

# **APPENDIX E**

## **Response to Comments on Draft**

**Proposed Basin Plan Amendment**

**2005 Basin Plan General Update  
With Non-regulatory Revisions**

**Response to Comments**  
**2005 Basin Plan General Update with Non-regulatory Revisions**

The following comments were received on the 2005 Basin Plan General Update with Non-regulatory Revisions:

<b>Comment Author</b>	<b>Affiliation</b>	<b>Abbreviation</b>	<b>Date</b>
Arleen Feng	Alameda Countywide Clean Water Program	ACCWP	08/31/05
Chris White	Balance Hydrologic, Inc.	Balance Hydro	09/26/05
Thomas Francis	East Bay Municipal Utility District	EBMUD	09/20/05
Trish Mulvey		Mulvey	09/25/05
Christopher Richard	Oakland Museum of California	Oakland Museum	09/20/05
Jay Davis	San Francisco Estuary Institute	SFEI	09/12/05
Josh Collins	San Francisco Estuary Institute	SFEI	09/14/05
Michael Carlin	San Francisco Public Utilities Commission	SFPUC	09/26/05
Ken Davies	Santa Clara Basin Watershed Management Initiative	Santa Clara Basin WMI	09/26/05
Behzad Ahmadi	Santa Clara Valley Water District	SCVWD	09/20/05
Joanna Jensen and Rik Rasmussen	State Water Resources Control Board	State Water Board	09/20/05
Douglas Eberhardt	United States Environmental Protection Agency	U.S. EPA	09/26/05

The following text summarizes the comments received from each author and the Water Board's response to comments. The comment letters and emails are compiled in Appendix D of the Water Board package. Typographical errors pointed out in the comments were corrected in the revised Basin Plan amendment and are not listed below.

In general, the comments concerned questions about the revised tables and figures of water bodies. Our responses point out the need for additional Basin Plan amendment(s) in the future that will propose regulatory changes to the beneficial use designations for surface water, groundwater, and wetlands.

1. **ACCWP:** Delete Santa Clara Valley from Niles Cone, East Bay Plain, and San Mateo Plain in Figure 2-10, Table 2-2, and 2-3.

**Response:** In Department of Water Resources Bulletin 118 (2003 revision), upon which Figure 2-10 and the Water Board's groundwater basin designations are based, the East Bay Plain is a sub-basin of the Santa Clara Valley groundwater basin. Niles Cone and San Mateo Plain are similarly designated as sub-basins of the Santa Clara Valley groundwater basin. The naming of these basins is thus consistent with Bulletin 118 (2003).

2. **ACCWP:** Add footnote to Tables 2-2, 2-3, and 2-4 for counties that overlap basins and watershed.

**Response:** We agree. Table 2-2 has been deleted as described in response to comment No.22. Table 2-3 (renumbered Table 2-2) was updated per the comment (Appendix B of the Staff Report). However, Table 2-4 will not be updated as part of this action because the beneficial uses listed in Table 2-4 are only for a partial listing of wetlands in the Region and will need to be revised under a separate regulatory Basin Plan amendment.

3. **ACCWP:** Add a footnote to Table 2-4 Beneficial Uses of Wetland Areas, e.g., South San Francisco Bay wetlands.

**Response:** We agree. However, Table 2-4 will not be updated as part of this action because the beneficial uses listed in Table 2-4 are only for a partial listing of wetlands in the Region and will need to be revised under a separate regulatory Basin Plan amendment.

4. **Balance Hydro:** Table 3-4 footnote "b" is in error.

**Response:** We agree. The footnote "b" will be removed from cadmium, since the California Toxics Rule (CTR) does not apply for the freshwater total cadmium number.

5. **Balance Hydro:** Table 3-4 the footnote for hardness-dependent metals is in error.

**Response:** We agree. Table 3-4 contains the correct numeric values for the hardness-dependent metals, but the equations in the footnotes are incomplete. For all the hardness-dependent freshwater metals objectives, to be consistent with the CTR as stated in the Basin Plan amendment of January 2004, the conversion factors of the CTR need to be included in the applicable footnotes, with the exception of cadmium, which remains a total metals objective. In response to this comment we have included the applicable numeric conversion factors from the CTR in the footnotes in a revised Table 3-4 as part of the proposed amendments.

6. **EBMUD:** The proposed text in Section 3.4.2 “All groundwater shall be maintained free of organic and inorganic chemical constituents that adversely affect the beneficial uses or pose adverse risk to human health and the environment” is subject to interpretation and is redundant.

**Response:** We disagree. The purpose of the additional text is to emphasize the Board's commitment to protecting human health and the environment from groundwater contaminants. The existing language does not clearly address several relevant exposure pathways (e.g., human health impacts from vapor intrusion into occupied buildings from VOC-contaminated groundwater, and impacts to terrestrial biota from shallow groundwater contaminants).

7. **EBMUD:** Was the EBMUD POTW discussion revised?

