

RESPONSES TO COMMENTS

Responses to Written Comments on the 2011 Basin Plan Triennial Review

This document briefly summarizes written comments on the 2011 review of the Water Quality Control Plan for the San Diego Region (Basin Plan) received by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) as of May 23, 2011, and provides staff responses to those comments.¹ The comment letters are included in the agenda package (June 8, 2011; Supporting Document No. 4) at:

http://www.waterboards.ca.gov/sandiego/board_info/agendas/2011/June/Jun8.shtml.

In the responses to comments, comment letters are referred to by number, as indicated in the following table.

Letter #	Submitted by	Representative
1	County of San Diego, on behalf of the San Diego Integrated Regional Water Management (IRWM) Program	Sheri McPherson, Land Use Environmental Planner
2	Helix Water District	Mark Weston, General Manager
3	GEI Consultants, Inc., on behalf of the International Copper Assoc. and Copper Development Assoc.	Robert Gensemer, Ph.D., Vice President
4	City of San Diego, Storm Water Department	Kris McFadden, Deputy Director
5	Municipal Water District of Orange County	Richard Bell, PE, Principal Engineer/Project Manager
6	MJF Consulting, on behalf of the Municipal Water District of Orange County	Mary Jane Foley
7	City of San Diego, Public Utilities Department	Marsi Steirer, Deputy Public Utilities Director
8	Marine Corps Base Camp Pendleton	Mark Bonsavage, PE, Environmental Engineering Division Head
9	Industrial Environmental Association	Patti Krebs, Executive Director
10	San Diego County Water Authority	Ken Weinberg, Director of Water Resources
11	San Diego Coastkeeper San Diego Audubon Environmental Health Coalition	Jennifer Kovecses, Staff Scientist Jim Peugh, Conservation Chair Laura Hunter, Assistant Director

¹ The public comment period will remain open through the public hearing on June 8, 2011. Written comments were requested by May 23, 2011. Comments received after that date will receive oral responses at the hearing.

The following topics were addressed by one or more of the comment letters:

- A. Two-Tier Structure of Short List
- B. Tier 2 Clarifications
- C. Agree with Proposed Prioritization
- D. Disagree with Proposed Prioritization
- E. Other Priorities Not on Short List
- F. Triennial Review Advisory Committee (TRAC) Process
- G. Suggestions for Next Basin Plan Review

Abbreviations used:

Category P: suggested revisions intended to make the Basin Plan more “protective”

Category R: suggested revisions intended to make the Basin Plan more “reasonable”

PY: A person-year, i.e., the equivalent of one staff member working full-time for one year

MUN: Municipal and Domestic Supply beneficial use

REC-1: Contact Water Recreation beneficial use

A. Two-Tier Structure of Short List

Letter #	Public Comment	Staff Response
2, 5, 7, 10	1. Eliminate the two tiers on the short list, i.e., call all short-list items Tier 1 and all others Tier 2. This would reduce the perception that Tier 2 items have lower priority.	<p>The items on the proposed short list (i.e., Tier 1 and Tier 2 items) are those that staff recommends be considered higher priority for the next three-year period compared to items <i>not</i> on the short list (i.e., Tier 3 items).</p> <p>Staff expects that no more than two PYs per year will be available for Basin Plan work in each of the next three years. Staff also estimates that approximately one to three PYs will be needed to conduct the investigations and prepare the materials necessary for a proposed Basin Plan amendment to be ready for adoption.</p> <p>Staff recommends that staff Basin Plan work over the next three years focus on only one “R” item and only one “P” item, in order to provide a realistic chance that proposed Basin Plan amendments for those items can be ready for adoption by the end of the next three year period.</p> <p>Staff recommends adoption of a short list with a two-tier structure (in which staff time would be allocated to Tier 1 items but <i>not</i> to Tier 2 items) in order to clearly distinguish</p>

		<p>between those higher priority items to which staff time would and would <i>not</i> be allocated, given the level of staff time expected to be available for Basin Plan work.</p>
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B. Tier 2 Clarifications

