

**California Regional Water Quality Control Board**  
**San Diego Region**

Response to Public Comments  
on the  
2014 Triennial Review  
of the  
Water Quality Control Plan for the San Diego Region  
(Basin Plan)

**March 27, 2015**

**STATE OF CALIFORNIA**  
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MATTHEW RODRIQUEZ, Agency Secretary, California Environmental Protection Agency



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## ***Introduction***

This document presents the San Diego Water Board response to written public comments on the 2014 triennial review Issues Description Report<sup>1</sup>. The public comment period for the Basin Plan triennial review began December 8, 2014 and ended February 6, 2015. In addition, a public workshop was held on January 8, 2015. During the public review period the San Diego Water Board received sixteen (16) comment letters from interested stakeholders. Similar comments have been grouped together and paraphrased where appropriate. Comments were received on the following issues:

- Issue 1 – Biological Objectives for Water Bodies in the San Diego Region
- Issue 2 – Chollas Creek Metals Site Specific Water Effect Ration (WER)
- Issue 3 – Evaluation of Contact Water Recreation (REC-1) Water Quality Objectives and the Methods for Quantifying Exceedances
- New Issue - Community Sewerage Systems Provisions of the Basin Plan
- New Issue - Fast Track Development of TMDLs
- New Issue - Nutrient Numeric Endpoint Framework
- New issue - Modification of Basin Plan language for Reservoir Maintenance and Operations
- New issue – Incorporating Findings of Assembly Bill 425 into the Basin Plan

Full copies of the comment letters received can be viewed on the San Diego Water Board website at:

[http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/basin\\_plan/tri\\_review.shtml](http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/tri_review.shtml)

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<sup>1</sup> The Issues Description Report is available on the San Diego Water Board website at:  
[http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/basin\\_plan/tri\\_review.shtml](http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/tri_review.shtml)

***Letter from The City of San Diego dated January 14, 2015***

**Comment 1.1 – RE: Issues 1, 2, and 3**

The City supports the San Diego Water Board's priority issues 1, 2 and 3 in the draft 2014 triennial review which address biological objectives, Chollas Creek Dissolved Metals TMDL, and the Bacteria TMDL.

**San Diego Water Board Response 1.1:**

The San Diego Water Board appreciates the City's support of our highest priority issues. We look forward to working collaboratively with all interested stakeholders during the development of these projects.

**Comment 1.2 – RE: Issue 3**

With regards to the Bacteria TMDL, the City requests that the draft 2014 triennial review make a clear and firm commitment to considering amendments if the evaluation process demonstrated that a modification is warranted.

**San Diego Water Board Response 1.2:**

The San Diego Water Board has made the commitment to consider amendments if the evaluation process demonstrates that any modification of the Bacteria TMDLs is warranted. The Preliminary Issues Report identifies the goal of this project is to determine whether and to what extent data supports amending the objectives, implementation provisions for applicable TMDLs, or the TMDLs themselves.

***Letter from the City of Escondido dated January 26, 2015***

**Comment 2.1 – RE: Issue 3**

The City is in support of the selection of Issue No. 3 "Evaluation of Contact Water Recreation (REC-1) Water Quality Objectives and the Methods for Quantifying Exceedances."

**San Diego Water Board Response 2.1:**

The San Diego Water Board appreciates the support of the City. We maintain this project as one of our highest priority projects coming out of the Triennial Review. We look forward to collaborating with all interested stakeholders in the development of this project.

***Letter from Cary D. Lowe on behalf of Sudberry Properties dated January 26, 2015***

***Email from the Environment + Design Council dated February 4, 2015***

***Comment Letter from PERC Water on behalf of Sudberry Properties dated February 5, 2015***

***Letter from the San Diego Regional Chamber of Commerce dated February 6, 2015***

***Letter from San Diego Building Industry Association, Associated General Contractors; Associated Builders and Contractors; San Diego Regional Chamber of Commerce; Business Leadership Alliance; San Diego Association of Realtors; San Diego Apartment Association; NAIOP (National Association of Industrial & Office Properties); BOMA (Building Office & Management Association; San Diego Chapter of the American Society of Landscape Architects, dated February 6, 2015***

