meet CTR objectives.

Response:

The SSOs relied on total-dissolved translators in use at the time the SSOs were adopted. However, these translators have since been revised by USEPA, as reflected in the California Toxics Rule. It is appropriate to assure that the objectives for these metals reflect the best available science and the CTR. The revision of permit limits to reflect revised objectives would remain subject to the antibacksliding provisions of the Clean Water Act. This issue has been grouped with the Santa Ana River Dischargers Association (SARDA) request to consider developing site specific objectives for aluminum, chlorine, and cyanide for the Santa Ana River. Any site-specific objectives that may be considered must assure the protection of beneficial uses and conform to the requirements of the state's antidegradation policy (State Water Board Resolution No. 68-16).

Comment:

The issue to revise the numeric objective for residual chlorine should only be considered to lower residual chlorine discharges.

Response:

Any proposed revision to the numeric water quality objective for residual chlorine would adequately protect beneficial uses that support aquatic habitat and conform to antidegradation requirements.

Comment:

O. C. Coastkeeper strongly supports the addition of beneficial uses as shown in Issue No. 13 (Update Beneficial Use Table 3-1 and Water Quality Objectives Table 4-1).

Response:

This issue is in the top third of third priority list, and will likely be studied over the next three years.

Comment:

Revising portions of Lytle Creek and SAR to I-COLD should only be considered after a thorough temperature monitoring program has been completed.

Response:

See responses to Comments 1, 2, and 3, above.

Comment:

O.C. Coastkeeper strongly supports the addition of water bodies as listed in Issue No. 10.

Response:

This issue is in the top third of the priority list, and will likely be studied over the next three years.

Comment:

O.C. Coastkeeper strongly supports and would like to see a higher priority for the issues to add narrative on implementation procedures for narrative turbidity and toxicity objectives, revise Chapter 5 prohibitions applying to inland surface waters, consider revisions to make clear that water quality standards apply to intermittent surface waters as well as perennial waters, develop waste discharge prohibitions for excessive sedimentation, update the discussion of implementation of the antidegradation policy in Chapter 5, reevaluate temperature criteria to ensure full protection of aquatic life, and update dissolved oxygen objectives for WARM/COLD beneficial use.

Response:

Because Board staff's basin planning resources are limited, the Triennial Review list gives higher priority to issues that Board staff considers to be the most pressing. It is hoped that the staff resources available will be sufficient to review and consider at least the top third of the issues listed on the priority list. Should additional resources become available, or if stakeholder support were to be made available to address lower priority issues, priorities may be adjusted accordingly.

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**5. Inland Empire Waterkeeper (IEWK)
Mandy Revell, Director
Comments received June 2, 2006**

Comment:

IEWK supports the prohibition of septic tank subsurface disposal systems in the Quail Valley area.

Response:

The prohibition has been adopted by the Regional Board. It must be approved by the State Water Board and Office of Administrative Law to become effective. .

(The remainder of IEWK's comments were similar to those made by O.C. Coastkeeper. Please see responses, above.)

**6. County of Orange Resources & Development Mgmt. Department
Chris Crompton, Manager- Environmental Resources
Comments received June 2, 2006**

Comments:

We encourage the Regional Board to utilize current stakeholder groups, such as the Stormwater Quality Standards Taskforce (SWQSTF), the Nitrogen and Selenium Management Program (NSMP) Working Group, or other newly convened stakeholder groups, to supplement resources for Basin Plan review items. A number of additional items may fall within the purview of the SWQSTF, and could potentially be incorporated into the future activities of this Task Force, including:

- a. The addition of new waters (Issue No. 10). Since the SWQSTF is currently evaluating recreational beneficial uses as part of its ongoing activities, the assignment of REC-1, REC-2 and any other related uses for the channels / waters listed in Issue No. 10 and should be addressed by the SWQSTF;
- b. Adding COMM as a use to appropriate lakes, reservoirs, and streams. Fishing may be more properly specified in the COMM beneficial use category, rather than in the REC-1 category, but may trigger the application of CTR objectives for fish consumption;
- c. Adding and changing beneficial use designations to water bodies and adding reaches;
- d. Removing Laguna and Lambert Reservoirs from the Basin Plan (Issue No.14);
- e. The addition of new waters (Issues 10 and 15).

