

# **Santa Ana Regional Water Quality Control Board**

## **Response to Written Comments Received for the Triennial Review Priority Lists and Work Plan for Fiscal Years 2024-2027**

August 15, 2024



Santa Ana Regional Water Quality Control Board  
Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
Response to Comments

## INTRODUCTION

This report contains the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) staff responses to written comments received on the Triennial Review High-Priority and Medium-Priority Lists and Work Plan for the 2024-2027 Triennial Review of the [Water Quality Control Plan for the Santa Ana River Basin](#) (Basin Plan).

Santa Ana Water Board staff released a draft High-Priority and Medium-Priority List and Work Plan for public and tribal comment on March 29, 2024. The 30-day public comment period extended from March 29, 2024, to April 29, 2024. During the comment period, the Santa Ana Water Board received 3 comment letters from interested stakeholders. Comments may be shortened or paraphrased. Copies of each comment letter will be provided to the Board members prior to their consideration of the final Triennial Review Resolution.

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

**List of Commenters:**

|   |                                                                           |
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| 1 | United States Environmental Protection Agency (USEPA)                     |
| 2 | Riverside County Flood Control and Water Conservation District (District) |
| 3 | Orange County Public Works (OCPW)                                         |

| No. | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| 1.1 | USEPA     | EPA fully supports Project 8 in the High Priority List, “Designation of the Commercial of the Commercial and Sport Fishing Beneficial Use”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Comment noted. Santa Ana Water Board staff continues to recommend this project as a high priority.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1.2 | USEPA     | It is EPA’s understanding that the State originally included recreational/sport fishing for consumption in freshwaters as part of the REC-1 use, while commercial and recreational/sport fishing for consumption in marine waters was included in the COMM use. However, in 1990s, the State clarified its definition of COMM to include commercial and recreational/sport fishing for consumption in both fresh and marine waters, while the REC-1 use would only include recreational fishing (not for consumption). This required Regional Boards to fill a gap for REC-1 designated freshwaters, and add the COMM use to these waters, to ensure that the designated use for recreational/sport fishing for consumption continued to be covered. | The 1995 Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) designated all ocean waters and most bays and estuaries with the Commercial and Sport Fishing (COMM) beneficial use and these marine waters remain designated with the COMM use.<br><br>In 2017, the Santa Ana Water Board adopted the Basin Plan Amendment “ <i>Revised Compliance Schedule for Shellfish, Newport Bay Watershed, Orange County</i> ”, which approved the COMM designation for several of the Region’s freshwater lakes and reservoirs. |
| 1.3 | USEPA     | It is our understanding that the COMM use has not been added to some REC-1 waters where                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Project No. 8 Designation of the COMM Beneficial Use proposes to designate the                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No. | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                             | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|     |           | recreational/sport fishing for consumption had been a previously designated use. It is important that the Regional Board review all waterbody designations and add the COMM use to all waters that should be protected for recreational/sport fishing for consumption.                                                                                                                              | COMM beneficial use to several lakes and streams where there is sufficient information to demonstrate that the use is existing or is a potential use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 1.4 | USEPA     | Since recreational/sport fishing for consumption is a CWA section 101(a)(2) use, if not designated, a use attainability analysis is required (if not already completed and the use removal/exclusion approved). If the waterbody has an existing fishable (for consumption) use, even if not designated, the use cannot be removed (see 40 CFR 131.10 et seq.).                                     | <p>Many inland waters designated with the water contact recreation (REC-1) beneficial use in the Basin Plan are intermittent, ephemeral, and/or have low flow conditions that prevent the attainment of the COMM use. Additionally, diversions or other types of modifications (e.g., flood control) preclude the attainment of the COMM use, and it is not feasible to restore the water body that will result in the attainment.</p> <p>As part of Project No. 8, Santa Ana Water Board staff will investigate and explain what evidence was used to decide whether to designate or not the COMM beneficial use.</p> |
| 1.5 | USEPA     | On April 16, 2024, EPA received the Regional Board’s report, <i>Santa Ana Regional Water Quality Control Board UAA Reexamination</i> . This report appears to satisfy EPA’s regulation at 40 CFR §131.20(a) that requires states to “re-examine any waterbody segment with water quality standards that do not include the uses specified in section 101(a)(2) of the [Clean Water] Act every three | Comment noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|     |           | years to determine if any new information has become available” and if the uses are attainable, requires the state to revise its standards accordingly. This requirement applies to waters for which the Regional Board has conducted a Use Attainability Analysis (UAA) to justify removing or excluding an aquatic life use, or a fishable or swimmable use such as COMM and REC-1, and to other waters that do not have assigned CWA section 101(a)(2) uses. . . . |                                                                                                                                                                                                                                                                                                                                                                                                 |
| 1.6 | USEPA     | EPA appreciates receiving this report and will review and provide comments to Regional Board staff shortly.                                                                                                                                                                                                                                                                                                                                                           | Comment noted.                                                                                                                                                                                                                                                                                                                                                                                  |