***Letter from Advanced Onsite Systems dated February 6, 2015***

**Comment 3.1 – RE: Community Sewerage Systems**

We request that you consider eliminating a provision of the current Basin Plan which presents a significant obstacle to the development of privately owned and operated wastewater treatment and recycling systems. The Basin Plan of the San Diego Regional Water Quality Control Board requires a public agency to be the responsible party for onsite and decentralized treatment and disposal or recycling systems for multifamily residential systems. This condition is based on the interpretation that these small systems are “Community Sewerage Systems,” which currently have the following requirement:

“A public entity must assume legal authority and responsibility for the ownership, operation and maintenance of the proposed wastewater treatment and disposal system. The RWD must be submitted by the public entity.” (Chapter 4 of the Basin Plan. pp. 4-26)

### **San Diego Water Board Response 3.1:**

This issue will be addressed in a Basin Plan amendment considered by the San Diego Water Board on April 15, 2015.<sup>2</sup> That proposed amendment, among other things, revises Chapter 4 to clarify that the Water Board can issue WDRs to privately-owned community sewer systems provided certain concerns identified in the Basin Plan are addressed. Clarity is needed because although the existing Basin Plan implementation guidelines do say community systems must be public, they also note the Board can deviate from the guidelines provided the following principles are met:

1. Sewerage systems must be designed, constructed, and installed so as to be capable of preventing pollution or contamination of the waters of the State or creating nuisance for the duration of the development.
2. Sewerage systems must be operated, maintained and monitored so as to continually prevent pollution to or contamination of the waters of the State and the creation of a nuisance.
3. The responsibility for both of the above must be clearly and legally assumed by an entity with the financial and legal capability to assure that the system provides protection to the quality of the waters of the State for the duration of the development.

***Letter from San Diego Coastkeeper, Coastal Environmental Rights Foundation, and Surfrider Foundation San Diego Chapter (collectively “Environmental Groups”) dated February 3, 2015***

#### **Comment 4.1 – RE: Issue 1**

Strongly support inclusion of biological objectives into the Triennial Review and as a Basin Plan amendment.

### **San Diego Water Board Response 4.1:**

The San Diego Water Board appreciates the support of the Environmental Groups for the development of Biological Objectives. We maintain that this issue is our highest priority project arising from the Triennial Review. We look forward to collaborating with all interested stakeholders in the development of this project.

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<sup>2</sup> Tentative Resolution No. R9-2015-0008. A Resolution Approving a Substitute Environmental Document and Amending the Water Quality Control Plan for the San Diego Basin (9) to Change the Nitrate Water Quality Objective for Groundwaters, Incorporate the State Onsite Wastewater Treatment Systems Policy and Miscellaneous Updates.

**Comment 4.2 – RE: Issue 2**

While we are generally supportive of the development of site-specific objectives (SSOs) through consideration of scientifically supported information unique to particular water bodies, we are adamant that the consideration of SSOs for Chollas Creek must necessarily include a detailed and fully-supported analysis of the associated impacts to downstream waters that would result in a Basin Plan TMDL amendment. The WER study as it currently exists includes no information on the potential impacts to San Diego Bay and bay sediments that would result from increased copper, zinc, and lead loading immediately upstream and adjacent to the Bay in Chollas Creek.

**San Diego Water Board Response 4.2:**

We agree that potential ramifications to downstream waters must be considered when contemplating changes to water quality objectives, such as SSOs for Chollas Creek. We plan to evaluate this specific issue as part of our evaluation of the WER, and we look forward to public participation and comment during any subsequent Basin Plan amendment proposal. Please note that the proposed WER only addresses copper and zinc.

**Comment 4.3 – RE: Issue 2**

The Preliminary Issues Report also makes mention that “The Basin Plan should also be amended to clarify the application of WERs in the California Toxics Rule (CTR) when developing numeric water quality objectives for toxic pollutants”. We do not support an amendment of the CTR or exceptions to the CTR to the San Diego Basin Plan.