Response:

Board staff acknowledges the value of using stakeholder groups' technical support resources to study issues identified in the Triennial Review. Several of RDMD's suggestions have been incorporated into the final Priority List. We have noted the offer of SWQSTF assistance in Issue No. 2 and No. 10, adding water bodies and designating appropriate beneficial uses, and look forward to the contributions of the SWQSTF in addressing this issue.

Comments:

Other stakeholder processes may form the most appropriate means for addressing additional issues, for example, technical support and data from the existing NSMP Working Group would be able to be used to analyze the issues of developing/revising nutrient objectives for the region, and to develop a water quality objective narrative regarding excessive growth of macrophyte aquatic plants. This exceptional resource (the NSMP Working Group's technical expertise) should be leveraged in moving forward with any revision of objectives or changes to the Basin Plan related to potential algal impairments.

Response:

Board staff agrees. Regional Board staff working on the Nutrient TMDL for the Newport Bay watershed are involved in the NSMP process; it is staff's intent to coordinate TMDL-related activities with those of the NSMP to maximize effect and minimize redundancy or conflict.

Stakeholder participation in a work effort to craft narrative water quality objectives regarding excessive growth of macrophyte aquatic plants is welcome. Such a Basin Plan narrative objective would likely apply region-wide, unless specifically limited to certain waters or watersheds. At this time, the issue regarding excessive growth of macrophyte aquatic plants (vascular aquatic plants) is largely focused on invasive plants that are currently affecting water quality standards of Big Bear Lake (coontail (*Ceratophyllum demersum*) and Eurasian milfoil (*Myriophyllum spicatum*), in particular). The Regional Board has adopted a nutrient TMDL for Big Bear to address the macrophyte problem.

Comment:

A working group convened to review available information and to assist Regional Board staff in developing a Basin Plan amendment for the protection of wetlands within the Region may be appropriate.

Response:

A study of the condition of the Region's riverine wetlands, being conducted by staff of CSU Long Beach and SCCWRP and funded by an EPA grant, is currently concluding. Board staff anticipates that much of the work to address Issue No. 9, "...develop criteria for wetlands mitigation," will be focused on revising the Basin Plan narrative to broaden how wetlands are defined, including updating the inventory of wetlands shown in the Plan and describing their condition, describing the Clean Water Act Section 401 water quality standards certification process

and how it relates to wetlands protection and mitigation, the work and accomplishments of the Wetlands Recovery Project, etc., in addition to considering appropriate criteria for mitigating impacts to wetland resources. Staff further anticipates this work will be carried out in consultation with stakeholders or in a collaborative work group process in which stakeholder participation will be sought.

Comment:

To develop a narrative on implementation procedures for narrative turbidity and toxicity objectives and to develop waste discharge prohibitions for excessive sedimentation a watershed-specific plan developed in this context may provide a foundation for a comprehensive regional approach.

Response:

Board staff recognizes the desirability of using appropriate Basin Plan amendments as a way to establish regional consistency in how narrative turbidity and toxicity objectives are implemented. A uniformly applied regulatory approach to sediment management, such as a regional sediment discharge prohibition applied at a watershed scale, will likely be the most efficient mechanism for achieving compliance with sediment TMDLs and reducing sediment discharges throughout the region.

Comment:

To, "Consider Water Code Section 13241 factors in relation to compliance with water quality objectives during wet weather," should be reinstated on the 2006 Priority List and given a high priority.