Letter #	Public Comment	Staff Response
11	<p>2. Clarify what is meant by “if more resources become available” as applied to Tier 2. We are concerned that, if external parties put resources toward Tier 2 items, staff effort will be diverted away from the Tier 1 items (or other non-Basin Plan work).</p>	<p>Staff does not intend to divert staff resources available for Basin Plan work away from Tier 1 items or other non-Basin Plan work.</p> <p>Staff effort would be directed toward a Tier 2 item only to the extent that additional staff resources (i.e., additional PYs) become available specifically for that item.</p>
11	<p>3. Clarify how items will be prioritized within Tier 2 if resources become available.</p>	<p>If additional staff resources for Basin Plan work become available for a specific item, those additional staff resources would be allocated to that item.</p> <p>If additional staff resources become available for Basin Plan work and those resources are <i>not</i> associated with a specific item, those resources would be allocated first to Tier 1 items, since there is more work associated with those items than can be done with the anticipated level of staff resources for Basin Plan work. Since it seems unlikely that such additional staff resources would exceed what is needed to complete Tier 1 work, staff recommends not attempting to determine how Tier 2 items would be prioritized until resources to work on those items seem likely to become available.</p>
11	<p>4. It would be useful to see estimated PYs for the Tier 2 items.</p>	<p>Staff estimates that investigation, preparation and processing of a single Basin Plan amendment requires roughly 1 to 3 PYs depending on the scope and complexity of the proposed revision. A very rough estimate for all four Tier 2 items might be a total of 5 – 10 PYs.</p>

C. Agree with Proposed Prioritization

Letter #	Public Comment	Staff Response
	Comprehensive Policy for Streams, Wetlands and Riparian Areas	
10	5. We agree that a cohesive and comprehensive policy is an important goal.	Comment noted.
10	6. We support a minor allocation of resources to track/participate in statewide issues identified under the proposed comprehensive policy.	Comment noted.
11	7. We agree with placing this in Tier 1. It is high priority for our region, and it is appropriate that staff ensure our region's needs are met by efforts at the state level.	Comment noted.
	Water Quality Objective for Trash	
11	8. We agree with placing this item in Tier 1. It is a high priority for our region, and it is appropriate that staff ensure our region's needs are met by efforts at the state level.	Comment noted.
9	9. IEA supports this second priority in the "P" category, providing regional support to ongoing State Water Board efforts.	Comment noted.
	Seawater Desalination Policy	
9	10. IEA supports this third priority in the "P" category, providing regional support to ongoing State Water Board efforts. We believe any issue that supports the development of new water resources or supports water reliability should have the highest priority.	Comment noted.

10	11. We support staff participation in the State Water Board effort to develop a seawater desalination policy, as this is an important issue for the San Diego Region.	Comment noted.
10	12. We ask that staff engage in the process without a preconceived notion about the potential impact of desalination on the coastal environment. We are concerned that the sentence, “Desalination intakes and discharges represent a significant new threat to coastal waters” is unsupported and fails to acknowledge the importance of desalination as a new high-quality, locally controlled, drought-proof municipal water supply.	Staff understands that the State Water Board is working on development of a proposed statewide policy for desalination facilities and brine disposal (see: http://www.waterboards.ca.gov/water_issues/programs/ocean/index.shtml). Staff understands that this proposed policy is being developed because of recognition that: (a) desalination is a potentially important new source of municipal water supply; <i>and</i> (b) coastal desalination intakes and discharges represent a potentially significant new threat to coastal waters.
	Refinements to the Contact Water Recreation Beneficial Use (REC-1)	
10	13. We support this first priority in the R category, which was also a top priority for the TRAC.	Comment noted.
	Site Specific Objectives for Metals	
8	14. We are pleased that this item is being considered as part of the Tier 2 items to work on if staff resources allow. Use of site-specific water quality objectives is a technically sound approach for ensuring aquatic life protection at the most reasonable cost.	Comment noted.