**San Diego Water Board Response 4.3:**

The San Diego Water Board is not proposing to nor does it have the authority to amend the CTR. The proposed language would clarify to San Diego Water Board staff and the public how WERs may be applied to more accurately determine acute and chronic toxicity criteria for metals. WERs, because they rely on site-specific conditions, are a more comprehensive mechanism for addressing a given site’s bioavailability of metals than simply determining the criteria in terms of dissolved metal concentration based upon a WER value of 1.0. The CTR only requires a default WER value of 1.0 in the absence of appropriate site-specific data.

**Comment 4.4 – RE: Issue 3**

We do not support the suspension of, or variance from, REC standards nor the designation of Limited REC standards in our region.



#### **San Diego Water Board Response 4.4:**

The San Diego Water Board is not currently proposing a suspension of, or variance from, REC standards, nor the designation of limited REC standards in our region. We simply have identified a need to determine whether and to what extent data supports amending the objectives, implementation provisions for applicable TMDLs, or the TMDLs themselves. Any recommendation to amend the REC objectives or adopted TMDLs will be subject to further public participation and comment.

#### **Comment 4.5 – RE: Issue 3**

We request that the revision to REC-1 standards and quantification methods be removed from the proposed Triennial Review list until and unless sufficient data and analysis to begin that endeavor is present.

#### **San Diego Water Board Response 4.5:**

The Triennial Review process identifies and prioritizes possible revisions to water quality standards and other aspects of the San Diego Water Board's Basin Plan. As part of the scope of this issue, the San Diego Water Board will evaluate whether there is sufficient data to move forward on the project. We maintain this project as one of our highest priorities resulting from the Triennial Review process, and therefore we do not anticipate removing it from the priority list. We only anticipate recommending Basin Plan amendments if supported by scientifically-defensible data.

#### **Comment 4.6 – RE: Fast Track Development of TMDLs**

We propose to add to the Triennial Review issues list the development of an expedited process or procedure to fast-track the development of TMDLs for all waters on the 303(d) list that do not currently meet beneficial uses and WQOs.

#### **San Diego Water Board Response 4.6:**

We share your goal of healthy waters and are committed to using our staff and funding to conduct the work that is the most important, useful, and worthwhile for the purpose of protecting and restoring the health of waters in the San Diego Region. The San Diego Water Board continues to explore and pursue effective and efficient alternative TMDL solutions that can more quickly restore impaired waters.

#### ***Letter from the Riverside County Flood Control and Water Conservation District dated February 4, 2015***

#### **Comment 5.1 – RE: Issue 1**

The development of biological water quality objectives for inland surface waters should consider the types of conveyance (i.e. engineered vs. natural).

**San Diego Water Board Response 5.1:**

We intend for the development process for biological objectives to explore the applicability of differentiating between types of conveyances within inland surface waters to set the numeric criteria. While the San Diego Water Board appreciates comments regarding suggested avenues of development and applicability of narrative and numeric criteria, the development process for biological objectives will include discussion regarding the scope, applicability, and timing of whatever narrative biological objective may be proposed and what/how numeric criteria would be used for interpretation of that objective.

**Comment 5.2 – RE: Issue 1**

Biological Objectives should only apply in natural systems where adequate flow exists to support the beneficial uses. As MS4 programs move to eliminate dry weather flows it will be unrealistic for non-perennial systems to support such objectives in the absence of water.

**San Diego Water Board Response 5.2:**

Because biological objectives are not yet developed, it is speculative to consider which would apply to non-perennial systems. We do expect that the development process for biological objectives will explore considerations of natural systems, flow permanence, and existing permit requirements.

**Comment 5.3 – RE: Issue 3**

We support establishing alternative bacteria standards based on use frequency and high flow thresholds for certain REC-1 waterbodies.

**San Diego Water Board Response 5.3:**

We are not currently proposing standards based on use frequency or high flow thresholds. We simply have identified a need to determine whether and to what extent data supports amending the objectives, implementation provisions for applicable TMDLs, or the TMDLs themselves. Any recommendation to amend the REC objectives or adopted TMDLs will be subject to further public participation and comment.

**Comment 5.4 – RE: New Issue**

We request the San Diego Water Board allocate staff time to engage in the effort of establishing water quality objectives for nitrogen and phosphorus that take into account natural background levels. The San Diego Water Board should use the Numeric Nutrient Endpoint (NNE) framework or other emerging/innovative approaches considered by the Santa Margarita Watershed Nutrient Initiative Stakeholder Advisory Group to inform the process.