Response:

The final priority list shows that Board staff has re-stated Issue No. 2 to make clear that addressing Section 13241 – related matters remains a high priority.

Comment:

Item 3 (TMDL Basin Plan amendments, newly adopted or revised) and Item 5 (triennial reviews of adopted TMDLs) should be clarified and provide sufficient resources to include a review of beneficial uses and water quality objective during the TMDL development process and prior to finalizing TMDLs.

Response:

While Board staff recognizes that addressing 303(d) listings in the manner described in the comment may eliminate the need for developing some TMDLs, Board staff's Basin Planning and TMDL resource levels currently available do not support this approach.

**7. California Department of Transportation
Michael Flake, Chief – Office of Storm Water Policy
June 2, 2006**

Comment:

Issue No. 2 – “Consider revisions to REC-1 and REC-2 beneficial uses and bacterial water quality objectives...” We strongly support adjusting the REC-1 and REC-2 beneficial uses to correlate more accurately with the recreational uses occurring or not occurring during wet weather. Currently, the Basin Plan does not specify different bacterial objectives based on differing frequency or magnitude of water contact recreational use or the intermittent absence of uses although the resultant health risk may vary significantly.

Response:

The SWQSTF, which includes Regional Board as active members, is recommending adoption of a “Limited REC” beneficial use that is based on frequency of contact recreation exposure, as suggested by the comment.

Comment:

UAAs are expensive and difficult to prepare. We suggest that the Regional Board consider joining with other Boards and the State Board to prepare a statewide UAA.

Response:

The SWQSTF is in the process of developing a template or guidance for UAAs to be used as the basis for revising recreational use beneficial use definitions and designations in the Santa Ana Region. The UAA being developed for this region may be a useful model for other UAAs throughout the state, and perhaps for a state-wide UAA, as well.

Comment:

“Reformat / republish Basin Plan” (Issue No. 18). It may be appropriate to include the TMDLs as an appendix so that the BP does not have to be republished every time a new TMDL is adopted.

Response:

The Basin Plan has not been republished each time a new TMDL, or other Basin Plan amendment is adopted. An appendix approach may be a useful way to proceed with inclusion of TMDLs. Considerable changes to the Basin Plan resulted from the N/TDS management strategy amendments, and these need to be reflected in a clear and concise version of the Plan.

Comment:

Issue No. 7 “ Develop / revise nutrient objectives.” We suggest this is a lower priority.

Response:

Excessive nutrient levels lead to eutrophication and significant impacts to the water quality standards of several water bodies in the region, including Upper Newport Bay, Lake Elsinore, and Big Bear Lake. This has caused large-scale algae blooms and/or growth in macrophytes, resulting in (or contributing to) loss or impairment of recreation and habitat beneficial uses, including fish kills, excessive odor and other aesthetic impacts. The priority assigned to this issue reflects its importance to the Region and identification as an implementation task for already adopted TMDLs.

Comment:

Issue No. 9 “Develop criteria for wetlands impact mitigation.” We would appreciate being included as a stakeholder in this process.

Response:

Please see the response to Commenter 6’s third comment, above.

Comment:

Issues 3, 14, 15 (Issues 10, 13, 14 in the final priority list) – Updating beneficial use and water quality objective (WQO) tables. We suggest that changes directly address possible compliance impacts on storm water discharges.

Response:

Changes to water quality objectives must take into consideration the factors identified in Section 13241 of the Water Code, which includes economics, a significant factor with respect to stormwater compliance.

Comment:

No. 19 – “Revise chapter Beneficial Use Table narrative to incorporate Tributary Rule.” Although increased work is involved in identifying specific beneficial uses for the smaller waterways, this is preferable to applying the tributary rule and possibly assigning inappropriate beneficial uses and the associated water quality objectives.

