

**Response to Comments on the Amendment to the Water Quality Control Plan for the San Francisco Bay Basin
to add Surface Water Bodies and Designate Beneficial Uses
Comment due date: July 28, 2011**

No.	Commenter
1.	Alameda County Flood Control and Water Conservation District (Zone 7)
2.	Marin Audubon Society
3.	North Marin Water District
4.	Santa Clara Valley Water District
5.	Save the Bay
6.	U.S. EPA Region 9
7.	Western Waters Canoe Club

No.	Author	Comment	Response
1.1	Alameda County Flood Control and Water Conservation District (Zone 7)	In 2009, Zone 7 provided detailed comments on the proposed beneficial use designations for water bodies in its service area during the triennial review of the Basin Plan. These comments are now noted in the Beneficial Use Documentation Table. Zone 7 also submitted comments in May 2010, which did not result in changes to the beneficial use designations. .	The Alameda County Flood Control and Water Conservation District (Zone 7) did not submit formal comments for consideration by the Regional Water Board during the 45-day public comment period that ended April 12, 2010. Nevertheless, the State Water Board has considered the comment and provides the following response. The comment recommends additional modifications to the Basin Plan amendment. At this point, the State Water Board cannot modify the proposed Basin Plan amendment to make the suggested changes (CA Water Code §13245). The San Francisco Bay Regional Water Board may consider making the

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			<p>additional changes in a future proceeding.</p> <p>Please note that Zone 7 has verbally acknowledged to staff that the dates in their comment letter were referenced in error and that they actually provided early comments on beneficial use designations in 2008 and 2009, instead of 2009 and 2010.</p> <p>In their comment letter, Zone 7 provided general comments, not specific to any one water body, suggesting that field verification be conducted. Many of the proposed designations are based on the presumptive use goals in the Clean Water Act. For other beneficial uses, resource limitations preclude staff from conducting field verification for these use designations; instead, the amendment is supported by citations to information that documents the beneficial use designations.</p> <p>Please note that Regional Water Board staff did consider information supplied by Zone 7 in 2008 and 2009 in the development of the Basin Plan amendment. The Staff Report, Attachment A-Documentation Tables, identifies Zone 7 as the source of information behind several beneficial use designations.</p>

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2.1	Marin Audubon Society	This is to convey the Marin Audubon Society's support for the proposed amendments to the Water Quality Control Plan for the San Francisco Bay Basin. Adding the unnamed surface water bodies and designated beneficial uses for the San Francisco Bay Region is an essential step in protecting the Bay, its wildlife and fish habitat and all of the other beneficial uses that depend on it.	We note and appreciate the Marin Audubon Society's support of the proposed Basin Plan amendment.
3.1	North Marin Water District	<p>Stafford Lake was constructed in 1952 to meet water supply needs. It is a relatively small reservoir (~4,300 acre feet). It has a healthy bass and bluegill population for recreational fishing, but is not a cold water resource. Since it is used for water supply, there is no contact recreation or boating permitted in or on the lake. Table 2-1 of the Basin Plan lists Stafford Lake as having existing cold fresh water habitat and water contact recreation. Both of these are in error and in need of correction.</p> <p>We understand that these beneficial use designations were established in 1976; and since no one objected at that time, the designations cannot be changed without a request for a Basin Plan amendment. We are not planning to request a Basin Plan amendment but wish to document on record that Stafford Lake does not support cold-water fisheries nor is body contact recreation permitted in Stafford Lake.</p>	Comment noted.

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3.2	North Marin Water District	<p>NMWD believes the proposed REC-1 designation for all surface waters in the region originates in an overly broad interpretation of the intent of Clean Water Act §101(a)(2), which Regional Board staff cites as creating a "... 'rebuttable presumption' that swimmable uses are attainable." Any suggestion that Stafford Lake possesses current or prospectively attainable REC-1 attributes may be refuted by CA Health & Safety Code §115825(b), which prohibits all body contact recreation in drinking water reservoirs.</p> <p>The use of "E*" for REC-1 in drinking water reservoirs where there is no REC-1 use runs counter to the stated goal of this amendment, which is to improve the clarity of the Basin Plan. The fact that there are physical, administrative, and legal barriers in place since the reservoir was created to prevent water-contact and non-contact recreation would be far from clear to a public that sees REC-1 listed as an existing use of the Lake. Even with a footnote on REC-1 noting that body contact recreation may be limited, there is significant risk of confusing the public.</p>	<p>The North Marin Water District (District) did not submit formal comments for consideration by the Regional Water Board during the 45-day public comment period that ended April 12, 2010. Nevertheless, the State Water Board has considered the comment and provides the following response. The comment recommends additional modifications to the Basin Plan amendment. At this point, the State Water Board cannot modify the proposed Basin Plan amendment to make the suggested changes (CA Water Code §13245). The San Francisco Bay Regional Water Board may consider making the additional changes in a future proceeding.</p> <p>Please note that Regional Water Board staff, in its Response to Comments document, addressed the comment "<i>Commenters state that the E* designation does not improve clarity in the Basin Plan. Also, the California Health and Safety Code and Watershed Management Plans prohibit all body contact recreation in drinking water reservoirs.</i>" In response, the following sentences were added to the discussion of the water contact recreation beneficial use in Basin Plan Section 2.1.15:</p> <p><i>Public access to drinking water reservoirs is limited or prohibited by reservoir owner/operators for purposes of protecting drinking water quality and public health. In some</i></p>

