

STRATEGIC WATER QUALITY ASSESSMENT APPROACH FOR SAN DIEGO BAY RESPONSES TO COMMENTS REPORT

INTRODUCTION

This report contains responses to written comments received on the Strategic Water Quality Assessment Approach for San Diego Bay (Bay Assessment Approach). The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board or Board) staff released the Bay Assessment Approach for public comment on August 8, 2022 and accepted written comments until September 9, 2022.

Comment letters were received from seven parties during the written comment period, listed below in the order received:

- John Adriany
- U.S. Department of the Navy
- City of San Diego
- Port of San Diego
- Industrial Environmental Association
- Lockheed Martin Corporation
- BAE San Diego Ship Repair and San Diego Gas and Electric

Many comments were related to concerns or recommendations for technical aspects and organization of the appendices in the Bay Assessment Approach. Board staff reviewed these technical and organizational comments and did not determine changes to the Bay Assessment Approach appendices were warranted or necessary. The commenters can and should provide their concerns and recommendations when the Board develops any proposed actions that consider and incorporate the guidance provided in Appendix C of the Bay Assessment Approach. Responses to individual comments are not provided.

Most of the substantive comments revealed misunderstandings or concerns with the purpose, implementation, and limitations of the Assessment Approach. Commenters were particularly focused on how the Bay Assessment Approach would affect current or future work they are directed to do by the Board, such as discharge permit conditions, sediment cleanup targets, and water quality investigations.

The Bay Assessment Approach is how the Board will advance the 2015 Strategy for a Healthy San Diego Bay (Healthy Bay Strategy) by identifying and using data and information needed to answer questions from the Board's 2012 A Framework for Monitoring and Assessment in the San Diego Region (Framework). Therefore, the goal of these responses to comments is to bridge the gap between the purpose, implementation, and limitations of the Bay Assessment Approach with respect to issues raised in the comment letters and the Board's goals for the Healthy Bay Strategy.

GENERAL RESPONSES TO COMMENTS

1. Purpose of the Bay Assessment Approach

Staff developed the Strategic Water Quality Assessment Approach for San Diego Bay (Bay Assessment Approach) to provide guidance for collecting and analyzing data and information for assessments critical to the Board's [Strategy for a Healthy San Diego Bay](#) (Healthy Bay Strategy) adopted in [2015](#). The Healthy Bay Strategy was developed as a pilot project to implement Chapter 1 (Strategize for Healthy Waters) and Chapter 2 (Monitor and Assess) of the Board's 2013 [Practical Vision](#)¹ to help focus the Board's resources on what is most important to protect and restore the key beneficial uses of San Diego Bay.

The Bay Assessment Approach does not establish any requirements, such as discharge permit conditions, cleanup targets, or monitoring and reporting requirements. Each of those Board responsibilities are carried out pursuant to established plans, policies, regulations, and statutes and associated public participation processes. The Bay Assessment Approach can inform those, and many other Board considerations, but it does not supersede or constitute mandatory guidelines for such Board actions.

Specifically, the Bay Assessment Approach will help provide the information needed by the Board to prioritize issues and actions based on meaningful assessments of the key beneficial uses of the Bay. Prioritizing issues and actions based on assessments of key beneficial uses is the goal of the Board's Practical Vision.

The 2015 Healthy Bay Strategy identifies the key beneficial uses of the Bay as: Habitats and Ecosystems, Fish and Shellfish Consumption, and Recreation.

Next, the Healthy Bay Strategy describes a process for assessing conditions consistent with Chapter 2 of the Practical Vision, which refers to [A Framework for Monitoring and Assessment in the San Diego Region](#) (Framework) adopted by the Board in [2012](#). A goal of the Framework is to institute a water body-oriented approach to enable better informed decisions instead of relying just on data from discharge effluent or the immediate vicinity of outfalls. Those discharge-oriented data can inform facility- or discharge-specific management actions, but do not necessarily represent the beneficial use conditions throughout a water body, much less the most important areas for the beneficial uses.

