



**IRVINE RANCH WATER DISTRICT**

15600 Sand Canyon Avenue • P.O. Box 57000 • Irvine, California 92619-7000 • (949) 453-5300 • www.irwd.com

November 30, 2016

**Via Electronic Mail Only**

Wanda Cross (wanda.cross@waterboards.ca.gov)  
David Woelfel (david.woelfel@Waterboards.ca.gov)  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside California

Re: October 10, 2016 Proposed Amendments to the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan Amendment)

Dear Wanda and David:

Today we realized that in a single paragraph on page 25 of the 42-page Staff Report for the proposed Basin Plan Amendment referenced, the Santa Ana Regional Water Quality Control Board (SARWQCB) staff recommends designating a new commercial fishing or "COMM" beneficial use for Irvine Lake reservoir. The Irvine Ranch Water District (IRWD) is concerned about this proposed designation, particularly in light of the recent construction and impending operation of the new Baker Water Treatment Plant. IRWD is concerned that designating COMM as a beneficial use for Irvine Lake may not be consistent with operational changes at the reservoir necessary for the most efficient and cost effective extraction of raw and native water from the reservoir for treatment in the Baker Water Treatment Plant or Serrano Water District's water treatment plant. See Attachment A to this letter: *Domestic Water Supply Permit Amendment No. 05-08-16PA-028 for the Baker Water Treatment Plant* and accompanying Engineering Report (October 26, 2016).

#1

Extraction, treatment and use of Irvine Lake water to supplement potable supply more fully implements the existing MUN beneficial use designation already applicable to Irvine Lake. Adding the COMM designation to Irvine Lake may result in perpetuation of a commercial fishing concession that relies heavily on importation of fish, and does not further the current MUN use, or the currently existing WARM, WILD, or COLD uses. We are very concerned that SARWQCB staff has not engaged directly with the owners of Irvine Lake, IRWD and Serrano Water District, prior to recommending adding the COMM designation. Therefore, IRWD requests that this discrete amendment related to Irvine Lake beneficial uses should be removed from the current proposed Basin Plan Amendment, delayed, and separately considered to allow time for SARWQCB staff to work with IRWD and Serrano Water District to conduct a thorough analysis of the new COMM designation to determine if the designation is necessary and warranted when all factors applicable to designation of beneficial uses under the federal Clean Water Act and the California Porter Cologne Water Quality Control Act are fully evaluated.

#2

Very limited information is provided to support the proposed designation of the new COMM use for the reservoir. Specifically, on page 25 of 42 of the Staff Report, staff proposes to add the COMM beneficial use for Irvine Lake (as well as other lakes and reservoirs), based only on the statement that:

“The lakes [including Irvine Lake] listed above are popular for sportfishing... and Lee Lake, Irvine Lake, and Anaheim Lake are or have been managed in recent years as fishing concessions... The COMM beneficial use is proposed to be designated to acknowledge that fishing is an existing activity in these lakes.”

Under the Clean Water Act, each state, or in California, each water board,  
“must specify appropriate water uses to be achieved and protected taking into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation..”

In conducting this evaluation, the water boards are expressly instructed to consider and balance all appropriate uses, including MUN uses and value of water for public water supplies. Further, the water boards may consider economic and social factors in considering and balancing beneficial uses, including economic factors related to increases in costs for effective treatment and use as potable supply that may result from the imposition of a new COMM use.

*Introduction to the Clean Water Act, DU Classifications*, pp. 9-10 (USEPA) available at [www.epa.gov/watertrain](http://www.epa.gov/watertrain).

Uses must be designated in a manner that recognizes and implements the “fishable/swimmable” goals of Clean Water Act § 101(a)(2) and fishing related existing uses of waters of the United States. *Introduction to the Clean Water Act, Designating Uses of Waters*, pp. 10-11 (USEPA). However, beneficial uses that implement and recognize the “fishable” goal and protect aquatic resources within a waterbody need not be COMM. Instead, the water boards retain the discretion to implement other use designations to assure “fishable” goals and water quality that is protective of aquatic resources without promoting use of a waterbody for commercial fishing concessions.

# 3

Similarly, under Porter-Cologne § 13240, regional water boards are charged with adopting beneficial uses that, pursuant to §13050(f) should protect fish as well as humans, but need not include COMM, which is a use subcategory not mentioned in the statute. Further under Porter Cologne, an existing use ordinarily must be designated for protection, unless another beneficial use requiring more stringent objectives is designated. See Cal. Water Code § 13000. IRWD requests that staff consider the degree to which the stringent water quality objectives associated with already designated beneficial uses, including WARM, WILD, and COLD, sufficiently protect fish and aquatic species, without creating the potential for interference with implementation of Irvine Lake’s other higher and best beneficial use: MUN water supply.

Because Irvine Lake is already designated for several fish related beneficial uses, including WARM, WILD, and COLD, adding the designation of COMM is unnecessary to assure protection of water quality necessary to support fish and protect aquatic resources. Such designation may, however, unreasonably interferes with the most efficient and cost-effective operation of the Baker Treatment Plant as necessary to maximize the lake’s MUN beneficial

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use. As noted on page 8 of the Engineering Report set forth in Attachment A, the Domestic Water Supply Permit Amendment for the Baker Water Treatment Plant specifically recognized that while commercial fishing concessions had historically operated at Irvine Lake, those concessions are no longer operating and cannot therefore interfere with the proposed extraction and treatment process recently permitted. Adopting the COMM beneficial use for Irvine Lake as proposed would be contrary to the current operations at Irvine Lake as described in the Engineering Report underlying the Domestic Water Supply Permit Amendment.

As required by Cal. Water Code § 13240, IRWD requests that SARWQCB staff consult with IRWD and Serrano Water District as affected local agencies prior to adopting the proposed COMM use. Further, IRWD requests that before action is taken, staff should work with IRWD and Serrano Water District to perform a careful and thorough evaluation under Cal. Water Code § 13050 of all factors and activities that may affect the quality and use of Irvine Lake, taking into consideration all demands being made and to be made on the lake, and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.

Sincerely,



Irvine Ranch Water District

MLC: mic

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**Attachment A**

**System No. 3010092—Domestic Water Supply Permit Amendment  
for Baker Water Treatment Plant**

**[See pdf submitted concurrently with this letter]**