**San Diego Water Board Response 5.4:**

The San Diego Water Board supports using the Nutrient Numeric Endpoint Framework (NNE) and will continue to participate in the Santa Margarita Watershed Nutrient Initiative Stakeholder Advisory Group in a cooperative and collaborative effort producing good data sets and sound scientific results on the Santa Margarita River Estuary and the Santa Margarita River System. From those results, the goal is to develop sound scientific numeric targets using meaningful biological endpoints, select an effective and efficient management option, and then develop a solid implementation plan. The San Diego Water Board is hopeful that the most appropriate nutrient water quality objectives for the Santa Margarita watershed and estuary can be developed collaboratively using the results of sound scientific studies underway in that watershed.

**Letter from San Diego County Water Authority dated February 6, 2015**

**Comment 6.1 – Issues 1, 2 and 3**

The San Diego County Water Authority supports the issues and priorities identified in the San Diego Water Board’s December 8, 2014 *Issues Description for the 2014 Review of the Water Quality Control Plan for the San Diego Basin (Basin Plan)*.

**Comment 6.2 – RE: New Issue**

The San Diego Water Board should modify the beneficial use definitions (in Chapter 2) to better delineate between REC-1 use (where ingestion of water is reasonably possible) and REC-2 uses (where such ingestion is not reasonably possible).

**Comment 6.3 – RE: New Issue**

The San Diego Water Board should modify the text description within the “Reservoirs and Lakes” section of Chapter 2 (Beneficial Uses) as follows:

- Identify reservoirs connected to the San Diego Aqueduct that store untreated imported or local water as an important part of the MUN beneficial use;
- Identify reservoirs operated as part of the overall water treatment process in fulfilling the MUN beneficial use;
- Identify that reservoir operations and beneficial use restrictions may be established as part of DDW Water Supply Permits; and
- Identify potable reuse as a potential future beneficial use for local reservoirs.

**Comment 6.4 – RE: New Issue**

The San Diego Water Board should modify Table 2-4 (Beneficial Uses of Reservoirs and Lakes) as follows:

- Identify reservoirs operated as part of the overall water treatment process in fulfilling the MUN beneficial use;

- Reflect the degree of body contact (REC-1 or REC-2) allowed pursuant to DDW Water Supply Permit requirements and water agency reservoir rules and regulations; and
- Update beneficial use designations for hydropower generation.

**Comment 6.5 – RE: New Issue**

It is proposed that footnotes be added to Table 3-2 (Water Quality Objectives for Inland Surface Waters) to qualify that:

- For designated drinking water reservoirs, where the stored water is either fed directly to an adjacent treatment facility or can be transferred by pipeline or via a natural water course to a treatment facility (i.e. San Dieguito, Miramar, Murray, Jennings, Dixon, Olivenhain, Poway, San Vicente, Sweetwater, Loveland, and Lower Otay), establish that treatment operations (including process flow recycling back into the reservoir) are regulated by DDW through conditions established in each agency's Water Supply Permit.
- Establish that the listed numerical water quality objectives for TDS, chloride, sulfate, iron, manganese, and color (objectives based on DDW consumer acceptance MCLs) apply to runoff entering drinking water reservoirs from tributary areas, but not to water stored in the reservoirs. Also establish that compliance with treated water consumer acceptance MCLs is to be regulated by DDW through conditions established in each water agency's Water Supply Permit.

**Comment 6.6 – RE: New Issue**

Modify the Basin Plan dissolved oxygen objective to:

- Acknowledge that natural thermal stratification effects in deep reservoirs render it impossible to maintain any one-size-fits-all dissolved oxygen concentration level under natural conditions;
- Establish that Basin Plan numerical dissolved oxygen levels are not applicable (nor attainable under natural conditions) in hypolimnion waters of deep reservoirs; and
- Establish a narrative objective for dissolved oxygen that applies to hypolimnion waters of deep reservoirs.