Response:

Board staff recognizes the near impossibility of assigning water quality standards to every drainage feature that exhibits attributes of existing or potential beneficial uses. Staff always endeavors to use the most comprehensive information available when applying the tributary rule to designate beneficial uses of waters that have not been specifically referenced or identified in the Basin Plan. Clarification concerning how the tributary rule is to be used and applied has significant importance with respect to implementing proposed revisions of beneficial uses (e.g., proposed REC revisions) and water quality objectives (e.g., proposed revisions to bacteria objectives that support REC uses).

Comment:

Issue No. 20 – “Consider revisions to make it clear that water quality standards apply to intermittent waters, as well as perennial waters”. Determining appropriate WQS for smaller or intermittent waters is difficult and has major ramifications. Effluent dominated waterways (EDW) may reasonably not be able to support the same beneficial uses as waterways with natural flows... This is a statewide issue which should more appropriately be addressed at the statewide level.

Response:

EDWs, which are often are perennial and support habitat and recreational beneficial uses, are not at issue here. With Issue No. 20, Board staff’s focus is the numerous intermittent surface waters in the Region that are, by definition, waters of the state, often are also waters of the United States (within the jurisdiction of the U.S. Army Corps of Engineers), and are tributary to perennial surface waters. These waters support (or potentially support) beneficial uses that must be protected and not be allowed to be degraded, in part to protect the water quality standards of downstream receiving waters. Additional discussion is needed in Basin Plan, Chapter 3, “Beneficial Uses,” to sufficiently explain the basis and use of this principle.

There have been statewide efforts to address water quality standards for EDWs, but, to date, no specific requirements have been developed that would appreciably affect the Regional Board’s consideration of appropriate beneficial uses and water quality objectives pursuant to existing regulation.

Comment:

Issue No. 22 – “Develop waste discharge prohibitions for excessive sedimentation. “ We would appreciate being a stakeholder in the development of these BP changes if this issue is pursued.

Response:

Comment noted. This issue is in the lower tier of the priority list. If this issue is pursued we will notify all interested parties.

Comment:

“Develop and adopt biological criteria for managing water quality.” We support consideration of the use of biocriteria as a possible alternative to the use of numeric concentration-based objectives.

Response:

Comment noted. The SWRCB has been directing a statewide effort to develop biological criteria for managing water quality. This effort is not yet completed. It is unlikely that this issue will be considered for Basin Plan revisions during this triennial review period.

Comment: The following issues were not included in the table attached to the announcement; however, they are important issues for the Department.

- Issue A - variance for groundwater from dewatering operations.

Response:

Wastes discharged to surface waters, including those from groundwater dewatering operations, are subject to the Clean Water Act's NPDES permit program. There are no provisions for waiving issuance of NPDES permits. Furthermore, the chemical character of groundwater dewatering wastes, and the manner in which they are discharged, can affect the water quality standards of receiving waters. The Santa Ana Regional Board has established a general de minimus permit that facilitates and streamlines permitting of groundwater dewatering waste discharges.

- Issue B – Need for storm water implementation and compliance procedures. The Santa Ana Basin Plan does not appear to describe how any particular storm water discharge is to be compared with the receiving water standards. Develop an evaluation that would focus on whether beneficial uses are being impacted rather than on exceeding numeric objectives.

Response:

This is a concern that may be best addressed by a stakeholder-based work group, on a state-wide level.

Comment:

- Issue C – Review of Selenium objectives, develop a site-specific selenium objective. We believe the current CTR objective is not well supported.

Response:

Regional Board staff actively participate in the Nutrient / Selenium Management Plan Working Group, a stakeholder group working to address a number of issues related to management and control of discharges containing selenium, including possible selenium SSOs. The commenter is encouraged to participate in this work group.

Comment:

- Issue D – Probable vs. potential beneficial uses. We are concerned that some of the identified beneficial uses may not, in fact, be probable.

Response:

In considering whether to assign or revise beneficial use designations for specific waters, the Regional Board will consider all relevant evidence. The commenter

is encouraged to participate in the development and consideration of relevant Basin Plan amendments.