| 1.7 | USEPA     | The Regional Board discussed this requirement in the Medium Priority List (Project 4) and indicated staff intends to complete another review for the next Triennial Review period. EPA appreciates the Board’s commitment and considers this a high priority project.                                                                                                                                                                                                 | The UAA reexamination is not a Basin Plan amendment project, rather a Basin Planning activity. Based on the triennial review criteria developed, Santa Ana Water Board staff do not recommend elevating to a high priority. However, staff will initiate the reexamination of the UAA waters during the triennial review period and plan to submit our findings and determination to the USEPA. |
| 1.8 | USEPA     | EPA’s regulation at 40 CFR §131.20(a) requires states to consider adopting EPA’s new or revised recommended CWA section 304(a) water quality criteria, and if not provide an explanation. The regulation says, “if a state does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a)                                                                                                                        | Comment noted.<br><br>As noted in Project 8: Consider Adopting Clean Water Act Section 304(a) Recommended Criteria description for the Medium-Priority List, the adoption of Clean Water Act 304(a) criteria may be more                                                                                                                                                                        |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|     |           | <p>criteria recommendations, then the state shall provide an explanation when it submits the results of its triennial review”.</p> <p>The Regional Board discusses this requirement in the Medium Priority List (Project 8), and notes that the State Water Board has not adopted these criteria for statewide use. Project 8 lists several specific parameters that the Regional Board will consider for adoption within the Region, including ammonia. EPA appreciates this commitment and considers this project to be a high priority.</p> | <p>efficiently accomplished by the State Water Resources Control Board (State Water Board) as the criteria are of statewide importance. Currently, the State Water Board is considering statewide water quality objectives for biostimulation, cyanotoxins, and biological conditions. In addition, the State Water Board recently directed the Division of Drinking Water to prioritize the development of drinking water regulations during calendar year 2024 for several parameters including hexavalent chromium, perfluoro-octanoic acid and perfluoro-octane sulfonic acid (collectively PFAS), cadmium, and mercury. Under such circumstances, Project 8 is appropriately placed on the Medium-Priority List.</p> |
| 1.9 | USEPA     | <p>In addition, if site-specific conditions exist that would warrant adoption of a new or revised parameter on a waterbody-specific basis, EPA expects that the adoption of that parameter be considered during this triennial review. EPA considers this a high priority for the current Triennial Review.</p>                                                                                                                                                                                                                                | <p>Santa Ana Water Board staff will incorporate all approved Statewide criteria as necessary to the Basin Plan. Where appropriate Santa Ana Water Board staff will incorporate 304(a) recommended criteria into TMDLs and permits.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.1 | District  | <p>The Riverside County Flood Control and Water Conservation District (District) welcomes the opportunity to participate in this important effort to help the Santa Ana Regional Water Quality Control Board (Regional Board) set <i>Water Quality</i></p>                                                                                                                                                                                                                                                                                     | <p>Comment noted.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|     |           | <p><i>Control Plan for the Santa Ana River Basin</i> (Basin Plan) work priorities for the next three years. The Basin Plan is the foundational document for water quality protection in the region and the number of High and Medium Priority projects identified reflects the significant backlog of work needed to update this document. The District appreciates the commitment by the Regional Board to engage stakeholders in the Triennial Review process and sharing the preliminary list of priority basin planning projects.</p>                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                        |
| 2.2 | District  | <p>The District has reviewed the draft Triennial Review Priority List for Fiscal Years 2024–2027 and the High Priority and Medium Priority Project Descriptions. The District does not have assigned waste load allocations and is not listed on any Total Maximum Daily Loads (TMDL); however, in the Principal Permittee role, the District provides technical guidance to the Municipal Separate Storm Sewer System (MS4) Permittees who are listed on the TMDLs. Several of the projects in the preliminary lists have been ongoing for several years. The District is actively engaging with the Regional Board and stakeholders on several of these projects, including the Basin Plan Amendment to Revise the Lake Elsinore and Canyon Lake Nutrient TMDLs (High Priority Project #2) and the Basin Plan Amendment for the Wet Winter Conditions Compliance Date Extension for the MSAR Watershed TMDLs (High</p> | <p>Comment noted. Santa Ana Water Board staff acknowledge the District’s engagement with several of the triennial review projects.</p> |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|     |           | Priority Project #3). While the District is generally supportive of the priorities expressed by the Regional Board, we offer the following comments for consideration. Additional comments may be offered if the list is subsequently revised.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                  |
| 2.3 | District  | Maintain the existing priority for Projects #2 and #3 on the High Priority List.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Comment noted. Santa Ana Water Board staff do not propose to change the exiting priority for these projects.                     |
| 2.4 | District  | <p>The Santa Ana Watershed Project Authority (SAWPA) administers the Lake Elsinore and Canyon Lake TMDL Task Force, the Regional Water Quality Monitoring Task Force, and the Middle Santa Ana River (MSAR) Bacterial Indicators TMDL Task Force (Task Forces). In all of these Task Forces, the District, the Riverside County MS4 Permittees, the Regional Board, and other watershed stakeholders work collaboratively to achieve water quality standards in the Santa Ana River Watershed.</p> <p>Through these Task Forces, watershed stakeholders have worked together to implement the respective TMDL's implementation plans, the Comprehensive Nutrient Reduction Plan and the Comprehensive Bacteria Reduction Plan.</p> | Comment noted. Santa Ana Water Board staff acknowledge the District's engagement and collaboration with the various Task Forces. |
| 2.5 | District  | On June 18, 2015, SAWPA, on behalf of the Task Forces, submitted petitions to reopen and revise the Lake Elsinore/Canyon Lake Nutrient TMDLs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Comment noted.                                                                                                                   |



Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|     |           | <p>and the MSAR Bacterial Indicators TMDL. In response to the letter on November 16, 2015, the Regional Board accepted the offer by the Task Forces to assist the Regional Board in revising the subject TMDLs.</p> <p>Considerable work has been done over the intervening years in a collaborative partnership with the Regional Board and these efforts have advanced substantially over the last Triennial Review period to a point where draft TMDL revision documents have been prepared. The District, on behalf of the MS4s listed on the TMDLs, supports placement of these projects near the top of the High Priority List. It is vital that Regional Board staff complete this work and bring the TMDL revisions to the Regional Board for approval in the coming year. The two-year completion date is also appropriate given the need to obtain approvals from the State Water Resources Control Board (SWRCB) and the Office of Administrative Law.</p> | <p>It is anticipated that the revised Basin Plan amendment for the Lake Elsinore and Canyon Lake TMDLs will be proposed to the Santa Ana Water Board for adoption in December of 2024. Additionally, the Basin Plan amendment to extend the compliance date for the MSAR TMDL is tentatively scheduled for adoption by the Santa Ana Water Board in 2025.</p> <p>The estimated completion date for both Basin Plan amendments is the 2025-2026 fiscal year timeframe.</p> |
| 2.6 | District  | <p>Maintain the existing priority for the Basin Plan Amendment to Revise the Lake Elsinore and Canyon Lake Nutrient TMDLs (High Priority Project #2) and the Basin Plan Amendment for the Wet Winter Conditions Compliance Date Extension for the MSAR TMDLs (High Priority Project #3).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Comment noted. Santa Ana Water Board staff continue to recommend these projects as high priorities.</p>                                                                                                                                                                                                                                                                                                                                                                |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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| 2.7 | District  | Move Project #7 under the Medium Priority List (Consider Revision of the Fecal Indicator Bacteria Objective for the MSAR TMDLs by Developing a Site-Specific Objective) into the High Priority List.                                                                                                                                                                                                                                                                                                                                                                                                | Santa Ana Water Board staff agrees that this issue is of regional and statewide importance. However, in light of the complexity of the issues, agency priorities, and availability of staff resources, the Santa Ana Water Board does not have the capacity to take the lead in developing site-specific objectives for the REC1 freshwater objective. The development of the site-specific objective is anticipated to take longer than this triennial review period. Thus, Santa Ana Water Board staff do not plan to elevate this project into the High-Priority List but will continue to recommend its placement on the Medium-Priority List to ensure that the project remains a priority over the longer term. |
| 2.8 | District  | As highlighted under Medium Priority Project #7, the MSAR TMDL Task Force has funded studies, reviewed recent research, and has considered the efforts of other Regional Boards and the SWRCB regarding the relationship between fecal indicator bacteria concentrations in Waters of the State and risk levels involved with water contact recreation. This project would consider whether a revised objective or a different bacteria indicator, such as HF183, should be adopted as a site-specific objective in order to more precisely assess risk and protect public health for water-contact | Please see the response to comment 2.7. Santa Ana Water Board agrees this issue is of regional and statewide importance. However, at this time, Santa Ana Water Board staff do not recommend elevating this issue to the High-Priority List, in light of the complexity of the issue, need for data and additional research, and other agency priorities. Placement on the Medium-Priority List conveys the Santa Ana Water Board’s ongoing commitment to focusing on the project.                                                                                                                                                                                                                                    |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|      |           | recreation in the MSAR. Unfortunately, it is proposed as Project #7 on the Medium Priority List, meaning that it may not be initiated or completed until the 2027-2030 Triennial Review period or later. The District believes that this important project should be elevated onto the High Priority List.                                                                                                                                                                                               | Santa Ana Water Board staff will continue to closely monitor region and statewide research, and guidance from USEPA. Additionally, during the 2024-2027 triennial review period, Santa Ana Water Board staff will continue to work with the MSAR Task Force to continue to review data related to fecal indicator bacteria and consider the development of site-specific objectives for this TMDLs. |
| 2.9  | District  | The SWRCB, in collaboration with stakeholders, held a summit from September 14-16, 2022, to initiate discussion on the challenges of achieving and attaining bacterial water quality objectives during both dry and wet weather. A follow-up summit is being planned for August 2024, which we encourage the Regional Board to attend.                                                                                                                                                                   | Comment noted.<br><br>Santa Ana Water Board staff participated in the September 2022 Bacteria Summit and will continue to participate as appropriate.                                                                                                                                                                                                                                               |
| 2.10 | District  | Concurrently, the United States Environmental Protection Agency (USEPA) has indicated it is developing technical support materials to assist efforts to develop site-specific criteria that is protective of recreational uses. Given all of this work being conducted to address bacteria throughout the State and country and given the compliance options provided to MS4 stakeholders under the Tentative Order, this project is critical for the Regional Board to consider escalating in priority. | Please see response to comments 2.7 and 2.8.                                                                                                                                                                                                                                                                                                                                                        |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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| 2.11 | District  | <p>The Regional Board's MSAR Comprehensive Bacteria Reduction Plan Audit Report, dated October 2018, found that while "there is a benefit to updating the CBRP [Comprehensive Bacteria Reduction Plan]," Regional Board staff determined that "dedicating the MSAR Permittees' or Regional Board staff resources to updating the CBRP ahead of expected revisions of the Bacterial Indicator TMDL is not worthwhile when a further update would just be needed after the TMDL revision is adopted."</p>                                                                                                                                                                                                                                                | <p>Although circumstances have changed since 2018, Santa Ana Water Board staff continues to hold this view. The CBRP constitutes the water quality-based effluent limits in the MS4 permits. With the renewal of the MS4 permits, it is necessary to consider the CBRPs' function as a method of attaining the waste load allocations considering their effectiveness in protecting water quality so far and that the compliance dates have passed or are imminent. This process will necessarily need to take place in conjunction with the MS4 renewal process, based on the Basin Plan.</p> |