**Comment 6.7 – RE: New Issue**

We recommend a new section entitled "Imported/Local Water Storage" be added prior to the "Industrial Waste" section of Chapter 4 (Implementation). Objectives of this section would be to:

- Establish the rationale for why numerical Basin Plan objectives should not be applied to water stored in drinking water supply reservoirs or to water filtration plant discharges, and

- Clearly reiterate that the numerical objectives of Table 3-2 are (1) not to be applied to waters within the listed drinking water reservoirs, (2) do not represent Clean Water Act surface water quality standards, (3) are not to be used for designating reservoir waters as “impaired” waters pursuant to Clean Water Act Section 303 (d), and (4) are not to be used for purposes of establishing effluent limits on water treatment residuals discharged to drinking water reservoirs or taking enforcement action against water agencies that operate the reservoirs in accordance with applicable DDW Water Supply Permit requirements.

**Comment 6.8 – RE: New Issue**

The San Diego Water Authority and its member agencies that operate drinking water reservoirs are available to coordinate with the San Diego Water Board and State Board to provide resources for the evaluation and consideration of the proposed Basin Plan modifications presented.

**San Diego Water Board Response to 6.1-6.8:**

The San Diego Water Board appreciates the San Diego County Water Authority (SDCWA) support of our highest priority issues for the 2014 Triennial Review of the Basin Plan. We also understand that the SDWCA seeks modifications to chapters 2, 3 and 4 of the Basin Plan to address several issues related to reservoir maintenance and operations. SDCWA’s effort to outline its concerns in terms of Basin Plan amendments is very helpful as we consider steps for reasonable protection of beneficial uses and the prevention of nuisance.

At this point we are not persuaded to deviate from our top three proposed priorities. We agree, however, that some of what is proposed seems reasonable and warrants further evaluation. For those, we have established a Tier 2 list of Triennial Review workplan items for consideration should resources become available from applicable programs or unanticipated events as we carry out Tier 1 projects. In particular, we would like to further explore the following: (a) identifying potable reuse as a potential future beneficial use for local reservoirs; (b) reviewing the applicability of the Basin Plan dissolved oxygen objective for reservoirs; and (c) discussing the potential for resource sharing to accomplish mutual priorities. The issues to be further investigated could lead to Basin Plan projects and/or subsequent revisions or amendments to the Basin Plan. Because of resource limitations, the development of the projects and potential revisions to the Basin Plan, if applicable, would likely be a separate process outside of the top priorities of this Triennial Review workplan. The San Diego Water Board commits to meeting with the regional water purveyors to better understand the issues submitted and to explore the practicality of resource sharing.

Eliminating inconsistencies while maintaining protection of municipal supply, recreation and wildlife beneficial uses are goals shared between the San Diego Water Board and SDCWA. We look forward to exploring the issues brought forward and to increased collaboration with the SDCWA on implementing a Practical Vision to realize a sustainable local water supply.

***Letter from the County of San Diego dated February 6, 2015***

**Comment 7.1 – RE: Issue 3**

The County supports the inclusion of this issue as a top priority for the triennial review. We particularly support the inclusion of a proposed cost-benefit analysis as part of this issue.

**San Diego Water Board Response 7.1:**

The San Diego Water Board appreciates the support of the County of San Diego. We maintain this project as one of our highest priority projects coming out of the Triennial Review. We look forward to collaborating with all stakeholders in the development of this project.

**Comment 7.2 – RE: Issue 3**

We recommend this issue be broadened to include consideration of beneficial uses as well as water quality objectives.

**San Diego Water Board Response 7.2:**

Comment noted.

**Comment 7.3 – RE: Issue 2**

We are encouraged by the inclusion of this issue; this will help ensure public resources are being directed towards protecting beneficial uses in the most efficient manner possible.

**San Diego Water Board Response 7.3:**

Comment noted.

**Comment 7.4 – RE: Issue 1**

The County is concerned that the development of new biological objectives for inland streams could create an additional unfunded regulatory burden that would further strain limited local government resources.

**San Diego Water Board Response 7.4:**

Because biological objectives are not yet developed, it is speculative to assume the level of effort necessary for dischargers to support them.

If the San Diego Water Board determines that biological objectives should be included in the Triennial Review, it would have to be consistent with the federal Clean Water Act. The federal Clean Water Act requires states to develop, adopt and revise water quality standards. (CWA § 303(c)) The key purpose of these standards is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s Waters.” (Id. at § 101(a)) Water quality standards may include biological criteria.