D. Disagree with Proposed Prioritization

Letter #	Public Comment	Staff Response
	<p>Comprehensive Policy for Streams, Wetlands and Riparian Areas</p>	
<p>9, 10</p>	<p>15. The proposed policy is overly broad and encompasses too many complex issues to be addressed using the limited resources.</p>	<p>Staff acknowledges that the proposed comprehensive policy for streams, wetlands, and riparian areas is broad and encompasses many complex issues. Staff believes, however, that it is important to <i>initially</i> consider a number of related suggestions pertinent to such a policy before focusing on specific elements. This would help ensure that relationships among various policy elements are considered and avoid a piecemeal approach.</p> <p>In the interest of transparency, the staff report identifies the various elements that would initially be considered. Staff also intends to consider statewide efforts already underway. After initial investigation, staff resource constraints will indeed necessitate narrowing the scope of staff work. Staff will keep the public and Board apprised via Executive Officer Reports, information items, etc.</p>
<p>9</p>	<p>16. We recommend the TRAC be reconvened during this scoping process to further review and refine the #1 priority rankings.</p>	<p>At this time, staff does not recommend reconvening the TRAC for this purpose due to staff resource constraints. Staff recommends the TRAC be reconvened for the next Basin Plan Review.</p>
<p>10</p>	<p>17. We recommend staff resources be focused on one or two issues aligned with the TRAC priorities, e.g., Lagoon Mouth Opening (P-21).</p>	<p>As indicated above, staff believes it is important to initially consider a number of related suggestions before focusing on specific elements.</p>
<p>10</p>	<p>18. The Regional Board should not focus limited Basin Planning resources on developing Basin Plan updates for issues already being addressed at the state and federal level.</p>	<p>Staff intends to coordinate its work with state and federal efforts so as to avoid overlap and ensure regional perspectives are considered. Staff intends to stay apprised of and be engaged in State Water Board efforts</p>

		<p>specifically to <i>avoid</i> duplication of effort, and to determine which elements are not being addressed at the state level.</p> <p>Prior to development of any proposed Basin Plan amendment, there is an initial investigation/scoping phase during which a suggested revision is evaluated in greater depth than was possible during the Basin Plan review. The investigation will ensure that limited resources are <i>not</i> focused on elements already being addressed at the state and federal level.</p>
8	19. Mitigation Guidance and a Comprehensive Policy is an effort best left to the State Water Board proposed Wetland and Riparian Area Protection Policy (WRAPP). Regional Board efforts may be superseded by the forthcoming actions of the State Water Board. (8)	Staff believes there may be items that will not be adequately addressed on a statewide level and/or are best addressed at a regional level. Staff intends to work on items that will not be superseded by actions of the State Water Board anticipated in the near future
8, 9	20. The proposed policy includes items that were ranked low by the TRAC, i.e., Biological Objectives (P-9) and Wetland Beneficial Uses (P-3).	The State Water Board is working on proposed policies that address these items, and staff considers these items to be high priorities.
8	21. Resources for Category P should reflect the TRAC ranking by individually listing the top ranked items rather than combining them into a Comprehensive Policy that includes low priority items.	The proposed Tier 1 items in Category P include four of the five the top-ranked TRAC items. Staff recommends including three of these in the Comprehensive Policy item because, as indicated above, staff thinks it is important to initially consider a number of related suggestions pertinent to such a policy before focusing on specific elements.
8	22. The short list appears to give Mitigation Guidance (P-18, TRAC Rank 5) priority over Dry Weather Discharge Diversion (P-22, TRAC Rank 1).	The two items related to mitigation are at the core of a stream, wetland, and riparian area policy and, accordingly, are listed first. Other suggested revisions pertinent to such a policy coalesce around these two items. Staff intends to investigate these and other items to determine how best to proceed with development of proposed changes to the Basin Plan. Mitigation Guidance and the Dry Weather Discharge Diversion are both part of the Comprehensive Policy item.

