



ORANGE COUNTY
COASTKEEPER®

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July 08, 2015

Sent via E-mail: david.woelfel@waterboards.ca.gov

Santa Ana Regional Water Quality Control Board
Attention: Dave Woelfel
3737 Main Street, Suite 500
Riverside, California 92501-3348

**Re: 2015 Triennial Review of the Water Quality Control Plan – Santa Ana River Basin Plan
(Basin Plan)**

Dear Mr. Woelfel:

Orange County Coastkeeper (“Coastkeeper”) is a nonprofit clean water organization located in Costa Mesa, California. Our mission is to protect and promote sustainable water resources that are drinkable, fishable, swimmable, and sustainable. Coastkeeper appreciates the opportunity to comment on the Draft Priority List of Basin Planning Issues to be Considered during the Next 3 years (“Draft Priority List”). We hope that you will take our comments into consideration before presenting staff’s recommended Draft Priority List to the Regional Board for approval.

I. General Comments

Coastkeeper’s overarching concern is that it has been almost ten years since the last triennial review. We feel it is important that the Regional Board make a commitment to complete triennial reviews in a regular basis as required by state and federal law. While we support the 2015 update, a commitment by the Regional Board to review the region’s priorities is required to accurately reflect changed conditions and respond to contemporary issues. Also, the Draft Priority List contains some priorities that are not related to a general updating of the Basin Plan and should be done outside of the scope of the triennial review.

II. Priority Items

Coastkeeper acknowledges the limitations placed on regulatory agencies and the need to prioritize scarce resources by focusing on those problems that are both significant and resolvable. From our perspective, the Draft Priority List contains two types of projects: those that update the Basin Plan for items that can be completed in a timely manner; and other projects that consume staff time, have few results, and are best considered for the next triennial review. For those projects that fall within the second category, Coastkeeper recommends either eliminating those priorities from the Draft Priority List, or shifting those items to a lower priority in order to resolve other important items within this three year period. As such, Coastkeeper recommends retaining items 1a, 1b, 6-18, 20-21, 23 and 25 as priorities and either eliminating the other items from the Draft Priority List or moving those items to the lowest priority.

In addition to the items detailed in the Draft Priority List, Coastkeeper suggests adding the implementation of the Amendments to Statewide Water Quality Control Plans for Trash (“Statewide Trash Policy”), renewal of the Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities within the Santa Ana Region (R8-2012-0012)(“Sector Permit”), and the designation of State Water Quality Protection Areas for existing Marine Protected Areas (“SWQPA designation”) be added as priorities.

These proposed items are either stated priorities from the State Water Resources Control Board or permits that will expire during the next three years. Each of these priorities can also be completed within a reasonable amount of time. Coastkeeper recommends reprioritizing the Draft Priority List to include the Statewide Trash Policy as the first priority, the Sector Permit as the fourth priority, and the SWQPA designation as the fifth priority. A full reprioritization of the Draft Priority List is attached to this letter.

III. Non Triennial Review items

Then there are a several projects that appear to be TMDL re openers or deletions related to impending or already missed TMDL deadlines. For instance, items 2 and 3 regarding the Fecal Coliform TMDL for Upper Newport Bay. The existing TMDL should not be withdrawn and its existing requirements should be enforced until new criteria and an associated TMDL are developed. The December 2014 compliance deadline in this TMDL has already been missed, that is not a reason to prioritize withdrawing the TMDL. Coastkeeper supports the development of new bacteria objectives for Newport Bay based on the 2012 USEPA recommendations, but not to the detriment of Newport Bay.

Draft Priority List item 19’s proposed revision of the shellfish objective should not be included as a priority. Shellfish in the region do not meet the existing objectives for human consumption. In fact, shellfish have not been legally harvested in the Upper Newport Bay since the 1970s. The proposed revision attempts to circumvent shellfish protections in the existing TMDL through the triennial review process rather than through a well-developed stakeholder plan to restore a once viable shellfish fishery. There is a high demand for shellfish for human consumption in the region. This is evidenced by the creation of a large shellfish aquaculture project offshore of Orange County. The reason there is little harvesting of local shellfish for food is the fear of pollution impacting their quality. The existing objectives should be kept and enforced until new statewide objectives are completed. Prioritizing the shellfish beneficial use definition is best addressed in future triennial reviews as our Region has more significant problems to resolve than redefining terms that allow for the potential weakening of water quality protections.