Furthermore, if the San Diego Water Board decides to move forward with developing biological objectives, local agencies will have ample opportunity to participate in the process. Future development of biological objectives would proceed in accordance with state requirements. By state law, the San Diego Water Board must consider economic factors when developing any water quality objectives (Water Code § 13241(d)). The San Diego Water Board is also required to consult with and consider the recommendations from affected local agencies during the Basin Plan Amendment process (Water Code § 13240). The County may submit specific economic concerns about any proposed biological objectives at that time.

**Comment 7.5 – RE: Issue 1**

The County suggests that limited San Diego Water Board and local government resources be used to address deficiencies in existing water quality standards.

**San Diego Water Board Response 7.5:**

We share your goal of healthy waters and are committed to using our staff and funding to conduct the work that is the most important, useful, and worthwhile for the purpose of protecting and restoring the health of waters in the San Diego Region. The development of biological objectives would address a notable deficiency in water quality standards because the existing focus on water chemistry might not adequately protect aquatic life beneficial uses in a reasonable manner. A water quality objective for biological condition is critical to restoring and maintaining the biological integrity of the region's waters because biological communities provide the most comprehensive measure of the condition of the beneficial use to be protected.

**Comment 7.6 – RE: Issue 1**

The State Water Board has found there are a number of obstacles to consider when developing biological criteria, such as harmonizing biological objectives with the chemical water quality objectives outlined in the Basin Plan. Based on the County’s understanding, USEPA wants both biological and chemical water quality objectives to be enforced. Under such circumstances, regulatory requirements for the County will be increased with no corresponding funding.

### **San Diego Water Board Response 7.6:**

If San Diego Water Board determines that biological objectives should be developed as a result of the Triennial Review, it is then expected that the development process for biological objectives would explore concerns regarding the enforcement of chemical and biological water quality objectives. Please also see response to comment 7.4. Lastly, it should be noted that while the enforcement of chemical water quality objectives remains of high importance, in December of 2013 the USEPA began “A Long-Term Vision for Assessment Restoration, and Protection under the Clean Water Act Section 303(d) Program.” This includes recommendations that “States use alternative approaches, in addition to TMDLs, that incorporate adaptive management and are tailored to specific circumstances where such approaches are better suited to implement priority watershed or water actions that achieve the water quality goals of each state.”

#### **Comment 7.7 – RE: Issue 1**

It is unclear how the San Diego Water Board could estimate the potential cost impact of the regulation and demonstrate that biological objectives are achievable in urban streams. If urban streams are anticipated to return to November 1975 conditions, a reference point that has been used for other water quality criteria in the Basin Plan, then the biological criteria would be unachievable.

### **San Diego Water Board Response 7.7:**

Because biological objectives are not yet developed, it is speculative to consider which would apply in urban systems. We expect that the development process for biological objectives will explore considerations of urban streams and reference condition. Current efforts by the State Water Board do not utilize November of 1975 as a “reference” benchmark, but take a statewide reference system approach. The San Diego Water Board does not agree that restoration of streams to meet some form of biological criteria is unachievable.

#### **Comment 7.8 – RE: Issue 1**

If development of biological objectives moves forward despite our concerns, determining a “best achievable” condition for an urbanized stream could be utilized as an alternative approach. Given the many modified channels in Southern California, there is a clear need to consider tiered aquatic life uses. These uses should better define attainable goals for aquatic life in streams and achievable restoration targets.

### **San Diego Water Board Response 7.8:**

We expect that the development process for biological objectives will explore issues specified in the comment, such as “best achievable.”



**Comment 7.9 – RE: Issue 1**

The County would recommend limiting the definition of perennial stream to only those streams with flow year round. This is consistent with the causal assessment tools developed by USEPA that are used to identify potential causes of biological impairments.

**San Diego Water Board Response 7.9:**

We expect that the development process for biological objectives will explore definitions for flow permanence and the potential use of causal assessment tools.