10	23. The Dry Weather Discharge Diversion and In-stream Treatment (P-22) suggestion would be more appropriately addressed nearer to completion of the State Water Board's related effort on the proposed Wetland Area Protection Policy and Dredge and Fill Regulations.	Which elements are addressed (and when) will depend on the outcomes of the investigation phase. Staff intends for its work to be coordinated with the State Water Board effort.
9	24. We believe there is already extensive guidance on Clean Water Act §401 certifications.	The experience of staff with the Clean Water Act §401 certification program suggests the need for additional guidance. Staff thinks that §401 certification work would be conducted more efficiently and effectively with appropriate additional guidance and policy.
10	25. We ask that any proposed policy include coordination and streamlining of responsibilities among the San Diego Water Board, U.S. Fish and Wildlife Service, California Department of Fish and Game, and U.S. Army Corps of Engineers.	This comment will be considered in the initial investigation, when considering the various elements of a comprehensive policy and considering how best to frame a comprehensive policy.
	Refinements to the Contact Water Recreation Beneficial Use (REC-1)	
11	26. We disagree with putting this in Tier 1. We are concerned about the potential for eroding the protectiveness of Basin Plan water quality standards. Environmental groups consistently did not rank this item in their top choices.	Staff recommends that Tier 1 include (a) the item ranked highest by the TRAC in the P category and (b) the item ranked highest by the TRAC in the R category. The TRAC ranked this item highest in the R category. The merits of the suggested changes would be evaluated in the investigation phase.

11	27. The Restricted Access REC-1 (R-7) is ambiguous as to where it would apply (all engineered channels or restricted access areas?), and lowering a standard in one “unsafe” area of a channel may lead to worsening of water quality in downstream areas that are deemed safe.	Specifics of a given item will be established during the investigation phase. The concerns expressed will be considered in the initial investigation.
11	28. The REC-1 in Ocean (R-6) is an issue that must first be addressed in the California Ocean Plan.	The suggestion concerns the geographic extent of REC-1 in the Region’s coastal waters. Staff thinks the issue is appropriately addressed by the San Diego Water Board because the Ocean Plan states that water-contact standards apply: “Within a zone bounded by the shoreline and a distance of 1,000 feet from the shoreline or the 30-foot depth contour, whichever is further from the shoreline, and in areas outside this zone used for water contact sports, <i>as determined by the Regional Board (i.e., waters designated as REC-1)...</i> ” (emphasis added).
	Nutrient Water Quality Objectives in Surface Water	
8	29. We concur with the Category R shortlist, but more staff resources should be dedicated to this item to reflect the scoring of the (TRAC) committee.	Staff recommends focusing staff resources on one Category R item, i.e., the one ranked highest by the TRAC. Staff believes nominal resources are adequate for the Nutrient Water Quality Objective item because staff work would consist of participation in the related State Water Board effort to develop Numeric Nutrient Endpoints (NNE). Other State Water Board resources, outside Basin Planning, are already engaged in this process.

10	30. Monitoring of the State Water Board's effort is important, but to complete this proposed priority will require addressing nutrients in the Santa Margarita River watershed. There are a number of monitoring efforts being proposed in the Santa Margarita River, including a proposed study selected as an Integrated Regional Water Management Plan that may provide a basis for a Basin Plan update.	Comment noted. The State Water Board NNE effort is expected to provide guidance on how to address nutrients in the Santa Margarita River watershed and elsewhere.
10	31. Allocate resources to this item if available. It is high priority for the SDCWA and its member agencies.	Comment noted.
	MUN Beneficial Use for Specific Groundwaters	
10	32. Allocate resources to this item if available. It is high priority for the SDCWA and its member agencies.	Comment noted.
5, 6	<p>33. MWDOC requests that the San Juan Creek element of this item be moved from Tier 2 to Tier 1 (re-designation of MUN for San Juan Creek groundwater from Pacific Coast Highway to the Ocean), with a 0.1 PY allocation and added footnote stating that more staff time will be allocated if more resources become available.</p> <p>The MUN designation was removed from this and other coastal groundwater basins in 1978. Re-designation of MUN would help protect groundwater in the vicinity of the planned South Orange Coastal Ocean Desalination Project.</p>	<p>Staff recommends focusing staff resources on one Category P item, i.e., the one ranked highest by the TRAC. The TRAC did not rank this item highest in the P category. The suggested footnote is not necessary; the items in Tier 2 are those to which more staff time would be allocated if more resources become available for staff.</p> <p>The Orange County Health Care Agency and the San Diego Water Board are aware of this planned project, and are working together to ensure that nearby petroleum releases are cleaned up to levels that will protect the MUN beneficial use.</p>
6	34. Add language to the tentative resolution that reiterates existing regulatory protections for groundwaters for which MUN was deleted.	Staff does not think that the tentative resolution is the appropriate place to reiterate existing regulatory protections for groundwaters for which MUN was deleted.

