

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

February 2, 2012
Resolution No. R12-XX

2011 - 2013 Triennial Review
Selection of Basin Planning Projects

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) finds that:

1. A Water Quality Control Plan for the Santa Clara River Basin was adopted by the Los Angeles Water Board on March 3, 1975 and was amended on April 26, 1976, March 27, 1978, March 27, 1989 and October 22, 1990.
2. A Water Quality Control Plan for the Los Angeles River Basin was adopted by the Los Angeles Water Board on March 10, 1975 and was amended on April 26, 1976, November 27, 1978, March 27, 1989 and June 3, 1991.
3. In 1994, the Water Quality Control Plans for the Santa Clara River Basin and Los Angeles River Basin were comprehensively updated by Los Angeles Water Board staff and combined into one volume, entitled Water Quality Control Plan – Los Angeles Region (4) (the “Basin Plan”).
4. The Basin Plan was adopted by the Los Angeles Water Board on June 13, 1994, and approved by the State Water Resources Control Board on November 17, 1994 and by the State Office of Administrative Law on February 23, 1995.
5. The Basin Plan contains the region’s water quality standards, which consist of beneficial uses and water quality objectives to protect those uses, as well as an anti-degradation policy. The Basin Plan also contains a program of implementation, and non-regulatory descriptions of the region covered by the Plan.
6. State and federal laws mandate the periodic review of basin plans. Specifically, California Water Code section 13240 states that basin plans “shall be periodically reviewed and may be revised.” In addition, section 303(c)(1) of the federal Clean Water Act requires that a State review its water quality standards and, as appropriate, modify and adopt standards, at least once every three years. This process is known as a triennial review. The primary purposes of a triennial review is to review water quality standards to ensure they are based on current science, methodologies, and United States Environmental Protection Agency (U.S. EPA) mandates, recommendations and guidance, as well as to take public comment on issues the Los Angeles Water Board should address in the future through the Basin Plan amendment process.
7. The triennial review process is cyclical, meaning that at the end of one three-year review period, the review process begins again with the next three-year period. In this sense, the review process is on-going, reflecting the continuing planning process

T
E
N
T
A
T
I
V
E

followed by the Water Boards, and does not necessarily involve the revision of all or any particular component of the water quality standards every three years. Moreover, identification of an issue during a triennial review does not necessarily mean that any Basin Plan amendment will be made over the course of the 3-year review cycle. While the Los Angeles Water Board is required to conduct a review of its Basin Plan, neither federal nor state law imposes a duty to revise or modify it. (*City of Arcadia v. State Water Resources Control Bd.* (2010) 191 Cal.App.4th 156). Federal law only requires modifications “as appropriate.” The decision on whether or not to proceed with a proposed Basin Plan amendment is only made after the Los Angeles Water Board reviews the technical and legal considerations associated with an issue and determines that development of a Basin Plan amendment is supported by evidence and appropriate. Federal or state law or regulations may preclude changes that might otherwise be deemed desirable by stakeholders. Therefore, it is common for water quality standards to remain unchanged as a result of a triennial review process. Even where changes are appropriate and lawful, the State’s Continuing Planning Process, and other federally approved documents, recognize that the process of modifying water quality standards is resource intensive, and typically limited by staffing and budgetary constraints. As such, the triennial review process assists in identifying the most important or compelling projects and allows the states to prioritize those as resources allow.

8. Given these resource constraints, the Los Angeles Water Board will only reconsider components of the water quality standards where relevant and substantial evidence has been identified by or to the Los Angeles Water Board that the particular water quality objectives as applied to specific waterbodies are not currently set at the appropriate level, or that particular beneficial uses are not appropriate where designated or should be designated where they are not. This applies irrespective of whether the stakeholders desire that standards be relaxed or made more stringent. As such, stakeholders can submit specific data or other evidence for a particular objective or waterbody in support of such reconsideration.
9. In recent years, the Los Angeles Water Board conducted triennial reviews of the Basin Plan in 1995, 2001, 2005, and 2008.
10. The Los Angeles Water Board has adopted five (5) amendments to the Basin Plan for the period 1995-2001, twenty-one (21) amendments for the period 2001-2004, twenty-five (25) amendments for the period 2005-2007, and nine (9) amendments for the period of 2008-2010. During the current triennial review period, the Los Angeles Water Board has adopted three (3) Basin Plan amendments to date.
11. This Resolution identifies a number of projects that the Los Angeles Water Board has determined are the most appropriate priorities to undertake during the current triennial review period. Addressing the projects identified in this Resolution would require approximately three “personnel years” (3 PYs) from the Basin Planning Program. The Los Angeles Water Board’s Basin Planning Program currently operates with 1.5 PYs per year. Carrying out the projects identified during the triennial review process is only one of the responsibilities of those staff whose time comprises the 1.5 PYs each year. Over the next three years, 1.5 Basin Planning PYs are required to complete several ongoing projects, participate in statewide Basin Planning initiatives, and support other Los Angeles Water Board programs, leaving

T
E
N
T
A
T
I
V
E

three Basin Planning PYs available over the next three years to address the projects selected during this triennial review.

