

Appendix C

Comment Letters Received by
October 8, 2012

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TABLE OF CONTENTS

Comment Letters Received

U.S. EPA (Janet Hashimoto)

Westlands Water District (Craig Manson) and State Water
Contractors (Terry L. Erlewine)

North Marin Water District (Chris DeGabriele)

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

October 5, 2012

Richard Looker
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612

Dear Richard:

The U.S. Environmental Protection Agency (EPA) has reviewed the *San Francisco Bay Basin Water Quality Control Plan 2012 Triennial Review Staff Report* (Staff Report) dated September 2012, and the proposed Resolution *Approving the 2012 Triennial Review of the San Francisco Bay Basin Water Quality Control Plan and Adopting a Priority List of Basin Plan Projects*, with Attachment A presenting the *2012 Triennial Review Prioritized List of Basin Plan Projects*, prepared by the San Francisco Bay Regional Water Quality Control Board (Regional Board) staff.

We support the identified priority Basin Planning projects, and thus support the adoption of the proposed resolution. We also concur with the Staff Report statement "all candidate projects identified in the Triennial Review warrant investigation", and encourage continued involvement in projects identified in the 2012 Basin Plan Triennial Review staff report but not included in Attachment A, as staff and external resources become available.

We appreciate the work of the Regional Board staff on these projects, as well staff involvement in State Water Resources Control Board-led efforts. Thank you for your continued hard work.

We look forward to working with you on the priority issues identified through this Triennial Review process. If you have any questions, please contact me at (415) 972-3452, or Susan Keydel at (415) 972-3106.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Hashimoto for".

Janet Hashimoto, Manager
Standards and TMDL Office



Westlands Water District

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October 8, 2012

Delivered Via E-mail to rlooker@waterboards.ca.gov

Mr. Richard Looker
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comments of Public Water Agencies Regarding Triennial Review for the Water Quality Control Plan, San Francisco Bay Basin ("Basin Plan")

Dear Mr. Looker:

The Westlands Water District ("Westlands") and the State Water Contractors, Inc. ("SWC"),¹ on behalf of and with each of its member agencies, (collectively, "Public Water Agencies") respectfully submit the following comments on the Triennial Review of the Water Quality Control Plan, San Francisco Bay Basin ("Basin Plan"). The Public Water Agencies thank the San Francisco Bay Regional Water Quality Control Board ("Regional Board") for the opportunity to provide our input on the Triennial Review Staff Report and the Tentative Resolution Approving the 2012 Triennial Review and Adopting a Priority List of Basin Plan Projects.

The Public Water Agencies commend the Regional Board staff for ranking the development of numeric nutrient water quality objectives as a "high priority" project for the Regional Board over the next three years, thereby acknowledging the importance of amending the Basin Plan to address nutrient-related water quality impacts. As detailed in the Public Water Agencies' April 17, 2012, comment letter (which we incorporate by reference), published research clearly demonstrates that nutrients, particularly ammonium, are currently significantly impairing aquatic life beneficial uses of the San Francisco Bay-Delta Estuary. That impairment is contributing now to the decline of Delta smelt and other fish protected under the Endangered Species Act, which has led to ongoing severe restrictions on California's largest sources of water supply – the federal Central Valley Project and the State Water Project. Controlling nutrients in the Bay-Delta Estuary is essential to protect and to restore the Bay-Delta ecosystem and the reliability of that water supply.

The Public Water Agencies look forward to continuing to collaborate with the Regional Board as it develops nutrient water quality objectives for the San Francisco Bay Region. We are

¹ For a description of the SWC and Westlands, see Attachment.

Mr. Richard Looker

October 8, 2012

Page 2

concerned, however, that despite the high priority given to establishing these objectives, the intent of the draft resolution is for the Regional Board to wait until the State Water Resources Control Board has fully completed its statewide Numeric Nutrient Endpoint ("NNE") framework before the Regional Board begins to address ongoing nutrient impacts. While additional research and the statewide NNE framework will surely advance the body of knowledge regarding nutrients, the existing literature provides ample support for the Regional Board to develop numeric nutrient water quality objectives now. In fact, new field data and resulting analyses only continue to confirm that excess ammonium is a proximate contributing cause of the Delta's declining ecosystem. Accordingly, the Public Water Agencies urge the Regional Board to rely on sound, existing science to address nutrient-related water quality impacts as expeditiously as possible. Indeed, the Public Water Agencies submit that the Regional Board should act now to prevent the harmful impacts of ammonium and other nutrients and to prevent the continuing impairment of the Bay-Delta Estuary and its aquatic life.