		<p>One way to address this request would be for the Executive Officer to provide a letter to the MWDOC clearly indicating the San Diego Water Board’s intent to protect groundwaters from contamination under existing provisions of the Basin Plan and the California Water Code. MWDOC then can reference the letter as plans move forward for the South Orange Coastal Ocean Desalination Project.</p>
	Indirect Potable Reuse (IPR)	
2, 9, 10, 11	<p>35. Move this item to Tier 1 and allocate the requisite PYs to update the Basin Plan. A Tier 1 designation and allocation of staff time is appropriate for such a critical water quality and supply issue.</p>	<p>As discussed above in A.1, staff recommends that its Basin Plan work over the next three years focus on only one “R” item and only one “P” item, in order to provide a realistic chance that proposed Basin Plan amendments for those items can be ready for adoption by the end of the next three year period.</p> <p>The “R” item on which staff recommends staff time be focused, i.e., the REC1 item, is the “R” item rated highest by the TRAC.</p> <p>Attempting to focus staff resources on more than one “R” item would make it less likely that a proposed Basin Plan amendment for any such item would be ready for adoption by the end of the next three year period. Consequently, if the IPR item is moved into Tier 1, staff would recommend that the REC-1 item be moved into Tier 2.</p> <p>Staff considers IPR to be a long-term priority for the San Diego Region. Accordingly, staff in other programs will continue to work on IPR.</p>
	Site Specific Objectives for Metals	
9	<p>36. This should be moved to Tier 1 because localized water quality impacts need to be developed to enhance the value of this program.</p>	<p>Staff recommends focusing staff resources on one Category R item, i.e., the one ranked highest by the TRAC. The TRAC did not rank this item highest in the R category.</p>

	R Category, Tier 1 and Tier 2 items	
9	37. In the R category, we have no objection to the listed Tier 1 priorities, but we question whether they should be Tier 1. We urge the Regional Board to, instead, place the items listed as Tier 2 into Tier 1 and place the current Tier 1 issues into Tier 2.	Staff recommends focusing staff resources on one Category R item, i.e., the one ranked highest by the TRAC. The TRAC did not rank any of the Tier 2 items highest in the R category.

E. Other Priorities Not on Short List

Letter #	Public Comment	Staff Response
10	38. Two suggested Basin Plan revisions did not make the TRAC or staff short list, but are important to the Water Authority and member agencies: (1) changing some water quality objectives for drinking water reservoirs, e.g., total dissolved solids, manganese, and dissolved oxygen, and (2) changing the fluoride standard for groundwater basins. In respecting the TRAC process, we are not asking to reprioritize these but, instead, would like to work directly with staff to address these and will follow up in a subsequent letter.	Comment noted.
4	39. We recommend a housekeeping suggestion, i.e., that Basin Plan references to “potential” beneficial uses, particularly in Chapter 2, be modified to “probable” to conform to Porter Cologne. [Porter Cologne, Section 13241(a), states “Past, present, and probable future beneficial uses of water.”]	The suggestion to modify “potential” to “probable” is outside the scope of the housekeeping category. The suggested modification is not necessary to conform to Porter Cologne, section 13241(a), or to correct or clarify existing provisions in the Basin Plan. Reevaluation of established water quality objectives based on "probable" rather than "potential" would be a significant undertaking. The suggestion is related to one currently on the Category R list under the name “Potential BUs” (R-27).

