

Staff Report
For the
2011 Triennial Review
Of the
Water Quality Control Plan for the North Coast
Region

September 9, 2011



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Table of Contents

Introduction.....	1
2011 Triennial Review Process.....	2
2011 Triennial Review List of Potential Basin Plan Amendments.....	3
2011 Triennial Review Short List of Potential Basin Plan Amendments.....	4
Additional Issues Raised Since Release of the Initial Report – Issues Included on Proposed 2011 Triennial Review List	4
Additional issues Raised Since Release of the Initial Report – Issue Not Included on Proposed 2011 Triennial Review List.....	6
Estimate of Staff Resources.....	7
Conclusion.....	7
Table 1 – 2011 Triennial Review List of Potential Basin Plan Amendments.....	9
Table 2 – 2011 Triennial Review Short List of Potential Basin Plan Amendments.....	11
Attachment 1 - Public Notice for June 22, 2011 Workshop	
Attachment 2 - Initial Staff Report for the 2011 Triennial Review, with errata sheet (revised September 2, 2011)	
Attachment 3 - Draft Resolution R1-2011-0091 and Attachment 1	

INTRODUCTION

This *Staff Report for the 2011 Triennial Review of the Water Quality Control Plan for the North Coast Region* contains Regional Water Board staff's recommendation and rationale for the inclusion of water quality planning-related issues (issues) on the proposed *2011 Triennial Review List of Potential Basin Plan Amendments*.

The North Coast Regional Water Quality Control Board (Regional Water Board) periodically reviews and updates the *Water Quality Control Plan for the North Coast Region* (Basin Plan) as required by state¹ and federal² law. Because federal law requires that water quality standards be reviewed every three years, the periodic review of the Basin Plan is commonly referred to as the "Triennial Review". The Triennial Review is not itself a Basin Plan amendment and does not itself result in changes to the Basin Plan. It is the process by which the Regional Water Board identifies, groups, and ranks issues that may result in the development of a Basin Plan amendment.

The *2011 Triennial Review List of Potential Basin Plan Amendments (2011 Triennial Review List)* as adopted by the Regional Water Board will direct the planning efforts of staff for the next three years. As staffing and other resource limitations allow, Regional Water Board staff will investigate each of the issues identified on the *2011 Triennial Review List* (Table 1 of this report) for development as a potential Basin Plan amendment.

Subsequently, and separate from the Triennial Review process, the Regional Water Board will consider each proposed Basin Plan amendment using the California Environmental Quality Act (CEQA) functional equivalent process, including public participation and public noticed hearings. This will allow the Regional Water Board and the public to consider each potential Basin Plan amendment on its own merits and to receive public input on specific issues.

In total, thirty-five issues were identified during the 2011 Triennial Review comment period. Staff has included thirty-one of these issues on the proposed *2011 Triennial Review List*. Rationale for omission of specific issues is contained in either the *Initial Staff Report for the 2011 Triennial Review* (Initial Report) or as part of this report.

¹ California Water Code section 13240 states that Basin Plans "...shall be periodically reviewed and may be revised".

² Clean Water Act section 303(c)(1) states that the Regional Water Boards "...shall from time to time (but at least once each three year period...) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards."

2011 Triennial Review Process

On June 14, 2011 the Regional Water Board published a public notice (Attachment 1) announcing the availability of the *Initial Report*, the dates of the public comment period and the pending public workshop.

The *Initial Staff Report for the 2011 Triennial Review (Initial Report)* presented the initial assessment by staff on those portions of the Basin Plan that may be outdated or that require substantive revisions, additions or deletions to ensure that the Basin Plan remains an effective regulatory tool. Staff revised the *Initial Report* following the close of the public comment period to correct editorial and typographical errors. An errata list detailing the revisions is included in the revised *Initial Report*, dated September 2, 2011. The revised *Initial Report* is included with this report as Attachment 2.

The public workshop on the 2011 Triennial Review was held during the Regional Water Board's June 22, 2011 public meeting. The purpose of the workshop was to inform the Board and public on the status of the 2011 Triennial Review. Two public comments were received at that time and will be summarized in the *Regional Water Board Staff Response to Public Comments on the 2011 Triennial Review of the Water Quality Control Plan for the North Coast Region (Response to Comments)*

Public comments were solicited until August 24, 2011. Eleven written comments on the 2011 Triennial Review were received and will be summarized in the *Response to Comments*. Staff's responses to both oral and written comments will be included in this document. The *Response to Comments* will be available for review before the September 29, 2011 Regional Water Board hearing.