8. The Friends of the Northern San Jacinto Valley

Ann L. Turner McKibben, President

June 5, 2006

Comment:

We are pleased to see the Regional Board will be considering Beneficial Use designations for Mystic Lake. Recognition and inclusion of Mystic Lake in the Basin Plan will be an important step in realizing improved water quality at Mystic Lake.

We suggest that you eliminate (the proposed) REC-1 as full body contact would conflict with the biological / conservation / wetland beneficial uses recommended for Mystic Lake. We suggest that you also assign Limited Warm Fresh Water Habitat (LWRM) and Preservation of Biological Habitats of Special Significance (BIOL) to Mystic Lake.

Response:

Staff is proposing to add Mystic Lake to the Basin Plan to acknowledge the beneficial uses associated with the Lake and to protect and/or enhance those uses. The Clean Water Act directs the States to assign "swimmable" and "fishable" beneficial uses to all surface waters, unless a use attainability analysis is completed showing that these uses are not attainable. Therefore, we propose assigning recreation (REC1 and 2, currently), warm water aquatic habitat (WARM), wildlife habitat (WILD), and rare, threatened and endangered species (RARE) beneficial uses, to protect the uses in and around Mystic Lake that can be shown to exist. Note that Regional Board staff are engaged in an effort with the Stormwater Quality Standards Task Force to consider recommendations for revisions to recreation-related water quality standards. If any such changes are approved, they would likely affect the recommendations for recreation-related designations for Mystic Lake.

We agree that the BIOL beneficial use is appropriate. WARM will be more protective of the aquatic organisms found in the lake than LWRM. We believe that the current REC-2 (non-water contact recreation) designation is appropriate, and that a water contact recreation designation (either REC-1, or the "Limited REC" use (that is now being considered by the Stormwater Quality Standards Task Force) may also be needed. We understand that the California Department of Fish and Game (CDF&G), the operator of the San Jacinto Wildlife Area that includes Mystic Lake and surrounding lands, does not allow water contact activities in the lake and we will encourage designation of beneficial uses that recognize this restriction. Any Mystic Lake amendments to the Basin Plan will likely include a discussion concerning CDF&G rules and regulations that apply to use of the waters of Mystic Lake.

**9. Santa Ana Watershed Project Authority (SAWPA)
Daniel B. Cozad, General Manager
June 6, 2006**

Comment:

SAWPA requests that an additional item be added to the Triennial Review Priority List to request RWQCB staff support, in an advisory and collaborative role, to assist in the development of the next update to SAWPA's Integrated Watershed Plan and to address watershed-wide salt management strategies.

Response:

Regional Board planning staff will participate in processes to update SAWPA's Integrated Watershed Plan, to the extent that resources and priorities allow, recognizing that resources for Basin Planning are quite limited.

Staff acknowledges the importance of developing and implementing viable salt management strategies. As a result, we have added Issue No. 4 to the priority list, to amend the Basin Plan to incorporate a Reclamation Guidance Document and other direction needed to effectively implement the 2004 Nitrogen – TDS Management Plan and related Basin Plan amendments. These activities would include working in an advisory and collaborative role with stakeholders to a) Incorporate a Reclamation Guidance Document; b) Develop an agreement for collaborative implementation of management strategies, by proponents of projects to recharge groundwater using imported waters and inter-basin groundwater transfers, to assure compliance with TDS and nitrogen WQOs; and, c) Revise waste load allocations for the Santa Ana River to correspond with the actual or projected POTW discharges.

**10. Orange County Water District
Virginia Grebbien, General Manager
July 27, 2006**

Comments:

OCWD supports the high priority assigned in the draft priority list to considering recommendations of the Storm Water Quality Standards Task Force (SWQSTF). In particular, OCWD requests that the Regional Board place a high priority on adding rationale to the Basin Plan for the 2.2 mpn/100 ml coliform discharge limit for POTWs discharging to the Santa Ana River and its tributaries. The related language in the existing POTW discharge permits regarding tertiary treatment and 5-log virus reduction should be added to the Basin Plan.