The Shelter Island Yacht Basin (SIYB) dissolved copper total maximum daily load (TMDL) is an example of a regulatory decision that has focused management and assessment effort on discharge loading almost to the exclusion of considering effects on, or alternatives to restoring, beneficial uses. SIYB was identified as impaired pursuant to Clean Water Act section 303(d) because dissolved copper concentrations exceeded water quality objectives. In accordance with the standard practice in 2005, the SIYB dissolved copper TMDL was therefore developed with a focus on reducing sources

¹ Adopted in [2013](#) under Resolution No. [R9-2013-0153](#), and updated in [2021](#) under Resolution No. [R9-2021-0007](#).

discharging dissolved copper to the water (specifically recreational boats with copper-based anti-fouling hull coatings). Performance targets and implementation actions were developed and assessed almost solely on estimating pounds of copper prevented from discharging. Since then, despite significant estimates of copper loading reductions, the dissolved copper levels remain high, and there has been no meaningful assessment of effects on the beneficial use conditions. A water body-oriented approach, on the other hand, would include or be based on assessments of the beneficial uses identified in the TMDL as harmed by the high copper levels.

With the 2015 Healthy Bay Strategy, the Board initiated the implementation of the water body-oriented approach of the Framework in San Diego Bay focused on key beneficial uses. The Healthy Bay Strategy began with initial assessments of the conditions of the Bay for the key beneficial uses. When Board staff conducted the initial conditions assessments, they identified significant gaps in available data and information, methods for data collection and analysis, and established metrics and standards. These gaps limited the Board's ability to fully assess and understand the conditions of the Bay for the key beneficial uses.

For instance, as described at the October 2016 meeting of the San Diego Water Board, the initial condition assessment for Recreation indicated a potential risk to human health from swimming, but not whether the risk was high or not without more information about the relationship of indicator bacteria to human sources of waste. Likewise, the initial condition assessment for Fish and Shellfish Consumption indicated a potential risk to human health, but not whether the risk has increased or decreased without more information about the age of the fish analyzed. And, the initial condition assessment for Habitats and Ecosystems could not be performed because there was a lack of available or established methods, metrics, and/or standards for data analysis.

These initial conditions assessments helped confirm that when assessments are based on available discharge-oriented data, there is not enough information to help the Board focus on what is most important to protect and restore the key beneficial uses of the Bay. The initial conditions assessments also helped confirm that prioritizing issues, setting goals, and realigning work is difficult without answers to the Framework questions about stressors, sources, and performance of management actions in addition to assessing conditions.

To that end, the Bay Assessment Approach outlines what kind of data and information are needed and how the Board and others can use the data and information that are collected, if and when available, to assess the conditions, stressors impacting conditions, sources contributing to stressors, and performance of management actions implemented to protect and restore the key beneficial uses in San Diego Bay.

In summary, existing assessments are not providing the Board the information called for in the 2015 Healthy Bay Strategy, so staff developed the Bay Assessment Approach to identify what assessments would. It identifies the information desired to best answer the questions necessary to focus the Board's resources on what is most important to achieve a healthy San Diego Bay.

2. Implementation of the Bay Assessment Approach

Appendix C of the Bay Assessment Approach identifies monitoring and assessment that should be considered by the San Diego Water Board when carrying out its responsibilities and functions. The Board will consider and use the information sought and provided by the assessments outlined in the Bay Assessment Approach to prioritize and implement planning, permitting, monitoring, enforcement, public outreach and education, and financial assistance actions within the extent of the Board's priorities, resources, and authority.

Consistent with the Healthy Bay Strategy and the Framework, Appendix C was developed and structured by combining key beneficial uses (Habitats and Ecosystems, Fish and Shellfish Consumption, and Recreation) and Framework questions (Conditions, Stressors, Sources, Performance). For each key beneficial use and Framework question combination, there are "Primary" and "Supplemental" monitoring elements. While there are similar or overlapping monitoring elements for key beneficial use and Framework question combinations, the data and information from those key beneficial use monitoring elements are used to answer different Framework questions.

The Primary Monitoring Elements can generally be collected and analyzed with currently available methods, metrics, and/or standards, or by comparing relative changes over time. The Board will first use available data and information for the Primary Monitoring Elements for assessments to answer the Framework questions.