| 2.12 | District  | <p>The District is concerned that the Medium Priority status assigned to this project, with no allocation of personnel year (PYs) for the next three years, will further delay progress on identifying appropriate objectives for water contact recreation progress on the MSAR under dry weather conditions. Consequently, the District requests that this project be elevated from the Medium Priority List to the High Priority List and be assigned PYs in the 2024-2027 Triennial Review period. As noted below in Comment #4, there are opportunities for the Regional Board to reallocate PYs in order to assign this and potentially other Medium Priority projects as High Priority. The District, in collaboration with the Task Forces,</p> | <p>Please see responses to comments 2.7 and 2.8.</p> <p>Santa Ana Water Board staff developed the Medium-Priority List for projects that are unlikely to be completed during this triennial review period due to other regional priorities, but that will continue to receive staff attention as capacity allows. Additionally, the triennial review projects are informed by various factors, including but not limited to Santa Ana Water Board's stated priorities, stakeholder input, resources, and in-progress projects. At this time, Santa Ana Water Board staff have not</p>          |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|      |           | would be willing to assist the Regional Board in completing this project.                                                                                                                                         | proposed a Basin Plan amendment for Project No. 7 to consider revision of the fecal indicator objective for the MSAR, after considering these factors, and in particular, in light of the complexity of the issues, need for evaluation of data, and further investigation; thus we do not anticipate elevating this project to the High-Priority List.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2.13 | District  | The Regional Board should consider a project under the Medium Priority List to establish a plan or policy, or revise existing plans or policies, to facilitate the capture of urban runoff in the MSAR watershed. | The diversion of urban runoff to the sanitary sewer is a tool in controlling pollution. The implementation of these types of diversions in the MSAR watershed may be best incentivized through the Santa Ana Water Board’s stormwater (MS4) and wastewater program to develop a strategy to achieve this goal. The State Water Board has also developed its <a href="#">Strategy to Optimize Resource Management of Storm Water (STORMS)</a> that aligns with the commenter’s suggestion. <a href="#">Water Quality Order 2015-0075</a> additionally includes incentives to capture stormwater runoff from the 85 <sup>th</sup> percentile storm event to comply with receiving water limitations in MS4 permits. Regulatory measures will be developed to be consistent with these efforts. The development of a new, separate plan or policy in the Basin Plan unnecessary considering existing regulatory tools and is largely redundant. |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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| 2.14 | District  | <p>During the Triennial Review's Scoping Meeting, held on January 31, 2024, the District verbally expressed concerns regarding the Riverside County MS4 Permittees' ability to divert runoff to the sanitary sewer for treatment and release to reduce potential bacterial loads coming from outfalls in the MSAR watershed. Through the completion of the Phoenix Avenue Low Flow Diversion Project on July 23, 2021, the District and the City of Riverside successfully implemented the first project of its kind throughout the Inland Empire to capture all dry weather flows and up to one cubic foot per second of wet weather runoff from a 601-acre catchment. This was possible in part because the City of Riverside owns and operates its own treatment plant. The District is continuing to invest, design, and construct similar projects where feasible to serve other MS4 Permittees who do not have their own treatment plants.</p> | <p>Comment noted.</p>                                                                                                                                         |
| 2.15 | District  | <p>The communities, such as Eastvale and portions of Jurupa Valley, are served by wastewater districts and other wastewater treatment operators (e.g. the Western Riverside County Regional Wastewater Authority [WRCRWA], administered by Western Municipal Water District [WMWD]), who are not responsible parties under the MSAR Bacterial Indicators TMDL. There are also site-specific needs required for a diversion, and</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>Please see response to comment 2.13.</p> <p>Further analysis is required prior to determining if sewer diversions are not an option for every outfall.</p> |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|      |           | therefore sewer diversion is not an option for every outfall.                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 2.16 | District  | Diversion of urban runoff to the sanitary sewer are an effective approach for meeting water quality compliance requirements, protecting public health, and providing supplemental water for reuse.                                                                                                                                                  | The diversion of urban runoff to the sanitary sewer is a tool in controlling pollution.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2.17 | District  | Diversion in the MSAR area, however, are constrained due to elevated total dissolved solids (TDS) levels (see Section 5 of the Basin Plan). Wastewater treatment system operators have been hesitant to treat diverted urban runoff due to elevated ambient TDS concentrations, removing a potentially powerful tool for water quality improvement. | <p>It would be helpful if the District would provide a detailed explanation of how TDS objectives are impacting the ability to divert and treat urban runoff in the MSAR Watershed. For example, data on TDS concentrations in urban runoff and proposed diversions would provide more clarity to Santa Ana Water Board staff. In addition, other pollutants, besides high concentrations of TDS, in the urban runoff waste stream are of concern. The runoff waste stream must be fully characterized and evaluated through the federal pretreatment program criteria as required under the NPDES permits issued by our Santa Ana Water Board.</p> <p>We suggest working with the Santa Ana Water Board wastewater program staff to determine a path forward on implementing urban runoff diversions along the Middle Santa Ana River.</p> |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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| 2.18 | District  | <p>The District therefore recommends adding a Medium Priority project to the Basin Plan's Triennial Review Work Plan to investigate these issues and encourage collaboration between wastewater treatment system operators and MS4s on the capture and treatment of urban runoff. This project would generally support local, regional, and state objectives to capture more stormwater. The initial work would require minimal Regional Board staff time since it would involve activities to identify the need for a new policy or policy changes to be developed in the next Triennial Review period and would thus be appropriate to be placed under the Medium Priority List.</p> | <p>Please see response to comment 2.14.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2.19 | District  | <p>The Regional Board should be more transparent in the allocation of personnel years (PYs) to projects under the Triennial Review Priority Project Lists by breaking down the number of available PYs by fiscal year.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>It is difficult to accurately estimate the PYs necessary to complete each triennial review priority project per fiscal year since the scope and complexity of each project may change once it is undertaken. However, Santa Ana Water Board did include the estimated total PYs anticipated to complete each project as part of the High-Priority List Work Plan. Please note these numbers are only estimated and may not accurately reflect the resources necessary or available to complete each project. For the Medium-Priority List, staff decided not to estimate PYs for each project. As mentioned, Santa Ana Water Board staff will continue to</p> |



Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

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|      |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | monitor and work with stakeholders on these projects as necessary.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 2.20 | District  | <p>The layout of the proposed 2024–2027 workplan differs from that for the 2019–2022 workplan. The earlier list gave the PYs data for each of the three fiscal years covered, as well as information on the number of PYs available for allocation by year broken down to increments as small as 0.05 PYs. The current draft list, by comparison, provides the estimated completion dates for each of the projects and the PYs required in total for that project, generally in increments of whole PYs. Extrapolating the yearly PYs from this data, assuming a consistent level of effort, suggests a highly variable allocation of PYs by year (6.7 in 2024–2025, 4.7 in 2025–2026, and 3.2 in 2026–2027) and provides no information on the staff PYs that the Regional Board actually has available.</p> | <p>Please see the response to comment 2.19.</p> <p>Santa Ana Water Board staff removed the PY breakdown per fiscal year from the current triennial review work plan due to the difficulties in accurately estimating the staff time needed to complete each project. Based on past experiences, Santa Ana Water Board staff has found that the PYs allocated for past triennial review projects were underestimated, which affects the number of projects that can be completed.</p> <p>The PYs for Basin Plan projects/activities vary slightly from year-to-year. The level of effort put forth on each project will not likely be consistent each year. The Santa Ana Water Board is allocated approximately nine (9) PYs per fiscal year for all planning activities, which may not necessarily involve a Basin Plan amendment. Additionally, staff vacancies may limit the number of projects that can be completed.</p> |
| 2.21 | District  | <p>The District, therefore, requests that the PYs in the workplan be broken down on a yearly basis and that information be provided on the Regional Board staff resources available for Basin Plan</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>Please see response to comments 2.19 and 2.20.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Response                                                                                                                                                                                                                                  |
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|      |           | <p>work. We believe that this exercise may be useful in assessing resource allocations and potentially result in the freeing up of PYs for additional projects. This is important, given that nine Medium Priority projects currently do not have PYs allocated to them.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>For the Medium-Priority List, staff have decided not to estimate PYs for each project. As mentioned, staff will continue to monitor and work with stakeholders on these projects as necessary.</p>                                     |
| 2.22 | District  | <p>Given that a PY represents 2,080 hours, the District suggests that some of the High Priority projects on the list are estimated to require a larger number of hours than would be required to accomplish them. For example, Projects 5 and 11 on the High Priority List workplan are administrative actions to incorporate previously approved statewide plans and policies into the Basin Plan and incorporate approved Regional Board amendments to the online Basin Plan. Together, they are assigned 1.5 PY over a three-year period. A more streamlined process to complete these actions with fewer PYs could potentially allow additional Medium Priority projects, such as the project noted above in Comment #2, to be initiated during the 2024-2027 review period and be assigned PYs.</p> | <p>Please see response to comments 2.19 and 2.20.</p> <p>In the past, PYs were underestimated so streamlining may not be feasible, but the Board continues to evaluate how to most efficiently and effectively complete its projects.</p> |
| 3.0  | OCPW      | <p>The County of Orange and Orange and the County Flood Control District (collectively, “the County”) appreciate the opportunity to provide comments on the proposed <i>Triennial Review of the Water Quality Control Plan for the Santa Ana River Basin</i> for fiscal years 2024-2027.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>Commented noted.</p>                                                                                                                                                                                                                   |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No. | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Response                                                                                                                                                                                                                                                    |
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| 3.1 | OCPW      | <p>The County participated in the Scoping meeting that was held on January 31, 2024, has reviewed the draft Triennial Review High and Medium Priority Lists and Project Descriptions, and is providing the following process and technical comments. These comments were developed in conjunction with the cities of Brea, La Habra, Placentia, Seal Beach, Stanton, and Villa Park who have indicated that they should be considered concurring entities with the County’s comments. Additional comments may be offered if the Priority Lists are subsequently revised and when considered for approval.</p> | <p>Comment noted.</p>                                                                                                                                                                                                                                       |
| 3.3 | OCPW      | <p>The Triennial Review should utilize a prioritization process that identifies a reasonable number of projects that can be significantly undertaken and/or completed within the three-year Triennial Review Workplan timeframe.</p>                                                                                                                                                                                                                                                                                                                                                                          | <p>The Triennial Review High-Priority List includes projects that can be completed or significantly advanced during the triennial review time frame. This was an important criterion for choosing projects for the Triennial Review High-Priority List.</p> |
| 3.4 | OCPW      | <p>The County understands that the Regional Water Board developed the high and medium priority lists based on a number of factors including, but not limited to, Santa Ana Water Board’s stated priorities, stakeholder input, and anticipated project completion.</p>                                                                                                                                                                                                                                                                                                                                        | <p>The triennial review projects are informed by various factors, including but not limited to Santa Ana Water Board’s stated priorities, stakeholder input, resources, and in-progress projects.</p>                                                       |
| 3.5 | OCPW      | <p>The County appreciates and supports the effort that Regional Water Board staff made in</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>Comment noted.</p>                                                                                                                                                                                                                                       |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No. | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|     |           | <p>narrowing the number of high priority projects in the 2024-2027 list (from over 40 projects for the 2019-2022 list to roughly a dozen projects for 2024-2027). In order for the Triennial Review to guide staff resources and commitments to the highest priority projects, there needs to be a realistic number of projects that can be undertaken in a meaningful and significant manner during the Workplan timeframe. This approach should be continued in the future.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 3.6 | OCPW      | <p>The High and Medium Priority Draft Project Descriptions should identify the key actions necessary to complete each project (including a Basin Plan Amendment, where applicable) and the estimated time and personnel resources necessary for each.</p>                                                                                                                                                                                                                         | <p>The identification of a project during a triennial review does not necessarily determine the specific method or strategy staff will use to address projects.</p> <p>However, Santa Ana Water Board staff updated the project descriptions for several of the High-Priority List projects to include more detail on the steps necessary to complete the project. For the Medium-Priority List projects, a description of what steps will be taken to work with stakeholders to assess and monitor these projects has been added to the descriptions.</p> |