One item that is not on the draft priority list that is currently receiving an extensive amount of attention in the Santa Ana River Watershed is the use of imported water to recharge groundwater basins and how this recharge relates to the Basin Plan. The workgroup that is now starting to work on this issue may recommend changes to the Basin Plan; this item should be given high priority on the triennial review priority list.

Response:

Staff has placed action on the recommendations of the SWQSTF as Issue No. 2, the second highest priority of this triennial review. This issue includes adding rationale to the Basin Plan for the 2.2 mpn/100 ml coliform discharge limit and related discussion and language.

As stated in our response to Comment No. 9, staff remains committed to working with stakeholders on the issue of the use of imported water to recharge groundwater basins. Triennial Review Issue No. 4 has been added to focus on this matter.

11. Risk Sciences
Tim Moore
September 13, 2006

Comments:

On behalf of several water agencies in the upper Santa Ana River watershed, I write to request minor modifications to the proposed Triennial Review Priority List. Item #10 (now Item #11) on the priority list identifies several creeks that may be resegmented and reclassified as a result of the FERC relicensing process. The water agencies believe that it is appropriate to update the designated uses for these streams and look forward to working with staff on this issue. We are concerned that the current wording of item #10 may, unintentionally, limit the range of alternatives that should be investigated or that can be adopted by the Regional Board. We recommend that the item #10 be revised as follows:

“A regional Task Force will be formed to recommend stream segmentation strategies and determine how best to describe the existing and potential beneficial uses for each segment (e.g. WARM and/or COLD, Intermittent or Perennial, etc.). “

Response:

Staff intends to collaborate with the several water agencies and other stakeholders to appropriately resegment, reclassify and assign beneficial uses to reaches of Lytle Creek, Santa Ana River, and Mill Creek that have been affected by the FERC relicensing. Staff agrees with your comment on limiting the range of alternatives that should be investigated. As a result, we have changed the wording to be more general to reflect an interest in exploring all reasonable alternatives. Please see Issue No. 11 on the final Priority List (updated November 13, 2006). In addition, we have noted that the Upper Santa Ana Water Resources Association – Triennial Review Committee is expected to support work on this issue.

**12. City of Riverside
Rodney M. Cruze, Wastewater Operations Manager
(commenting as president of SARDA, the Santa Ana River
Discharges Association)
September 18, 2006**

Comments:

SARDA has identified at least three pollutants for which site-specific objectives may be warranted. SARDA will be asking Board staff to participate in a recalculation effort relative to the aluminum water quality criteria and adoption of a site-specific objective as a long term objective. If the State adopts the proposed chlorine residual standards, it may be appropriate and necessary for the dischargers to request site-specific standards for chlorine.

When and if issues related to the proper measurement and implementation of cyanide standards are finalized, a critical assessment of what constitutes an appropriate site-specific standard for that chemical may also be warranted.

Response:

Staff has added Issue No. 12 to the final priority list to study the proposal to remove and/or adopt site-specific objectives for the Santa Ana River. Staff is open to working with SARDA and other stakeholders on this issue.

**13. California Trout
Jim Edmondson, Southern California Manager
September 21, 2006**

Comments:

California Trout (CT) supports retaining the COLD designation for the Mill Creek reaches. CT strongly supports the addition of new reaches and the designation of appropriate beneficial uses. CT supports the designation of Mill Creek from SAR to Highway 38 as Reach 1 and keeping it I-COLD. CT supports the designation of Mill Creek from Highway 38 to Mountain Home Creek confluence as Reach 2 and keeping it COLD. CT supports the designation of Mill Creek from Mountain Home Creek confluence to upper diversion in Forest Falls as Reach 3 and I-COLD. CT recognizes that the artificial hydrology due to water diversion upstream of Forest Falls currently imposes an intermittent designation, and supports a non-intermittent designation for this reach, which reflects the original and potential future hydrology of this reach for salmonids. CT supports the designation of Mill Creek from the upper SCE diversion to headwaters as Reach 4 and keeping it COLD. This reach currently supports salmonids, and is designated as Critical Habitat for the Southwestern Willow Flycatcher.