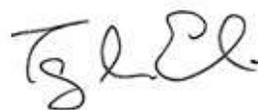
In addition, the Public Water Agencies request that as part of the project to develop numeric nutrient water quality objectives, the Regional Board staff identify and develop appropriate amendments to the Basin Plan's implementation plan and monitoring program to regulate and monitor nutrients. Such amendments would include the use of waste discharge requirements orders to impose effluent limits that reduce nutrient loadings.

We respectfully request that the Regional Board consider these comments as it works toward developing the necessary amendments to the Basin Plan to address nutrient-related water quality impacts and to protect the Region's aquatic life. Thank you for this opportunity to participate in the Triennial Review process.

Sincerely Yours,



Craig Manson
General Counsel
Westlands Water District



Terry L. Erlewine
General Manager
State Water Contractors

Attachment

Attachment

State Water Contractors, Inc. (SWC): The SWC organization is a nonprofit mutual benefit corporation that represents and protects the common interests of its 27 member public agencies in the vital water supplies provided by California's State Water Project ("SWP"). Each of the member agencies of the State Water Contractors holds a contract with the California Department of Water Resources ("DWR") to receive water supplies from the SWP. Collectively, the SWC members deliver water to more than 25 million residents throughout the state and more than 750,000 acres of agricultural lands. SWP water is served from the San Francisco Bay Area, to the San Joaquin Valley and the Central Coast, to Southern California. The SWC's members are: Alameda County Flood Control and Water Conservation District Zone 7; Alameda County Water District; Antelope Valley-East Kern Water Agency; Casitas Municipal Water District; Castaic Lake Water Agency; Central Coastal Water Authority; City of Yuba City; Coachella Valley Water District; County of Kings; Crestline-Lake Arrowhead Water Agency; Desert Water Agency; Dudley Ridge Water District; Empire-West Side Irrigation District; Kern County Water Agency; Littlerock Creek Irrigation District; Metropolitan Water District of Southern California; Mojave Water Agency; Napa County Flood Control and Water Conservation District; Oak Flat Water District; Palmdale Water District; San Bernardino Valley Municipal Water District; San Gabriel Valley Municipal Water District; San Geronimo Pass Water Agency; San Luis Obispo County Flood Control & Water Conservation District; Santa Clara Valley Water District; Solano County Water Agency; and Tulare Lake Basin Water Storage District.

Westlands Water District: Westlands is a member of the San Luis & Delta-Mendota Water Authority and encompasses more than 600,000 acres of farmland in western Fresno and Kings counties. Westlands supplies water to farmers who produce high quality commercial food and fiber crops sold for the fresh, dry, canned and frozen food markets, both domestic and export, that generate more than \$3 billion annually in agricultural-related economic activity. Westlands also supplies water to families, businesses, municipalities, and industrial users across the Central Valley. Westlands receives water through the CVP, the federal water project that stores water in large reservoirs in Northern California for use throughout the State. After water is released from CVP reservoirs, the water flows to the Delta. From there, water is pumped through the Delta-Mendota Canal for direct use or to the San Luis Reservoir for later use by our farmers. Many communities depend on the agricultural economy that relies on the water provided by Westlands, including Mendota, Huron, Tranquility, Firebaugh, Three Rocks, Cantua Creek, Helm, San Joaquin, Kerman, Lemoore and Coalinga. More than 50,000 people live and work in these communities and depend on the water provided by Westlands for their livelihoods.



**NORTH MARIN
WATER DISTRICT**



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September 11, 2012

Richard Looker
California Regional Water Quality Control Board- SF Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Triennial Review- Water Quality Control Plan San Francisco Bay Basin.

Dear Mr. Looker:

North Marin Water District has previously commented on an error in the designation of Stafford Lake beneficial uses listed in the San Francisco Bay Basin Plan. Our most recent comment to the State Water Resources Control Board is attached for your ready reference. We request that this error be corrected as part of an editorial revision and minor clarification or correction as proposed in the Table 1- Basin Plan Projects Proposed by Board staff at the March 2012 workshop.

Your attention to this matter is requested as it appears that this is an opportunity to make the necessary editorial change.

