

Amendments to the Santa Ana Region Basin Plan – Resolution No. R8-2014-0005 Response to Comments received by State Water Resources Control Board

(Draft) Response to Comments

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Letter dated June 23, 2014

Comment #1: The Rapid Infiltration and Extraction (RIX) facility receives approximately 28 MGD of secondary treated wastewater from the City's Water Reclamation Plant and from Colton's treatment facility. Natural bio-filtration is employed through the use of percolation basins and ultra-violet disinfection is used to meet the State of California Title 22 tertiary standards, in addition to the discharge standards specified in a separate NPDES permit issued to the RIX facility. RIX treated wastewater consistently meets or exceeds required discharge standards and is often superior in quality to effluent produced through conventional tertiary facilities.

Response:
Comments noted.

Comment #2:

The Basin Plan Amendment removes Tables 5-3 and 5-4 from the Basin Plan. While some of the language that references these tables was also proposed for removal, there remains language in the Basin Plan that references those tables that would no longer make sense.

Response

Regional Board staff acknowledge and agree that the remaining text in Chapter 5 of the Basin Plan that references Tables 5-3 and 5-4 (Assimilative Capacity findings) needs to be removed from the Basin Plan. The phrases at issue are not of themselves of regulatory significance and their removal is editorial, rather than substantive, in nature. These phrases have been removed as part of Regional Board Executive Officer corrections (June 27, 2014), which have been forwarded to the State Water Board.

In addition, as part of the amendments to the Salt Management Plan approved under Resolution No. R8-2014-0005, the Santa Ana Regional Water Board approved the deletion of Table 5-7 (Wastewater Reclamation). Certain references to this table were inadvertently not removed as part of these amendments. Again, the removal of these references is editorial rather than substantive in nature and this action is part of the Regional Board Executive Officer corrections dated June 27, 2014. Limited references to Table 5-7 continue to remain in the Basin Plan as part of the brief discussion of the 2004 salt management plan amendments approved under Resolution No. R8-2004-0001.

Comment #3:

"The proposed Basin Plan language indicating that updated assimilative capacity findings will be posted on the Regional Board's web-site violates Water Code section 13241 and 13242 since these numbers would be used for regulatory purposes, presumably as water quality objectives.

These numbers should not be changed at will. Water quality objectives are required to be set at a level that "will ensure the reasonable protection of beneficial uses and the prevention of nuisance; [recognizing] that it may be possible for the quality of the water to be changed to some degree without unreasonably affecting beneficial uses." Setting objectives based on ambient quality has no direct connection to the level needed for beneficial use protection and is merely a way to ensure that antidegradation principals (*sic*) are met. Antidegradation is a state policy, based on a federal requirement for water quality standards that does not apply to groundwater. While it is important to consider "the quality of water available thereto," that is not the only consideration mandated by state law, and other issues, such as "economic considerations" and "the need to develop and use recycled water" must also be considered. Wat. Code §13241".

Response

As discussed below, we believe that these comments reflect a fundamental misunderstanding of state law and policy and of the nature of the amendments. In part, this may be the result of an oversight in the amendments whereby it is unclear that the Regional Board will consider assimilative capacity findings at a public hearing and thereafter publish those findings on the Board's website. (This oversight has been corrected, as described further below.) These updated findings would be used for regulatory purposes.

TDS and Nitrogen water quality objectives are specified in Chapter 3 of the Basin Plan in 2004. The requisite Water Code §13241 analysis was conducted in setting these Basin Plan objectives. The Regional Board - approved amendments pursuant to Resolution No. R8-2014-0005 do not modify those objectives. Updated ambient quality and assimilative capacity findings do not constitute changes to those objectives. We agree that revisions to water quality objectives would require analysis of the factors identified in §13241.

The removal of the assimilative capacity findings tables (see comment and response #2) does not affect the established water quality objectives, nor are the assimilative capacity findings used or to be used as water quality objectives. The Basin Plan describes the application of assimilative capacity findings in regulation of waste discharges (Chapter 5, III. TDS/Nitrogen Management Plan, B. 1. (see especially pages 5-20 through 5-22)).

The January 31, 2014 Staff Report supporting the amendments describes the approach recommended to update assimilative capacity findings over time. This approach entails removal of the assimilative capacity findings tables in the Basin Plan, since they become outdated as the result of requisite triennial review and update of these findings based on updated information concerning ambient quality. Instead, updated ambient quality and assimilative capacity findings would be reviewed at a Regional Board public hearing, the updated assimilative capacity findings would be approved by the Regional Board, and the approved findings would be posted on the Regional Board website and thence used for regulatory purposes. The Regional Board-approved amendments inadvertently failed to fully reflect this approach, even though it was identified in the Staff Report and discussed at the Regional Board hearings on the amendments. Appropriate clarification has been provided in the Regional Board Executive Officer corrections to the amendments dated June 27, 2014.

The City is incorrect in asserting that the State's Antidegradation Policy (Resolution 68-16) only applies to surface waters. The State's Antidegradation Policy applies to all waters, including groundwaters and therefore, must be implemented by the Regional Board when developing and

issuing waste discharge requirements that affect or may affect the state's ground or surface waters.

Comment #4:

"Tables 5- 3 and 5- 4 in the current version of the Basin Plan were based on the 2004 amendments, and show the water quality objectives and the then" current" ambient groundwater quality for TDS and nitrate-nitrogen, respectively, for each management zone. (BP at 5- 23 and 5- 24; Attachment to Resolution No. R8-2004-0001 at 30, 33- 34.) The determination of" current" ambient quality was accomplished using a methodology consistent with that employed by the Nitrogen/ TDS Task Force to develop the TDS and nitrogen water quality objectives included in this Basin Plan and consists of determining a 20- year average of the TDS and nitrogen levels in the groundwater. (BP at 5-19 and 5-46.) The question is whether removal of these tables containing the objectives and ambient quality will set a new" baseline" for antidegradation based on the " current" and ever-changing ambient conditions without reference to historic levels".

Response:

See response to Comment #3. The updated ambient TDS and nitrogen water quality determinations are not water quality objectives. The removal of these tables does not remove the water quality objectives or reset the "baseline" for antidegradation analyses.

Comment #5:

The City requests that the State Board consider remanding the Basin Plan amendments to the Regional Board to evaluate the significance of the amendments to the City and other stakeholders outside the Yucaipa/Beaumont groundwater management zones.

Response:

The City correctly pointed out the need for modifications of the amendments to assure clarity and consistency. We appreciate those comments. As described above, the Regional Board Executive Officer has made these non-substantive corrections to the amendments. Beyond that, there is no need for reconsideration of the amendments by the Regional Board. We note that the amendments were described at length in the January 31, 2014 Staff Report and at two Regional Board public hearings (January 31, 2014 and April 25, 2014).