Generally, public input into the Triennial Review process has encouraged the Regional Water Board to continue working on issues already underway, citing the importance of the issues previously identified on the 2007 (and earlier) Triennial Reviews. However, concern was raised about diminishing staff resources being an impediment to accomplishing the necessary work required to protect the beneficial uses of water in the North Coast Region.

As part of the Triennial Review process, the Regional Water Board must adopt a resolution that approves the *2011 Triennial Review List*. Draft Resolution No. R1-2011-0091 (Attachment 3 of this report) includes findings regarding the requirements for and the intent of the Triennial Review and relevant actions taken as well as the proposed *2011 Triennial Review List of Potential Basin Plan Amendments*.

The *2011 Triennial Review List* adopted by the Regional Water Board will direct the planning efforts of staff for the next three years. As staffing and budget allow, Regional Water Board staff will consider each of the water quality issues

identified on the Triennial Review List for development of potential Basin Plan amendments.

The inclusion of an issue on the 2011 Triennial Review List does not necessarily mean that any amendment will be made to the Basin Plan. The decision on whether or not to proceed with a Basin Plan amendment is only made after the Regional Water Board reviews the technical and legal considerations associated with an issue and determines that development of a Basin Plan amendment is appropriate for further consideration.

The Regional Water Board is scheduled to consider the proposed *2011 Triennial Review List* during the September 29, 2011 public hearing. A Notice of Public Hearing was distributed to interested parties on September 15, 2011. The purpose of the hearing is to receive any additional public comments or testimony on the proposed *2011 Triennial Review List*. Following the close of the hearing, Regional Water Board staff will provide oral responses to any additional comments received during the hearing. The *2011 Triennial Review List* may be revised, as appropriate, to reflect additional public comments and Regional Water Board direction.

It is the professional judgment of the basin planning staff that all the issues identified on the 2011 Triennial Review List represent issues that warrant Regional Water Board staff's attention and investigation. Development of a complete and accurate Triennial Review List highlights the continuing lack of adequate resources available to fully accomplish the numerous planning activities identified as in need of investigation by the interested public, the discharge community and Regional Water Board staff.

2011 Triennial Review List of Potential Basin Plan Amendments

Staff reviewed each of the issues submitted as part of the 2011 Triennial Review to evaluate the appropriateness of a Basin Plan amendment to address the identified need. Duplicate and similar issues were combined and consolidated as appropriate. Issues that would be most effectively addressed through means other than a Basin Plan amendment were removed from the proposed Triennial Review List.

The proposed *2011 Triennial Review List* (Table 1) is the result of planning staff's deliberations with Regional Water Board staff from other programs, as well as staff from the State Water Board and the statewide basin planning roundtable, to determine the appropriateness of adding, removing or maintaining an issue on the *2011 Triennial Review List*.

The proposed *2011 Triennial Review Short List* represents staff's best estimate of the planning-related work that can be accomplished over the next three years. The *2011 Triennial Review List* also includes issues that were identified as in

need of investigation but are not expected to receive the internal resources needed to develop a Basin Plan amendment before the end of the 2011 to 2014 planning cycle. The proposed *2011 Triennial Review List* (including the *2011 Triennial Review Short List*) was developed based on a number of criteria. The primary criteria used in development of the *2011 Triennial Review List* was the status of the Basin Plan amendments already being developed by staff as a result of the 2007 Triennial Review. Other important criteria include the need to comply with dates in a court sanctioned stipulated agreement and the status of upcoming State Water Board policies or other planning-related work that will require Regional Water Board action.

2011 Triennial Review Short List of Potential Basin Plan Amendments

The first five tasks identified on the *2011 Triennial Review List* are collectively referred to as the *2011 Triennial Review Short List of Potential Basin Plan Amendments (2011 Triennial Review Short List)*. As stated above, staff combined related issues as appropriate into discrete tasks. For example, the first task identified on the proposed *2011 Triennial Review Short List* includes the development of seven independent amendments related to Total Maximum Daily Loads (TMDLs) for a subset of the impaired water in the North Coast Region. This approach was used to develop estimates of the staff resources needed from the other affected programs (non-planning resources) and the corresponding tentative schedules for the Board's consideration. The issues identified on the *2011 Triennial Review Short List* range from complex, multifaceted amendments such as actions related to adoption of TMDLs and the development of new groundwater objectives and an implementation program, to the relatively straightforward consideration of editorial amendments to the Basin Plan.

