

Item Number 8

Supporting Document 1

Tentative Resolution No. R9-2020-0254

December 8, 2020

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE RESOLUTION NO. R9-2020-0254

**NON-REGULATORY UPDATES TO THE WATER QUALITY CONTROL PLAN FOR
THE SAN DIEGO BASIN**

WHEREAS:

1. The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) adopted an updated Water Quality Control Plan for the San Diego Region (Basin Plan) on September 8, 1994.
2. The Basin Plan includes definitions and designations of beneficial uses of waters in the San Diego Region, water quality objectives to protect those beneficial uses, implementation programs and prohibitions to achieve water quality objectives and protect beneficial uses, and references to statewide plans and policies.
3. California Water Code section 13240 requires a periodic review of the Basin Plan. The federal Clean Water Act section 303(c)(1) requires a triennial review of water quality standards and, as appropriate, modifying and adopting standards. Water quality standards consist of beneficial use designations, water quality objectives necessary to protect those uses, and antidegradation provisions.
4. In recent years, the State Water Resources Control Board (State Water Board) adopted statewide beneficial uses, water quality objectives, plans, and policies affecting the San Diego Region Basin Plan.
5. The Basin Plan triennial review workplan adopted by the San Diego Water Board in October 2018 directed staff to complete two projects that required editorial, non-regulatory changes to the Basin Plan (see Projects 3 and 6 in the 2018 [Staff Report and Prioritized List](#)). Updates and/or changes must be made through the Basin Plan amendment process.
6. A draft Basin Plan amendment was made available to the public for review on October 16, 2020. Interested persons had an opportunity to submit written comments during a 45-day comment period which extended from October 16, 2020, through November 30, 2020.
7. Chapter 2 of the Basin Plan defines and designates the beneficial uses for all surface and ground waters in the San Diego Region. The proposed Basin Plan updates to Chapter 2 include: updating the Preservation of Biological Habitats of Special Significance (BIOL) Beneficial Use; adding three new beneficial uses for Tribal Traditional Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB); and corrections, clarifications, and general formatting changes that improve the overall readability. The definitions for the new beneficial

uses are the same as those previously established by the State Water Resources Control Board when it adopted Resolution No. 2017-0027.

8. Designations of the new beneficial uses to specific waterbodies, where those uses are existing or attainable, will be considered under a future, separate Basin Plan amendment process. Input from California Native American Tribes and the subsistence fishing communities will be a vital part of the beneficial use designation process, and designations of CUL and T-SUB shall be verified by the appropriate California Native American Tribe.
9. Chapter 3 of the Basin Plan designates water quality objectives to all surface and ground waters in the San Diego Region. The proposed Basin Plan updates to Chapter 3 include: updating applicable statewide plans and policies, including the addition of a reference to the newly adopted Inland Surface Waters, Enclosed Bays and Estuaries Plan and incorporating the newly adopted statewide bacteria water quality objectives; and corrections, clarifications, and general formatting changes that improve overall readability.
10. Chapter 4 of the Basin Plan describes actions that are necessary to protect the beneficial uses described in Chapter 2 and achieve the water quality objectives specified in Chapter 3 and describes the San Diego Water Board's implementation program. The proposed Basin Plan update to Chapter 4 includes updates to the Compliance and Enforcement Section and general formatting changes that improve overall readability.
11. The proposed amendment meets the necessity standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).
12. The proposed Basin Plan amendment is not a "project" within the meaning of the California Environmental Quality Act (CEQA) because it will neither cause a direct physical change in the environment, or a reasonably foreseeable indirect change. (See Pub. Resources Code, § 21065 [defining "project"]; Cal. Code Regs., tit. 14, § 15378 [defining "project"].) As a result, this amendment is not subject to CEQA, and therefore not subject to the San Diego Water Board's certified regulatory program regulations for implementing CEQA. (Cal. Code Regs., tit. 23, § 3720, subds. (b), (c)(2)).
13. The proposed updates to Chapters 2, 3, and 4 of the Basin Plan were previously adopted by the San Diego Water Board at its March 5, 2020 Board Meeting through Resolution No. R9-2020-0036 (Resolution). The Resolution grants the Executive Officer the authority to make minor, non-substantive modifications to the language or formatting of the adopted Basin Plan amendment; however, significant formatting changes were made to make the Basin Plan chapters compliant with the Americans with Disabilities Act. Those changes and several additional non-substantive edits are still considered to be "non-regulatory" in nature. However, in order to be transparent, staff recirculated the updates for a second public review period prior to submitting them to the State Water Board for further approval.

14. The San Diego Water Board heard and considered all testimony and public comments previously submitted or presented at the duly noticed public hearing held on December 8, 2020.
15. This Basin Plan amendment does not become effective until approved by the State Water Board and until the Office of Administrative Law (OAL) has concurred on its non-regulatory status.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to California Water Code section 13240, the San Diego Water Board, after considering the record, including all oral and written comments, hereby adopts the Basin Plan amendment as set forth in Appendix A - C to this Resolution.
2. This Resolution supersedes Resolution No. R9-2020-0036.
3. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of California Water Code section 13245.
4. The San Diego Water Board requests the State Water Board approve the Basin Plan amendment in accordance with the requirements of California Water Code sections 13245 and 13246 and forward it to OAL for concurrence with its non-regulatory status.
5. If, during the approval process, San Diego Water Board staff, the State Water Board or State Water Board staff, or OAL determines that minor, non-substantive modifications to the language or formatting of the amendments are needed for clarity, accessibility or consistency, the Executive Officer may make such changes, and shall inform the San Diego Water Board of any such changes.

I, David W. Gibson, Executive Officer, do hereby certify that this Order is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on December 8, 2020.

David W. Gibson
EXECUTIVE OFFICER

Appendix A: Proposed Basin Plan Chapter 2 Updates
Appendix B: Proposed Basin Plan Chapter 3 Updates
Appendix C: Proposed Basin Plan Chapter 4 Updates