***Letter from the San Diego Unified Port District dated February 6, 2015***

**Comment 8.1 – RE: New Issue**

Consider incorporating the findings from Assembly Bill 425 and the California Department of Pesticide Regulation report into assessments of copper impairments as a high priority during this Basin Plan review process.

**San Diego Water Board Response 8.1:**

DPR's response to AB 425 (DPR Report)<sup>3</sup> includes a recommended maximum leach rate of copper from anti-fouling hull paints and identifies the following recommendations as critical to overall success of addressing water quality impacts from copper hull paints:

- Require in-water hull cleaners to implement BMPs for in-water hull cleaning.
- Reduce in-water hull cleaning frequency to no more than once per month.
- Include painted-hull maintenance information as part of product labels.
- Develop for distribution hull maintenance brochures to be provided to boaters via boatyards at the time of painting.
- Increase boater awareness and acceptance of copper Anti-Fouling Paint alternatives.
- Foster new incentive programs and continue support for existing programs to convert copper-painted boat hulls to those painted with alternatives.
- Consider site-specific objectives for copper for certain marinas or harbors.

We agree the DPR report will be a valuable resource when we do assess copper impairments in all marinas. At this time, however, assessing copper impairments is not a top tier priority for this Triennial Basin Plan Review workplan.

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<sup>3</sup> DPR's Report and supporting material are available at [http://www.cdpr.ca.gov/docs/registration/reevaluation/chemicals/antifoulant\\_paints.htm](http://www.cdpr.ca.gov/docs/registration/reevaluation/chemicals/antifoulant_paints.htm)

We will continue to monitor progress by DPR, the State Water Board, the Port of San Diego, California Sea Grant, and others and will provide our expertise to consult as needed as resources from various programs allow. In addition to oversight of the existing TMDL for the Shelter Island Yacht Basin, this may include continued support for federal and state nonpoint source funding, review and guidance for external studies on aquatic and sediment copper effects, education and community outreach on alternative paints, participation in statewide or local roundtables, monitoring and assessment of data, or other activities. We anticipate, however, our level of involvement within San Diego Bay will be based upon the outcome of the prioritization phase of our Healthy Waters Strategy for San Diego Bay.<sup>4</sup>

The Water Boards and DPR both have roles to play in order to implement the recommendations of the DPR Report. We support the State Water Board's continued collaboration with DPR to develop a statewide strategy to address management of in-water hull cleaning. We also note that DPR must proceed through formal rulemaking in order to implement the paint reformulation recommendations.

DPR's Report advances our collective ability to address copper impairments, and we agree the combination of less-toxic hull paints, practical management measures, and education is the right approach for guiding water quality regulations. As indicated in the DPR Report that responded to AB 425, the proposed copper leach rates for anti-fouling hull paint should help to decrease copper loading in our marinas. Coupled with the other mitigation measures identified in the DPR Report, namely the product labeling, education, and use of alternative (e.g., non-copper and non-toxic) paints, we believe that implementing the Report's findings will lead to long-term control of vessel-related copper pollution in most of the region's marinas.

The DPR Report predicts, however that conversion to the recommended maximum allowable leach rate could reduce copper to acceptable levels in most, but not all, existing marinas. The Report recognizes that in some basins with relatively high numbers of boats and relatively poor water circulation, such as the Shelter Island Yacht Basin, the recommended leach rates coupled with the best management cleaning practices will not achieve existing water quality objectives for dissolved copper. In those cases, we would not support revising water quality objectives simply to match the expected copper concentrations from the reformulated paints.

**Comment 8.2 – RE: Issue 2**

Consider developing a model approach for developing site specific water quality objectives, potentially in conjunction with issue No. 2.

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<sup>4</sup> The Healthy Waters Strategy for San Diego Bay is scheduled to be considered by the San Diego Water Board in June 2015. Initial steps thereafter are to identify priorities centered on key beneficial use/area combinations in consultation with public input.