12. In accordance with section 303(c)(1) of the federal Clean Water Act, section 131.20(a) of title 40 of the Code of Federal Regulations, and section 13240 of the California Water Code, the Los Angeles Water Board has initiated its 2011-2013 triennial review of water quality standards contained in the Basin Plan. The triennial review will conform with the processes described in the state's Continuing Planning Process.
13. In adopting this Resolution, the Los Angeles Water Board is not required to consider the factors of California Water Code section 13241. Consideration of the factors, by section 13241's express terms, only applies in "establishing water quality objectives." Here, the Los Angeles Water Board is not establishing water quality objectives, but as required by section 303(c)(1) of the federal Clean Water Act is reviewing its water quality standards. (See *City of Arcadia v. State Water Resources Control Bd.* (2010) 191 Cal.App.4th 156).
14. The current triennial review began in the summer of 2011. As a first step in the triennial review process, staff reviewed information and comments submitted by stakeholders during previous reviews, as well as needs and suggestions from various Los Angeles Water Board programs, and identified eight basin planning issues for initial consideration in the 2011- 2013 review.
15. On August 3, 2011, staff sent a public notice inviting stakeholders to a public meeting on September 14, 2011 to discuss the 2011-2013 Triennial Review and to solicit comments on any basin planning issue or project they would like the Los Angeles Water Board to consider. The written comment submission deadline was October 14, 2011. Los Angeles Water Board staff received 12 comment letters.
16. Based on the input from the Los Angeles Water Board members (based on statements and discussions at various Los Angeles Water Board meetings), stakeholder input, and in consideration of the limited resources available, Los Angeles Water Board staff prepared a Staff Report dated December 1, 2011 describing the 2011-2013 Basin Plan Triennial Review process, the issues of concern to stakeholders and Los Angeles Water Board staff, and the recommended list of Basin Plan issues to be addressed during this review period.
17. Los Angeles Water Board staff sent the tentative Resolution and Staff Report to all known interested persons to allow a 30-day public comment period in advance of the public hearing.
18. The Los Angeles Water Board held a public hearing on February 2, 2012, for the purpose of receiving testimony on this triennial review and on the need for revisions to the water quality standards (i.e. beneficial uses, water quality objectives, and related implementation provisions) established in the Basin Plan. Notice of the public hearing was sent to all known interested persons and published in accordance with California Water Code section 13244.

T
E
N
T
A
T
I
V
E

19. The Los Angeles Water Board has considered the entire record, including oral testimony, in adopting the 2011-2013 list of Basin Plan priority projects for investigation, as set forth in the following resolves to this Resolution, for the current review period.

THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to section 13240 of the California Water Code, the Los Angeles Water Board hereby adopts the following list of Basin Plan priority projects to be addressed during the current triennial review period. The projects are more fully described in the Staff Report supporting this Resolution:
 - a) Develop Region-wide strategy for Constituents of Emerging Concern (CECs);
 - b) Develop Los Angeles Region Groundwater Quality Protection Strategy;
 - c) Develop Policy to Interpret Narrative Water Quality Objectives;
 - d) Develop Technical Guidance for Making Natural Source Determinations;
 - e) Consider development of a high flow suspension Basin Plan Amendment for engineered channels in Ventura County, where applicable;
 - f) Provide support to other Los Angeles Water Board programs including TMDLs, Municipal Permitting, and Stormwater Permitting; and
 - g) Address legal and regulatory mandates (where required).
2. The Los Angeles Water Board will to the best of its capability, within budgetary constraints and staffing resources, consider additional recommended issues as detailed in the Staff Report and will prepare, as appropriate, amendments to the Basin Plan.
3. This does not preclude the consideration of other issues for possible revision or amendment of the Basin Plan. The Executive Officer is authorized to re-prioritize basin planning projects based on legal and/or regulatory mandates that arise during the triennial review period.
4. The entire Basin Plan shall remain in effect until such time that appropriate and specific amendments are adopted by the Los Angeles Water Board and approved by the appropriate review authorities.
5. A copy of this Resolution shall be transmitted to the State Water Resources Control Board and the U.S. EPA.

I, Samuel Unger, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on February 2, 2012.

Samuel Unger, PE
Executive Officer

T
E
N
T
A
T
I
V
E