Sincerely,

Chris DeGabriele
General Manager

Enclosure

Cc:

Bruce Wolf, Executive Officer, SFRWQCB
Jeannine Townsend, Clerk to the State Water Resource Control Board
Robert Maddow, Bold, Polisner, Maddow, Nelson and Judson

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July 8, 2011

Jeannine Townsend, Clerk to the Board
State Water Resources Control Board
Attn: Chairman Hoppin & SWRCB Members
PO Box 100
Sacramento CA 95812-2000

Re: Comment Letter – SF Bay Region Beneficial Uses/Water Bodies Update

Dear Chair Hoppin and SWRCB Members:

North Marin Water District (NMWD) is sending this comment letter to address an error in the designation of Stafford Lake beneficial uses listed in the San Francisco Bay Basin Plan. Stafford Dam and Lake on Novato Creek were constructed by NMWD in 1952 to meet water supply needs of the then growing Novato community in northern Marin County, California. It is a relatively small surface water reservoir (~4,300 acre feet capacity) used for municipal water supply purposes and providing some incidental flood protection. It has a healthy bass and bluegill population for recreational fishing, but is not a cold water resource. Since the Stafford Lake Reservoir is used for municipal water supply, there is no contact recreation or boating permitted in or on the lake. Table 2-1 of the Basin Plan, Existing and Potential Beneficial Uses of Water Bodies in the San Francisco Bay Region, lists Stafford Lake as having existing cold fresh water habitat (COLD) and existing water contact recreation (REC-1). Both of these Basin Plan designations are in error and in need of correction.

In discussion with the San Francisco Bay Regional Water Quality Control Board (SFRWQCB) staff, we understand that these beneficial use designations for Stafford Lake 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 believe the time and expense to process such a change, both at NMWD and at the SFRWQCB and State Board could be better used elsewhere; thus, 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. If the SFRWQCB should ever make changes in the Basin Plan, these designation changes might be made as minor administrative modification.

We note that all of the Marin Municipal Water District reservoirs listed in Table 2-1 identify that water contact recreation is prohibited or limited to protect public health. Additionally, we see that Nicasio Reservoir, Marin Municipal's reservoir which also supports a warm water recreational fishery, is listed as a potential beneficial use for cold-water habitat.

NMWD believes the proposed REC-1 beneficial use designation for all surface waters in the region originates in an overly broad interpretation of the intent of Section 101(a)(2) of the Clean Water Act (Act). Section 101(a)(2) of the Act declared, in part, that a "goal" for the "Nation's waters" was "where attainable" an interim water quality goal

that would provide for recreation "in and on the water" be "achieved by July 1, 1983." Regional Board staff cites this provision of the Act as creating a, "...rebuttable presumption' that swimmable uses are attainable." Any suggestion, however, that Stafford Lake itself possesses current or prospectively attainable REC-1 attributes may be refuted by California Health and Safety Code section 115825(b), which prohibits all body contact recreation in drinking water reservoirs. While it is widely accepted that one of the overall objectives of the Act is to protect recreational uses, setting an unattainable beneficial use for a water body does not advance this goal.

The proposal to use "E*" for REC-1 in water bodies such as drinking water reservoirs where there is, in fact, no existing REC-1 use runs counter to the stated goal of this amendment, which is to improve the clarity of the Basin Plan. At Stafford Lake, for example, the physical, administrative, and legal barriers that have been in place since the reservoir was constructed mean that there is not, and never has been, any body contact recreation. In addition there is not, and never has been, any non-contact recreation in Stafford Lake. Further, as a component of the NMWD water supply system, no prospective REC-1 uses exist at Stafford Lake. This 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. Clarity and reasonableness suggest that the "E" designation be removed from beneficial uses that do not, and never have, actually existed.

NMWD values the State Board's efforts to update and correct the San Francisco Bay Region Basin Plan listing of surface waters and Beneficial Uses. This is a step forward in ensuring that discharges to all surface waters are appropriately regulated to protect water quality. It is appropriate to add surface waters that may have been overlooked in past Basin Plans, and it is equally important to use this opportunity to remove previous listings that were made in error. Erroneously listed bodies of water create expectations of activities that are incompatible with the purpose of the facility and create more oversight work without fulfilling the purpose of the NPDES system, which is to prevent the discharge of pollutants to surface waters.

Should you choose to make the changes to Table 2-1 along with this amendment, we are appreciative. In the alternative, please accept this letter in the record documenting current status of Stafford Lake beneficial uses.

Sincerely,



Chris DeGabriele
General Manager

Cc: Bruce Wolfe, Executive Officer, SFRWQCB
Robert Maddow, Bold Polisner Maddow Nelson Judson