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4.1	Santa Clara Valley Water District	This letter presents a list of recommended revisions to beneficial use designations for approximately 27 water bodies. The District requests that these revised beneficial use designations be integrated in the Basin Plan amendment. The District's recommended beneficial use designations are based on District staff field observations and scientific assessments and are more accurately describe the surface water body beneficial uses.	<p>The Santa Clara Valley Water District (District) did not submit formal comments for consideration by the Regional Water Board during the 45-day public comment period that ended April 12, 2010. Nevertheless, the State Water Board has considered the comment and provides the following response. The comment recommends additional modifications to the Basin Plan amendment. At this point, the State Water Board cannot modify the proposed Basin Plan amendment to make the suggested changes (CA Water Code §13245). The San Francisco Bay Regional Water Board may consider making the additional changes in a future proceeding.</p> <p>Please note that Regional Water Board staff did engage District staff in the development of the</p>

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			<p>Basin Plan amendment, and used information from District sources in 2008 and 2009 in designating beneficial uses of water bodies in the Santa Clara Basin, particularly in designating the groundwater recharge (GWR) use. The Staff Report, Attachment A-Documentation Tables, identifies the District as the source of information behind several beneficial use designations.</p> <p>In addition, the District did not provide the scientific data it cites in its letter to support the revisions it is requesting.</p>
5.1	Save the Bay	<p>In order to more completely represent the existing and potential beneficial uses of water bodies in the Bay region, the Water Board should list active and retired salt ponds and their neighboring sloughs as significant water bodies in the Basin Plan. We propose the addition of six water bodies to Basin Plan Table 2-1.</p>	<p>Save the Bay did not submit formal comments for consideration by the Regional Water Board during the 45-day public comment period that ended April 12, 2010. Nevertheless, the State Water Board has considered the comment and provides the following response. The comment recommends additional modifications to the Basin Plan amendment. At this point, the State Water Board cannot modify the proposed Basin Plan amendment to make the suggested changes (CA Water Code §13245). The San Francisco Bay Regional Water Board may consider making the additional changes in a future proceeding.</p> <p>Please note that Regional Water Board staff did engage Save the Bay in the development of the Basin Plan amendment, and fully considered information provided by Save the Bay in 2009. Save the Bay recommended approximately 40</p>

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			<p>separate water bodies for addition to the Basin Plan, and nearly all of them are included in the amendment.</p> <p>Many of the wetlands referenced in the Save the Bay letter are wetlands that are currently part of restoration efforts underway in the San Francisco Bay. Regional Water Board staff anticipates that in the future, as restoration efforts are completed, these wetlands will be included in the Basin Plan.</p>
6.1	U.S. EPA Region 9	We support the Basin Plan changes which include adding over 200 water bodies and their designated (beneficial) uses to Table 2-1 of the Basin Plan. The additions and other changes add clarity and transparency to the Regional Board's Basin Plan, and assists in the protection of water quality within Regional Board 2.	We note and appreciate the U.S. Environmental Protection Agency's support of the proposed Basin Plan amendment.
7.1	Western Waters Canoe Club	We support the proposed amendment.	We note and appreciate the Western Waters Canoe Club's support of the proposed Basin Plan amendment.
7.2	Western Waters Canoe Club	However, the REC 1 and REC 2 designations due to a stated presumptive use for a number of Santa Clara Basin waterways should more accurately be annotated as an actual or existing use . We are concerned that some opposed to listing additional beneficial uses of our waterways may argue that a presumptive use is not sufficient to designate a water body for that use so we feel it is very important for the Basin Plan to indicate actual usage especially when there is a significant	Western Waters Canoe Club did not submit formal comments for consideration by the Regional Water Board during the 45-day public comment period that ended April 12, 2010. Nevertheless, the State Water Board has considered the comment and provides the following response. The comment recommends additional modifications to the Basin Plan amendment. At this point, the State Water Board cannot modify the proposed Basin Plan

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		amount of evidence supporting it. The letter includes evidence of white water recreation events on Los Gatos Creek and the Guadalupe River as examples.	<p>amendment to make the suggested changes (CA Water Code §13245). The San Francisco Bay Regional Water Board may consider making the additional changes in a future proceeding.</p> <p>We note the important information the commenter is providing on observations of actual recreational use of water bodies. This information will be part of the administrative record and does not conflict with the use designations in the Basin Plan.</p>