Response:

In the final triennial review priority list, Issue No. 13 is stated in more general terms than in the draft priority list on which CT commented. As noted in staff's response to Comment No. 11, above, our intention is not to limit the possible beneficial use alternatives to be considered. Staff has committed to work with the Upper Santa Ana River Water Agencies to determine the appropriate beneficial uses that should be designated for Mill Creek. Other stakeholders are invited and encouraged to participate in this effort and contribute information and expertise needed to designate the beneficial uses that are appropriate for all Mill Creek reaches.

**14. Center for Biological Diversity (CDB)
Ileene Anderson
September 22, 2006**

Comments:

1) The Center specifically supports retaining the COLD designation for the Mill Creek reaches. (Remaining comments are similar to California Trout's comments).

Response:

See Staff's response to Comment 13, above.

Comments:

2) The Center opposes revision of fluoride WQO for consistency with the Department of Health Service's MCLs. We request that staff re-consider the effects of elevated fluoride on aquatic organism based on the best available science.

Response:

The revision of the fluoride WQO issue has been placed in the lower tier of the priority list, at Issue No. 31, and it is likely that it will not be reviewed during this triennial review period. When this matter is considered, all relevant science will be reviewed and considered in developing proposed revisions to the fluoride WQO.

Comment:

The Center supports the following components of the 2006 Triennial Review Priority List, Issues 3, 7, 9, 10, 11, 12, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 28, 29, 33, 34, 35 (*Note: Board staff has revised the issue numbers to correspond with the final priority list*). On Issue No. 29, while the Center supports establishing dissolved oxygen objectives in waters for beneficial uses, CBD supports objectives that would restore salmonid waters throughout the watershed. Historically, salmonids ran throughout the reaches of the Santa Ana River. By establishing "non-salmonid waters" criteria, the Regional Board would effectively preclude re-establishing salmonid runs in those areas, preventing recovery. Additionally, other rare aquatic species, including the Santa Ana Sucker and the

Speckled Dace, would benefit from dissolved oxygen objectives.

Response:

Many of the issues that are supported by the commenter have a high priority on the Triennial Review list. Available staff resources will likely limit the issues studied during this triennial review to those with the highest priority.

Reconsideration of beneficial uses and stream reaches of Mill Creek, Lytle Creek, and the upper Santa Ana River, as proposed in Issue No. 11, will include recognition that these waters support coldwater habitat, i.e., the COLD beneficial use, needed by salmonids and other cold water fish species.

Comment:

Critical Habitat is a federal designation of habitat that is essential to the persistence and recovery of species. CBD supports the recognition of these important areas as a Beneficial Use in the Basin Plan, and supports the BIOL beneficial use or RARE beneficial use designation for them. CBD requests that all federal Critical Habitat Designations be included as a beneficial use in the following Inland Surface Streams... (The commenter listed several waters bodies that have Critical Habitat Designations for aquatic organisms, birds, or plants.)

Response:

We believe that the RARE beneficial use designation is appropriate for waters that are included in locations with a Critical Habitat Designation. Since a "critical habitat" designation does not set up a preserve, a park, or a special conservation zone for listed species, the BIOL use does not appear to be appropriate for areas subject to the critical habitat designation. Issue No. 13 "Update Beneficial Use Table 3-1..." in the final priority list has been revised to include all the waters listed in the original comment regarding Critical Habitat, and to consider adding the RARE beneficial use to the waters listed.