Staff proposes that as the Basin Plan amendments contained on the *2011 Triennial Review Short List* are submitted to the Regional Water Board for consideration, the next issue on the *2011 Triennial Review List*, as appropriate, would move onto the *2011 Triennial Review Short List*.

Additional Issues Raised Since Release of the Initial Report – Issue Included on the Proposed 2011 Triennial Review List

The following section presents a discussion on the issues that were raised during the 2011 Triennial Review that were not addressed in the *Initial Report* or for which additional information was submitted resulting in a revision to the initial assessment made by staff.

Ammonia

In developing NPDES permits staff relies on the existing toxicity objective to regulate the discharge of ammonia to waters of the state. Staff uses a numeric criteria published by USEPA to develop effluent limits for this constituent. As more focus is placed on agricultural land uses (dairies and grazing activities, etc.)

a specific objective for ammonia may provide clarity to discharges and could be a useful tool in permit development. This issue will be retained on the *2011 Triennial Review List*.

Recommendation: This issue will be retained on the *2011 Triennial Review List*.

Fluoride

As described in the *Initial Report* the existing objective for fluoride is contained in Table 3-2. This table is extremely outdated and is proposed for deletion as part of other ongoing basin planning work (proposed 2011 Triennial Review Task 3). Fluoride limits can be established in permits and other Board actions using the chemical constituent objective and the proposed *Policy on the Application of Narrative Water Quality Objects*, a major component on proposed 2011 Triennial Review Task 3. However, a placeholder will be maintained on the *2011 Triennial Review List* in the event that a specific fluoride objective is deemed to be useful by either dischargers or staff. This issue will be retained on the *2011 Triennial Review List*.

Recommendation: This issue will be retained on the *2011 Triennial Review List*.

TMDL Action Plans for Impaired Waters

This is a placeholder for existing technical TMDLs that do not have watershed specific implementation plans (Action Plan) developed for them. There are no staff resources to work on this important task at this time. This issue will be added to the *2011 Triennial Review List*.

Recommendation: This issue will be added to the *2011 Triennial Review List*.

Salt and Nutrient Management Plans

As part of the adoption of the statewide Recycled Water Policy, the development of salt and nutrient management plans are required for the sixty plus groundwater basins in the North Coast Region. According to the state Policy stakeholders have five years from adoption of the policy, to bring a salt and nutrient management plan to the Regional Water Board for consideration. The City of Santa Rosa is the only stakeholder in the Region that has discussed this pending requirement with Regional Water Board staff. It is staff's intention that the groundwater protection policy and implementation program being developed as part of proposed *2011 Triennial Review List* Task 3 will meet the intent of the Recycled Water Policy in lieu of the need to process individual Basin Plan amendments for the sixty plus basins in the Region. This issue will be added to the *2011 Triennial Review List*.

Recommendation: This issue will be added to the *2011 Triennial Review List*.

Copper Objectives

Staff was requested to investigate the development of copper objectives based on the Biotic Ligand Model adopted by USEPA in 2001. The California Toxics Rule and State Implementation Plan (SIP) section 5.2 (site-specific objectives) may allow for the BLM approach if SIP requirements are satisfied, but it would be applicable only as a site-specific approach, not a region-wide approach. The SIP's choices for effluent limitation development limit the methodologies that can be applied and the BLM approach is not specifically recognized within them. However, the SIP recognizes translators, water effects ratios (WERs), and mixing zones which, if appropriately applied, may provide relief to achieve effluent limitations that remain protective. Also, in the case of freshwater metals criteria, both the SIP and CTR provide considerable flexibility in defining the hardness used in calculating the CTR criteria. This issue will be added to the *2011 Triennial Review List*.

Recommendation: This issue will be added to the *2011 Triennial Review List*.