F. Triennial Review Advisory Committee (TRAC) Process

Letter #	Public Comment	Staff Response
10, 11	<p>40. Categorizing suggestions into “reasonable” and “protective” categories is innovative and consistent with the Porter-Cologne Water Quality Control Act. The categories helped the TRAC to prioritize items appropriately.</p>	<p>Staff expects to use these suggestion categories again in the next Basin Plan review.</p>
1, 2, 4, 9, 10, 11	<p>41. The TRAC process was:</p> <ul style="list-style-type: none"> a. open and fair in that all interested parties were given the opportunity to participate, b. a valuable and transparent public participation opportunity for stakeholders to provide input prior to the conventional public comment period, and c. a significant improvement over previous efforts. <p>The process:</p> <ul style="list-style-type: none"> a. offered a better format for stakeholders to discuss and understand the range of issues, and b. gave stakeholders more time to articulate their concerns to staff. 	<p>Staff expects to use a stakeholder advisory group again in the next Basin Plan review.</p>
11	<p>42. Despite the overall success of the TRAC process, the process had some weaknesses that may have affected the ranking results:</p> <ul style="list-style-type: none"> a. lack of a clear framework for decision making (such as when and when not to combine suggestions), and b. an unbalanced make-up of the group (members were mainly representatives of the regulated community, environmental NGOs were in the minority). 	<p>Staff expects to prepare specific guidance for the next review to improve the process.</p>

G. Suggestions for Next Basin Plan Review

Letter #	Public Comment	Staff Response
1, 7, 11	43. Provide more detailed information about each suggestion for member review.	Staff will consider this suggestion for the next review.
11	44. Provide more time for group discussion at TRAC meetings.	Staff will consider this suggestion for the next review.
11	45. Provide a more robust framework for making TRAC decisions that minimizes the influence of any one stakeholder block.	Staff will consider this suggestion for the next review.
11	46. We recommend against use of certain elements of the SANDAG “consensus machine.”	Staff will consider this suggestion for the next review.
7	47. We recommend that a small workgroup of stakeholders evaluate the suggestion list and recommend to the TRAC opportunities for, e.g., consolidation of similar suggestions, removal of non-viable suggestions, and integration of upstream/downstream initiatives where applicable.	Staff will consider this suggestion for the next review.
7	48. Partner with San Diego’s Integrated Regional Water Management (IRWM) Program as a forum for ongoing involvement between Basin Plan Reviews and grant funding of water quality improvement initiatives.	Staff will consider this suggestion for the next review.
1	49. Use the San Diego IRWM Plan (2007) to help define issues and priorities for the triennial review process.	Staff will consider this suggestion for the next review.

7	50. Use a professional facilitator, rather than Water Board staff, to guide the stakeholder group meetings.	Staff will consider this suggestion for the next review.
11	51. Facilitate participation by community groups by, e.g., rotating meeting locations throughout the region, or having meetings via webinar.	Staff will consider this suggestion for the next review.
9	52. IEA supports the establishment of privately-funded scientific research and data collection. In the past, a number of significant privately-conducted and funded studies were presented to the Regional Board and its staff but they were not seriously reviewed and considered. We urge the Regional Board to develop a collaboration model to facilitate regular communication between staff and private parties to guide, conduct, report and peer review proposals for privately-funded support for Basin Plan issues.	<p>Staff supports this suggestion in concept, but given present and anticipated future constraints on staff time and resources, staff's ability to participate in any such collaborative efforts is likely be very limited, at best.</p> <p>The San Diego Water Board strives to operate with open lines of communication and be responsive to stakeholders at all times. Whether or not a particular scientific study or report pertinent to a possible change in the Basin Plan and brought to the attention of staff can be reviewed by staff depends on the subject, nature, and purpose of the submittal – and on staff obligations, workload, deadlines, priorities, and resources. Staff does not believe it is appropriate for staff resources to be diverted from higher priority work (as determined through the Basin Plan review process) to lower priority work (as determined through the same process).</p>