| 3.7 | OCPW      | <p>The Draft High Priority List Workplan currently includes a projected fiscal year completion timeframe and estimated staff resources. However, the Workplan and High Priority / Medium Priority Draft Project Descriptions do not</p>                                                                                                                                                                                                                                           | <p>Please see response to comment 3.6.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No. | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Response                                                                                                                                                                                                                                                                                                                                    |
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|     |           | include a planning-level scope of work as well as the timeline and personnel resources that are necessary for each fiscal year in order for the project to be completed. The County recommends that this information be outlined within the Draft Project Descriptions so that there is increased clarity and transparency regarding the effort necessary for each of the projects.                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                             |
| 3.8 | OCPW      | Given the limited Regional Water Board resources, projects that have the ability to leverage third party resources should be identified.                                                                                                                                                                                                                                                                                                                                                                                           | Santa Ana Water Board staff work collaboratively with TMDL task forces, County staff, USEPA and other resources agencies to assist with triennial review projects. The revised Triennial Review Work plan identifies anticipated stakeholder/third party assistance.                                                                        |
| 3.9 | OCPW      | The Triennial Review Preliminary Priority List that was transmitted on January 25, 2024, included a column entitled <b>Stakeholder Assistance/ Program Staff</b> , which identified the various stakeholder groups that are directly involved in each project and may be able to provide resources to the Regional Water Board in order to complete the applicable project. However, it is unclear why that column is no longer included in the Draft Triennial Review High Priority List Workplan, distributed on March 29, 2024. | Santa Ana Water Board staff made the determination to remove the “Stakeholder Assistance/Programs Staff” column to assist with the use of the Work plan. However, due to comments received Santa Ana Water Board staff updated the Triennial Review Work plan to identify anticipated stakeholder/third party assistance and program staff. |
| 3.9 | OCPW      | The County is supportive of this information being included within the High Priority List and                                                                                                                                                                                                                                                                                                                                                                                                                                      | Please see response to comments 3.7 and 3.8.                                                                                                                                                                                                                                                                                                |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Response                                                                                                                                                                        |
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|      |           | <p>recommends that the level and type of effort that may be provided by the stakeholders be further described for each project within the Draft Project Descriptions. Similar to <b>Comment #2</b>, this information will assist in identifying which projects have the highest chances of having significant work completed during the Triennial Review timeframe.</p>                                                                                                                                                                                                                                                     |                                                                                                                                                                                 |
| 3.10 | OCPW      | <p>At the end of the Triennial Review period (2027), the high priority projects that were not completed from the current Priority List should be assessed to determine if they should remain on the next Triennial Review Priority List or removed. In addition, the medium priority projects should be re-assessed to determine if they should be elevated to the High Priority List.</p>                                                                                                                                                                                                                                  | <p>Comment noted.</p> <p>Santa Ana Water Board staff will reassess projects on the High- and Medium-Priority List when ranking the next triennial review priority projects.</p> |
| 3.11 | OCPW      | <p>During each Triennial Review period, it seems as if each High Priority List is a stand-alone document that does not have any supporting rationale as to how it is related to the previous High Priority List. It is recommended that, during each Triennial Review period, that Regional Water Board staff assess the current status of the previous High and Medium Priority Lists to determine what projects should remain on the lists, which projects should no longer be on the lists, as well as what new projects should be added. This assessment and summary of the decisions should be included within the</p> | <p>Please see response to comment 3.10.</p>                                                                                                                                     |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                           | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|      |           | Description of the Proposed Issues so that the history of each project is summarized.                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 3.12 | OCPW      | The Regional Water Board should not prioritize projects that are already underway at the State Water Resources Control Board.                                                                                                                                                                                                                                                                     | The current triennial review does not prioritize projects already underway by the State Water Board. However, Santa Ana Water Board will monitor and participate with statewide efforts to review nutrient objectives, develop biostimulatory substances, implement biological integrity and other projects the State Water Board is working on. We realize we do not have the resources to contribute to completing these projects. Therefore, these projects are not high priority triennial review projects, but some are identified and characterized as medium priority projects in recognition of the need to remain up to date with State Water Board efforts that could lead to improvements in the region's water quality and that may require the future dedication of Santa Ana Water Board staff resources. |
| 3.13 | OCPW      | Given the limited Regional Water Board resources and number of priority projects that can potentially be addressed within the three-year timeframe, the Regional Water Board should not prioritize issues that are already underway at the State Water Resources Control Board (e.g., review of nutrient objectives, development of biostimulatory substances and program to implement biological | Please see response to comment 3.12.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Response                                                                                                                                                                                                       |
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|      |           | integrity). We are supportive that the High and Medium Priority Lists do not currently include these types of projects.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                |
| 3.14 | OCPW      | <p>We support the following projects being placed on the Triennial Review High Priority List:</p> <ul style="list-style-type: none"> <li>• <b>Project 4</b> - Consider Separating the Shellfish Harvesting and Water Contact Recreation Uses from the Newport Bay Fecal Coliform Total Maximum Daily Loads</li> <br/> <li>• <b>Project 5</b> - Complete a Basin Plan Amendment to Incorporate All Statewide Objectives and Other Statewide Plans and Policies</li> </ul> <p>Given the importance of and need for the Basin Plan to be consistent with other, adopted Statewide Plans and Policies, this high priority project should be a standing high priority item for all Triennial Reviews.</p> <ul style="list-style-type: none"> <li>• <b>Project 10</b> - Consider a Site-Specific Objective for Shellfish Harvesting in Newport Bay</li> </ul> | Comment noted.                                                                                                                                                                                                 |
| 3.15 | OCPW      | Expand Project #4 to also include other revisions that need to occur to the Fecal Coliform TMDLs; adopt enterococcus as the fecal indicator bacteria.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Santa Ana Water Board staff revised Project No. 4: Consider Separating the Shellfish Harvesting and Water Contact Recreation Uses from the Newport Bay Fecal Coliform Total Maximum Daily Loads description to |



Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|      |           | <p>Although the County is supportive of Project #4, it is also recommended that the project address the elements previously included in the 2019 Basin Plan Triennial Review – “Work with stakeholders to revise the REC TMDL and adopt enterococcus as the fecal indicator bacteria.”</p>                                                                                                                                                                                                                                                                                                                           | <p>make it clear that the revision may include using enterococcus as the fecal indicator bacteria rather than fecal coliform and incorporating accompanying objectives and monitoring.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 3.16 | OCPW      | <p>Numerous scientific and policy advancements related to the understanding of potential beneficial use impacts from bacteria discharges have occurred since the development of the TMDL that warrant a TMDL reopener; including the need to update the TMDL to be consistent with Statewide Bacteria Provisions (see Project #5). In addition, it is also important the TMDL be updated to acknowledge the EPA criteria revisions and subsequent information developed by EPA highlights the importance of focusing on risk and in particular human waste sources of bacteria when implementing the objectives.</p> | <p>Project No. 5: Complete a Basin Plan Amendment to Incorporate all Statewide Objectives and other Statewide Plans and Policies only intends to make editorial non-regulatory changes that clarify, update, or eliminate outdated paragraphs, tables, figures, references, and correct other minor errors in the Basin Plan.</p> <p>Updating the Upper and Lower Newport Bay Fecal Coliform TMDL is part of Project No. 4: Consider Separating the Shellfish Harvesting and Water Contact Recreation Uses from the Newport Bay Fecal Coliform Total Maximum Daily Loads. The Project No. 4 description has been updated to make it clear that the revision may include using enterococcus as the fecal indicator bacteria rather than fecal coliform to be consistent with the Inland Surface Waters and Enclosed Bays and Estuaries (ISWEBE) Plan Bacteria Provisions.</p> |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Response                                                                                                                                                                                                                                                                                                                                     |
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|      |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Additional guidance will be necessary from the State Water Board in future efforts to focus on metrics of health risk, as a potential alternate means of demonstrating attainment of beneficial uses beyond current requirements to meet the water quality objectives as listed in the approved ISWEBE Bacteria Provisions.                  |
| 3.17 | OCPW      | The need for the TMDL revisions, consideration of a broader scope of revisions than just separating the shellfish harvesting and recreational beneficial uses in the TMDL, and the intent to work with Stakeholders on the revisions has been documented in numerous public documents. Most recently, the intent was described in the Newport Bay Fecal Coliform TMDL Time Schedule Order (R8-2019-0050) and the Time Schedule Order Amendment (R8-2023-0063) with the requirement to develop a communication plan to coordinate work with Santa Ana Water Board staff on developing a revised TMDL. | Comment noted.                                                                                                                                                                                                                                                                                                                               |
| 3.18 | OCPW      | For Project #5, add the 2020-2025 Nonpoint Source Implementation Plan and include key findings that are directly applicable to the Santa Ana Region and, specifically, the TMDL for sediment in the Newport Bay /San Diego Creek watershed in the Basin Plan.                                                                                                                                                                                                                                                                                                                                        | Project No. 5 only intends to make editorial non-regulatory changes that clarify, update, or eliminate outdated paragraphs, and correct other minor errors in the Basin Plan. These non-regulatory changes are only intended to be descriptive. The proposed changes include incorporating approved statewide plans and policy descriptions, |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|      |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>updating approved objectives, and eliminating outdated program descriptions.</p> <p>The Nonpoint Source Program Implementation Plan is updated every five (5) years based on the non-point source priorities for the Region. The goal of this five-year plan is to present the general goals and objectives for addressing nonpoint source pollution over the timeframe of January 2021 to June 2025.</p> <p>Thus, Santa Ana Water Board staff do not recommend adding the 2020-2025 Nonpoint Source Implementation Plan to Project No. 5 since priorities may change.</p> |
| 3.19 | OCPW      | <p>The 2020-2025 Nonpoint Source Program Implementation Plan was adopted by the State Water Resources Control Board in November 2020. Within the Santa Ana Region, Goal 1 is to “improve water quality and reduce nonpoint source pollution discharges to Newport Bay”. This includes, but is not limited to item 2.e, which is specific to sediment related issues and recognizes the following:</p> <ul style="list-style-type: none"> <li>• “The sediment TMDL calls for a 50% reduction in sediment loading by 2009 and is measured as a 10-year running average (target is 62,500 tons/year). Load allocation</li> </ul> | <p>Santa Ana Water Board staff acknowledge that the 2022 Sediment TMDLs compliance annual report shows that the TMDL numeric target for loading is currently being attained, and the target for in-bay basin depths is also being achieved. However, Santa Ana Water Board staff believe additional information is necessary to address the Sediment TMDL, such as:</p> <ul style="list-style-type: none"> <li>• A determination if point sources such as organochlorine compounds are still associated with sediment flowing into Newport Bay;</li> </ul>                    |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|      |           | <p>targets established in the TMDL are being met.”