Some projects should be dropped from the list completely. This applies to item 1c. Coastkeeper worked with stakeholders to complete a decade long effort to create new freshwater bacteria standards for the region. The result is a set of standards that all parties agreed on and is site specific. Re-opening this issue via item 1c threatens to unnecessarily antagonize stakeholders and federal regulators on an issue that many thought had been concluded. Critics of this priority, identified as a subpart of the highest priority for the Regional Board during the next three years, could reasonably interpret this item as an attempt to avoid the impending 2015 dry weather deadline for the Middle Santa Ana River TMDL and a mechanism for developing new loopholes than to achieve statewide conformity.

Another example of items that should not be included in the Draft Priority List are items 4 and 5: the proposed Selenium TMDL and SSO’s. This TMDL has been in development for over ten years with little progress since 2010. In that time, the entire environmental community has withdrawn from the failed stakeholder process and Coastkeeper believes the proposed TMDL has little chance of being approved by

the USEPA. This issue is currently being addressed by a Time Schedule Order and should continue under that Order.

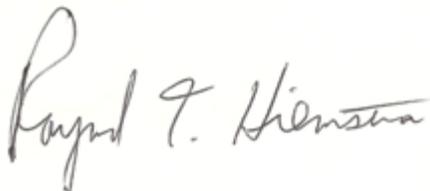
Item 24 of the Draft Priority List, Review of the Chemical Oxygen Demand objectives for inland surface waters, should also be deleted from the list. This objective was created for valid reasons and there are no existing new reasons known to Coastkeeper justifying an "update." Reviewing or updating objectives without substantial justification at the expense of including other priorities not currently on the Draft Priorities List is not an efficient use of scarce resources.

Coastkeeper commends the Regional Board on issuing a Draft Priority List for 2015. The regular circulation of Draft Priority Lists is something Coastkeeper looks forward as a vehicle for the public to influence the focus of regulators on issues that are of importance to us. Unfortunately, the Draft Priority List appears to be a list of priorities from the perspective of regulated entities, such as counties and cities, and not the people who reside and recreate in the Regional Board's jurisdiction. The Regional Board's focus on "reviewing," "reconsidering" and "revising," concerns Coastkeeper insofar as the document can be read as a plan for regulatory retrenchment and/or retreat. Coastkeeper supports and recommends a reprioritization of the Draft Priority List and the addition of other items that emphasize the improvement of water quality over time. The public wants the restoration and protection of water bodies and their beneficial uses, not the revision of the definition of those uses as with the shellfish priority that could reasonably result in the weakening of regulations affecting the restoration of shellfish harvesting in Upper Newport Bay.

When reviewing the Draft Priority List, Coastkeeper asked itself, "will this issue improve water quality?" Too often the answer was no. Consequently, Coastkeeper reprioritized the items and deleted those considered by us to be allowing for weakened requirements or less accountability. The reprioritized list includes some new items that are significant to the region and important to improve water quality.

In conclusion, Coastkeeper appreciates the opportunity to submit these comments to the Regional Board. We greatly value our relationship with the Regional Board and our ability to work collaboratively on a variety of issues. Please feel free to contact me directly at 714-850-1965 ext. 304 or at ray@coastkeeper.org with any questions or concerns you may have.

Thank You,

A handwritten signature in cursive script that reads "Raymond F. Hiemstra".

Ray Hiemstra
Associate Director
Orange County Coastkeeper

Amended Draft Priority List

New Priority	Old Priority	Abbreviated Description
1	N/A	Statewide Trash Policy
2	6	Develop/consider a TMDL BPA for metals in Newport Bay.
3	7	Develop/consider a bacteria indicator (E. coli) TMDL for Knickerbocker Creek
4	N/A	Sector Permit Renewal
5	N/A	SWQPA for MPAs
6	1	Recreation Standards for Inland Surface Waters (1.a.)
7	23	Review ammonia objectives for freshwater based on 2013 USEPA national criteria
8	11	Participate with SB staff to develop a biological integrity assessment implementation plan. Incorporate the new plan in to the Basin Plan
9	12	Review BU designations and reach descriptions for waters listed in Table 3-1.
10	13	Add the following waters to Table 3-1 and 4-1

11	14	Add adopted Basin Plan Amendments to the electronic Basin Plan
12	15	Reconsider Nutrient TMDLs for Canyon Lake/Lake Elsinore
13	16	Review and revise Big Bear Lake WQS and Nutrient TMDL.
14	17	Restructure Basin Plan to place all adopted TMDLs in Chapter 6.
15	18	Revise TDS objectives for Rattlesnake, Syphon, and Sand Canyon reservoirs based on use for storage of recycled water
16	20	Add digital maps to the Basin Plan showing surface and ground waters and the WQS that apply to them.
17	21	Update and revise Basin Plan narrative program/policy discussions.
18	1	Recreation Standards for Inland Surface Waters (1.b.)
19	25	Prepare/Administer the 2015 Triennial Review