In contrast, the Supplemental Monitoring Elements are not regularly or may not yet be collected and analyzed due to lack of currently available methods, metrics, standards and/or resources for routine monitoring. This means the Supplemental Monitoring Elements may not be possible or very limited at this time, but can be if there are methods, metrics, standards, and/or resources available.

The purpose of Appendix C is to identify monitoring components that the Board is interested in receiving for assessment purposes. Monitoring components that are desired but may not be available or provided to the Board are indicated with an asterisk. The asterisk in Appendix C means one of the following: 1) the Board does not have or receive data for these monitoring components because the Board has not included these monitoring components in Board-related monitoring programs; 2) there may be other monitoring programs that collect these data, wholly or in part, but the Board does not directly receive these data; and/or 3) there is no monitoring program the Board is aware of that collects these data, which may require the development of a program to collect the data.

In some cases, the Board's responsibilities and functions can implement or encourage the implementation of the monitoring components (described under section 6 in the Bay Assessment Approach). Where the Board does not have the resources or authority to implement the monitoring components, the Board can identify existing non-Board-related programs that are monitoring or collecting the data, or advocate that they do so.

The Board will use the Bay Assessment Approach to identify opportunities for modifying monitoring programs to include options that would allow and encourage NPDES-permitted facilities and dischargers to collaborate, coordinate, and share monitoring resources and data with regional monitoring programs like the Regional Harbor Monitoring Program (RHMP) or the Integrated Natural Resource Management Plan (INRMP) to reduce redundancies and duplicative efforts, and complement or augment each other's monitoring and data collection efforts.

The guidance also helps the regulated community and other interested parties, such as research and academic institutions or volunteer organizations, understand what information or analyses are of interest to the Board and how available data and information will be analyzed by the Board to help make decisions.

The Bay Assessment Approach allows the regulated community and other interested parties to understand how available data and information will be used by the Board to assess conditions, stressors, sources, and/or performance of management actions. The regulated communities and other interested parties may find that collecting the data for assessments or for developing new or additional methods of data collection or analysis, or metrics and standards needed for assessing and understanding the Bay's waters can provide mutual benefits and align with their own interests.

Finally, because the Bay Assessment Approach is not a regulatory document, the Board can efficiently update Appendix C in the future as additional information about conditions, stressors, sources, and/or performance of management actions is learned, and/or as additional methods, metrics, standards, and/or resources become available.

In summary, the Board will seek opportunities to obtain the data and information called for in the Bay Assessment Approach and will use available assessment results to inform decisions. This will involve using Board resources to collect the information, using its regulatory authority to require parties to collect and report it or parts of it, and working with other interested parties who may have or are interested in collecting it. No specific regulations or requirements are created or mandated by the Bay Assessment approach. Instead, it will be used to inform decisions made by the Board to regulate, educate, and innovate.

3. Limitations of the Bay Assessment Approach

Since the actions of the San Diego Water Board are bounded by resources, regulatory authority, and a transparent and public decision-making process, there are limitations to how and when the Board can implement the Bay Assessment Approach. Just as the Board cannot expend funds and resources it does not have, it cannot require parties to conduct actions for which it lacks authority to do so. And, the Board's transparent and public decision-making processes help ensure that the Board does neither.

The Bay Assessment Approach does not establish regulatory requirements. Regulatory requirements are established as applicable and appropriate by the regulatory actions (e.g., cleanup levels in Cleanup and Abatement Orders, effluent limitations in NPDES

permits, etc.), subject to applicable federal and state regulations, policies, and plans (e.g. Water Code statutes, Clean Water Act section 303(d), Resolution No. 92-49, State Water Quality Enforcement Policy, etc.) and public decision-making processes.

Finally, the Bay Assessment Approach provides guidance, but the Board is not prevented from using other data, information, and analysis methods. If there are other or better data, information, or analysis methods available, the Board will seek to use them for assessment purposes if applicable and appropriate.

In summary, the Bay Assessment Approach does not supersede any established policy or pre-determine any requirements to regulated parties. The Board will implement the Bay Assessment Approach as permissible given the limitations on resources and authorities to implement the Healthy Bay Strategy.