</p> <ul style="list-style-type: none"> <li>• “Since load allocation targets have been met and the remaining major sources are largely dedicated open space areas, it is appropriate to manage the ongoing sediment input to Newport Bay under a nonpoint source approach.”</li> <li>• This critical policy shift regarding how sediment should be managed in the Newport Bay Watershed and Newport Bay (which includes specific objectives and milestones) was worked on as a collaborative effort between the Newport Bay Funding Partners and Regional Water Board staff and needs to be updated within the Basin Plan.</li> </ul> | <ul style="list-style-type: none"> <li>• Determine how the sediment TMDL could be revised to mitigate for saltwater marsh habitat and other impacts such as sea level rise; and</li> <li>• If the sediment impairment is de-listed how would there be a transition to a maintenance level program.</li> </ul> <p>Therefore, at this time, Santa Ana Water Board staff do not plan to elevate this Project to the High-Priority Project List in light of the need for additional information and since it is unlikely it will be completed during this triennial review period. However, Santa Ana Water Board staff will continue to work with OCPW to identify what environmental and technical documentation is necessary to revise the TMDL. In addition, staff will work with OCPW to modify the existing TMDL as necessary. For example, monitoring requirements and implementation measures have been reduced for this TMDL as conditions have changed.</p> |
| 3.20 | OCPW      | Move Medium Priority Project #2 (Review the Total Maximum Daily Loads for Sediment in the Newport Bay/San Diego Creek Watershed) to the High Priority Project List and update the project description.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Please see response to comment 3.19.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                          | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| 3.21 | OCPW      | <p>Move Medium Priority Project #1 (Consider/Develop a Selenium Site-Specific Objectives for Freshwater within the Newport Bay Watershed) to the High Priority Project List.</p> <p>This project would include an evaluation of the need to revise the Selenium TMDLs after the adoption of the revised USEPA selenium criteria (anticipated in early 2024).</p> | <p>At this time, Santa Ana Water staff are waiting for revised USEPA selenium criteria guidance to be able to develop site-specific objectives for the Selenium TMDLs. Due to the complexity, and possible delays with the completion of the selenium criteria, it is anticipated that this project will not be completed during this triennial review period. Santa Ana Water Board staff will continue to work with OCPW staff on meeting compliance with the TMDLs, review criteria when available, and consider possible site-specific objectives for the TMDLs.</p>                                                            |
| 3.22 | OCPW      | <p>Include New High Priority Project – Develop overarching approach for TMDL compliance pathways for incorporation into municipal stormwater permits.</p>                                                                                                                                                                                                        | <p>Adding potential permit compliance pathways into a TMDL or the Basin Plan does not dictate the method and manner of compliance. However, it does assist in laying out how the TMDL is intended to be implemented in permits.</p> <p>Santa Ana Water Board staff do not believe it is appropriate for the Basin Plan to dictate specific methods for demonstrating compliance with waste load allocations. It is best left to the permits to identify the specific methods that permittees may use to demonstrate compliance. Permits have an advantage in that they are renewed more often and updated more readily than the</p> |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No.  | Commenter | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|      |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Basin Plan and can be more responsive to changes in the regulatory environment and in stormwater science. General strategies have already been described in <a href="#">Water Quality Order 2015-0075</a> and are being developed as part of <a href="#">STORMS</a> by the State Water Board.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 3.23 | OCPW      | With the exception of the Newport Bay Watershed Selenium TMDLs, the other TMDLs adopted by the Regional Water Board within the North Central portion of Orange County are older and do not include clear compliance determination language. As a result, the compliance pathways included within the permits are often limiting and do not recognize a range of viable, potential pathways that could be included for each of the TMDLs. This project could define the range of potential compliance pathways (similar to what has been proposed by the Tri County Group as a part of the Santa Ana Region municipal regional stormwater permit renewal process) as well as an approach for determining which of the compliance pathways apply to each of the adopted TMDLs. This project would assist in addressing some of the regulatory and technical challenges in the older TMDLs until the resources are available to update them and provide much needed clarity for Santa Ana Board staff as well as the regulated entities. | Please see response to comment 3.23. Dischargers are responsible for complying with permits and other regulatory mechanisms (i.e. WDR, waivers, 401 certifications, etc.) that the Santa Ana Water Board uses to implement its Basin Plan. The Basin Plan should describe the general strategies that the Santa Ana Water Board will use in its regulatory mechanisms to attain load allocations and waste load allocations in its adopted TMDLs. General strategies include using allocations as numeric effluent limitations in permits or allowing the use of BMP-based effluent limitations before and after compliance dates, or some combination. “Compliance pathways” refers to the methods that permittees will use to demonstrate compliance with effluent limitations in permits or other regulatory mechanisms. At the same time, different regulatory |

Santa Ana Regional Water Quality Control Board  
 Triennial Review Priority Lists and Work Plan – Fiscal Years 2024-2027  
 Response to Comments

| No. | Commenter | Comment | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|     |           |         | <p>mechanisms are influenced by factors other than the Basin Plan, such as federal and state regulations and policies and case law. Therefore, the development of those methods is best left to the adoption or implementation processes for those regulatory mechanisms. Because regulatory mechanisms are more readily renewed and updated than the Basin Plan and can be tailored to the regulatory environment surrounding their respective program, this approach is more flexible and agile than establishing specific compliance pathways in the Basin Plan.</p> |