**San Diego Water Board Response 8.2:**

Issue No. 2 refers to adoption of a Chollas Creek Metals Site Specific Water Effect Ratio (WER). At this point that WER is best advanced as a stand-alone project because further additions could significantly delay its conclusion. Future development of site specific water quality objectives for copper could warrant a model approach similar or different to that relied upon by DPR to determine its recommendation for reformulated copper-based antifouling paint. Because of the interaction between aquatic and sediment copper chemistry, however, we believe that development of alternative standards for dissolved copper in marinas deserves a comprehensive approach that includes sediment quality. While such an effort may be considered via the pending Healthy Waters Strategy for San Diego Bay, it is not a high priority in the short term for this Triennial Basin Plan Review workplan.

**Comment 8.3 – RE: Issue 2**

Assess the potential downstream impacts that may occur as a result of the Chollas Creek Metals Site Specific WER as part of the WER's approval.

**San Diego Water Board Response 8.3:**

Please see response to Comment No. 4.2.

**Comment 8.4 – RE: Issue 3**

We support the San Diego Water Board staff recommendation.

**San Diego Water Board Response 8.4:**

The San Diego Water Board appreciates the support of the San Diego Unified Port District. We maintain this as one of our highest priority projects coming out of the Triennial Review. We look forward to collaborating with all interested stakeholders in the development of this project.

***Letter from Marine Corps Camp Pendleton dated February 6, 2015***

**Comment 9.1 – RE: Issue 1**

Bioassessment measures and metrics for assessing attainment of aquatic life beneficial uses must be clear, objective, reasonable, and proven for the San Diego region to be of widespread and useful application.

### **San Diego Water Board Response 9.1:**

We agree with the comment. We also note that stream bioassessment has been used statewide and within the San Diego Region to monitor stream biological condition for the last fifteen years. Bioassessment measures and metrics, including standard operating procedures, have been developed by the Surface Water Ambient Monitoring Program (SWAMP) and were thoroughly vetted within the State Water Board's Biological Integrity Assessment Implementation Plan.

#### **Comment 9.2 – RE: Issue 1**

If there will be biological objectives in addition to chemical objectives, this would increase the regulatory burden on, and cost of compliance to, the regulated community. If, however, biological objectives were to replace TMDLs as the primary tool for maintaining the health of surface waters, this may be a reasonable trade off.

### **San Diego Water Board Response 9.2:**

Because biological objectives are not yet developed, it is speculative to assume the level of effort necessary to achieve them. We agree that biological or ecological endpoints in many situations may be more appropriate and effective numeric targets than traditional TMDL approaches based on limited aquatic chemistry targets. Please see response to comment 7.6 regarding potential utilization of biological objectives for prioritization within the Clean Water Act Section 303(d) Program.

#### **Comment 9.3 – RE: Issue 1**

Perhaps the San Diego Water Board should follow a modified Option 2 for now "Adopt biological objectives for protecting high quality streams and preventing further degradation of degraded streams" where the modification should be to focus first on ensuring protection of high quality streams (limit future discharges, surrounding growth, etc.) and then second, work to fix clearly degraded streams.

### **San Diego Water Board Response 9.3:**

We expect that the development process for biological objectives will consider the merits and appropriateness of a phased approach, perhaps similar to the one in the comment.

***Letter from County of San Diego Board of Supervisors  
dated February 6, 2015***

#### **Comment 10.1 – RE: Issues 2 and 3**

We are encouraged that these two issues have been included on the preliminary list of highest priority basin planning items. We are particularly pleased to see that a cost-benefit analysis is proposed as part of the scope of Issue 3.

**San Diego Water Board Response 10.1:**

The San Diego Water Board appreciates the support of the County of San Diego Board of Supervisors of these high priority issues. We look forward to working collaboratively with all stakeholders during the development of these projects.

**Comment 10.2 – RE: Issues 1**

Biological Objectives for inland surface streams could create an additional multi-million dollar regulatory burden for our agency that would be unfunded and on top of existing standards.

**San Diego Water Board Response 10.2:**

Please see response to comment 7.4.

***Letter from ChemMetrics dated February 5, 2015***

**Comment 11.1 – RE: New Issue**

I ask that the Regional Board consider specific recommendations made by the Department of Pesticide Regulation (DPR) after an evaluation of copper paints and incorporate these findings from AB 425 and DPR into assessments of copper impacts.

Please consider recommendations from AB425 a high priority in this Basin Plan review process.

**San Diego Water Board Response 11.1:**

Please see response to comment 8.1.