Low Flows and Water Quality Impairment

Many of the comments received on the proposed *2011 Triennial Review List* related to water flows both in terms of TMDL load allocations and impaired waterbody status, as well as resulting in general impacts to beneficial uses of water. The last three TMDLs adopted by the Regional Water Board have in some measure taken into account the flow regime in the impaired watershed. This trend will likely be continued in the upcoming TMDLs as well, particularly as it will effect the Lower Russian River Pathogen TMDL. This issue will be added to the *2011 Triennial Review List*.

Recommendation: This issue will be added to the *2011 Triennial Review List*.

Additional Issues Raised Since Release of Initial Report – Issues Not Included on the Proposed 2011 Triennial Review List

Issues raised as part of the 2011 Triennial Review which were not included in the proposed *2011 Triennial Review List* are presented below, including staff's rationale for not including the issue on the proposed list.

Fees for Implementation of TMDL and Agriculture Programs

Staff was requested to develop a proposal to support the TMDL, timber and irrigated agricultural implementation programs with user fees. This is outside the scope of a basin planning issue. In addition, the Regional Water Board is not authorized to impose new fee structures, that responsibility lies with the State Water Board. This issue is closely related to the issue discussed below regarding diminishing staff resources.

Recommendation: This issue will not be included on the *2011 Triennial Review List*.

Need to Increase Staff Resources

A number of commenters raised concern regarding diminishing staff resources and the volume of work, as expressed in preceding Triennial Reviews and in the *Staff Workplan for Sediment Impaired Waterbodies* that has yet to be accomplished. This issue is outside the scope of a basin planning related action.

Recommendation: This issue will not be included on the *2011 Triennial Review List*.

NTMP waiver

Comments were received relative to Non-Industrial Timber Management Plans (NTMPs) and the Regional Water Board WDR/Waiver program. Waste Discharge Requirements (WDRs) and waivers of WDRs are not within the scope of basin planning related issues.

Recommendation: This issue will not be included on the *2011 Triennial Review List*.

Road Management Plan

A request was made to continue the development of road management plans in the North Coast Region. Regional Water Board staff is currently working on the development of WDRs, waivers of WDRs, and waste discharge prohibitions that will address this concern outside of the basin planning process.

Recommendation: This issue will not be included on the *2011 Triennial Review List*.

Estimate of Staff Resources

It is estimated that existing program resources, at best, are available over the next three years to develop Basin Plan amendments for the first five tasks identified on the proposed *2011 Triennial Review*. These issues are collectively referred to as the *2011 Triennial Review Short List*. Staff resources from virtually every program in the office (with the exception of cost-recovery programs) will be needed to complete the development of the proposed Basin Plan amendments identified on the *2011 Triennial Review Short List*. The remaining twenty-six tasks will be tracked by Regional Water Board staff in an effort to stay informed about other regional and statewide issues. However, until additional resources are available, staff will be unable to actively work on the development of potential Basin Plan amendments for these other important task.

CONCLUSION

A total of thirty-five issues were reviewed during the *2011 Triennial Review of the Water Quality Control Plan for the North Coast Region*. Thirty-one of the issues

were determined to be appropriate for inclusion on the *2011 Triennial Review List*. Staff estimates that over the next three years (September 2011 – September 2014), program resources will be available to develop proposed Basin Plan amendments for the first five tasks identified on the *2011 Triennial Review List of Potential Basin Plan Amendments*.

Table 1
Proposed 2011 Triennial Review List of Potential Basin Plan Amendments

Task	2011 Issue	2011 Short List	Comments
1	<p>TMDL – Related Actions for:</p> <p>a) Elk River Sediment: Beneficial use identification and Action Plan</p> <p>b) Freshwater Creek Sediment: Beneficial use identification and Action Plan</p> <p>c) Eel River Temperature: Action Plan</p> <p>d) Mattole River Temperature: Action Plan</p> <p>e) Navarro River Temperature: Action Plan</p> <p>f) Russian River Pathogen: Beneficial use identification, objective revisions and an Action Plan</p> <p>g) Laguna de Santa Rosa Nutrient, Dissolved Oxygen, Temperature and Sediment: Beneficial use identification, objective revisions and an Action Plan</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Underway since 2002</p> <p>Underway since 2002</p> <p>Stipulated Agreement</p> <p>Stipulated Agreement</p> <p>Stipulated Agreement</p> <p>Human-health concerns with pathogens and recreational use</p> <p>Underway since 2008 [Pathogen TMDL will be included as part of Russian River pathogen TMDL] [Mercury TMDL – not yet scheduled]</p>
2	Temperature Implementation Policy	Yes	Stipulated Agreement
3	Ground/Surface Water Objectives – Implementation Plan, includes editorial amendments to Chapter 3 , 4 and 6	Yes	Underway since 2009
4	Dissolved Oxygen Objectives for Wetlands, Free Flowing Streams (except Klamath mainstem) and Lakes	Yes	Underway since 2008
5	Aquatic Ecosystem Restoration Policy	Yes	Underway since 2010

Task	2011 Issue (con't)	2011 Short List	Comments
6	Stream & Wetlands Policy	No	Region 2 lead on Task 6, State Water Board team developing wetlands definition, etc
7	Instream Flow (Watershed Hydrology) Objective	No	Currently included in Task 6, but could be included as part of other Tasks
8	Mixing Zone for Human Health Constituents	No	Background report available on Regional Water Board's website
9	Hatcheries Policy	No	
10	Table 2-1 - Beneficial Uses	No	
11	Outstanding Natural Resource Waters	No	
12	Ammonia Objective	No	
13	Fluoride Objective	No	
14	Low Flows in Lower Russian River and other impaired waterbodies	No	New Issue since 2007, can be addressed as part of other Tasks
15	Dissolved Oxygen Objectives for Estuaries	No	New Issue since 2007
16	Surface Water Toxicity Objective	No	New Issue since 2007
17	Table 3-1 for Upper Russian River	No	New Issue since 2007
18	Recycled Water Reservoirs – 25 year return frequency	No	New Issue since 2007
19	pH Objective	No	New Issue since 2007
20	TMDL Action Plans for Impaired Waters, not included in Task 1	No	Ongoing Issue
21	Freshwater Bacteria Objectives	No	State Lead
22	Nutrients Objectives	No	State Lead
23	Chlorine Objectives	No	State Lead
24	Biological Objectives	No	State Lead
25	Onsite Waste Treatment Policy	No	State Lead
26	Mercury Objectives and Implementation Program	No	State Lead
27	Endocrine Disruptor Objectives	No	State Lead on monitoring under Recycled Water Policy; include as part of Task 3, as appropriate
28	Salt and Nutrient Management Plans	No	New Issue since 2007, stakeholder lead
29	Copper Objective	No	New Issue since 2007
30	Location of Estuary, Harbors, Enclosed Bay Boundaries	No	New Issue since 2007, include in editorial revisions to Chapter 2 an/or 3
31	Editorial Revisions to Chapter 3, 4, and 6	No	Will be included in Task 3

Table 2
2011 Triennial Review Short List of Potential Basin Plan Amendments

Task	2011 Issue	Schedule	Comments
1	TMDL – Related Actions for:		
	a) Elk River Sediment	2011	Beneficial use identification and Action Plan development
	b) Freshwater Creek Sediment	2012	Beneficial use identification and Action Plan development Action Plan
	c) Eel River Temperature	2013	Action Plan
	d) Mattole River Temperature	2013	Action Plan
	e) Navarro River Temperature	2013	
	g) Russian River Pathogen	2013	Beneficial use identification, objective revision(s) and Action Plan development
	f) Laguna de Santa Rosa Nutrient, Dissolved Oxygen, Temperature Sediment	2014	Beneficial use identification, objective revision(s) and Action Plan development
2	Temperature Implementation Policy	2013	Will be based on direction contained in the Temperature Implementation Resolution
3	a) Groundwater and Surface Water Objectives	2012	Editorial revisions to existing objectives; new groundwater toxicity objective; new Policy on the Application of Narrative Objectives; editorial revisions to Chapter 3 and 4
	b) Groundwater Protection Implementation Program	2013	Groundwater protection policy; implementation program(s) for application of waste to land, editorial revisions to Chapter 6
4	Dissolved Oxygen Objectives for Lakes, Wetlands, Free Flowing Streams (except Klamath River mainstem)	2012	Estuary DO objective will be developed separately
5	Policy for Aquatic Ecosystem Restoration	2012	CEQA scoping fall of 2011