**Response:** No. The only text that is revised is presented in Appendix A of the Staff Report. The section headings for all text in the Basin Plan are presented to show the hierarchy of each section, whether the text is being updated or not.

8. **EBMUD:** EBMUD does not have a monitoring program, as indicated in Chapter 6.

**Response:** Chapter 6 was modified accordingly.

9. **Mulvey:** Comments on Table 2-1

9A. County should be a column, NOT a row

**Response:** We had difficulty fitting the table on a landscape page with all the existing columns. Additional columns require smaller fonts that are harder to read. So we believe that listing water bodies under counties in rows remains a helpful improvement to the table.

9B. The “Tributary Rule” makes NO sense unless water bodies and tributaries are grouped by watershed with a hierarchy of indents like the existing Basin Plan.

**Response:** We agree that the table needs to contain a hierarchy that reflects which water bodies are within which watersheds; this comment is consistent with internal comments from Water Board staff. Indenting creates the need for more columns, exacerbating the challenge discussed in the previous response. Instead of indenting, we revised Table 2-1 with a convention of using bold font for mainstem water bodies that contain named tributaries and/or impoundments (reservoirs) listed beneath them in the table, or for those water bodies that otherwise drain directly to the Estuary or the Pacific Ocean.

9C. Santa Clara Basin – Alameda County – Please add Laguna Creek (Arroyo La Laguna on back of Oakland Museum Creek & Watershed maps for Alameda Co.) Consider changing name from Elizabeth Lake to Lake Elizabeth. Fremont Lagoon is in Alameda County, not Santa Clara County

**Response:** We have made the changes for Lake Elizabeth and Fremont Lagoon. We will add Laguna Creek and designate beneficial uses in an upcoming regulatory update of the Basin Plan (this is a non-regulatory update), consistent with the commitments of the 2004 triennial review.

9D. Santa Clara Basin – San Mateo & Santa Clara Co. West Union Creek is a tributary to Bear Creek (which is formed at the confluence of West Union Creek with Bear Gulch). San Francisquito is formed at the confluence of Corte Madera Creek and Bear Creek just downstream of Searsville Dam.

**Response:** We agree – as noted above, we will not add water body names in a non-regulatory update, because to avoid confusion about what beneficial uses are applicable, there is a need to designate beneficial uses, a regulatory action.

9E. Santa Clara Basin – Santa Clara County. Need to resolve if the stream segment below the confluence of Saratoga and San Tomas Aquino is called “Saratoga” or “San Tomas Aquino” and clarify tributary rule status for San Tomas Aquino.

**Response:** Thank you for pointing out this existing confusion. In a future regulatory update, stakeholders can help guide the Water Board in making this decision.

9F. Santa Clara Basin – Santa Clara County. Please add Adobe Creek and Barron Creek and add Sunnyvale East and West Channels – otherwise there are two watershed areas on Figure 2-7 without water bodies.

**Response:** We will consider adding these water bodies in the future regulatory update of Table 2-1.

9G. Is it possible to insert a page break on pages 7 and 8 so the Santa Clara Basin isn’t started on those pages and then continued later? This is way too jumbled.

**Response:** The final, printable Basin Plan will contain formatting that will make these tables easier to read – this comment provides an example of what we do not want: Basin water body lists unnecessarily breaking across pages.

10. **Mulvey:** Table 2-2 and 2-3 need to be consistent with Santa Clara Valley and Coyote

**Response:** The naming convention is consistent with Department of Water Resources Bulletin 118 (2003 revision). See response to comment No. 1.

11. **Mulvey:** Figure 2-10 - Santa Clara Valley is not part of the East Bay Plain

**Response:** The East Bay Plain is a sub-basin within the Santa Clara Valley groundwater basin. The naming convention is consistent with Department of Water Resources Bulletin 118 (2003 revision). See response to comment No. 1.

12. **Mulvey:** New figures are hard to read in black and white

**Response:** Some elements of the color maps, such as the color yellow, did not translate well to some black and white printers. We have made corrections in the final maps accordingly to make the new figures more legible on black-and-white printers, but cannot guarantee that they will be legible for all printers.

13. **Mulvey:** Water bodies on Table 2-1 should all be on the figures

**Response:** We agree. This apparent oversight was due to a software problem. All the Table 2-1 water bodies were placed on the figures in Adobe Acrobat 6.0, but did not translate to Acrobat 7.0 format. We have made corrections that function in Acrobat 7.0.

14. **Oakland Museum:** Various figure questions:

14A. Did you mean to exclude the Ettie Street (Oakland) Pump Station watershed from the Central Bay and include it in the South Bay? It does discharge north of the Bay Bridge.

**Response:** The delineations of the surface water basins are based upon the CalWater 2.2.1 dataset, which is the State's official watershed base map. The inclusion of the Ettie Street watershed would deviate significantly from that map, thereby necessitating changes in the associated Beneficial Use table which would exceed the "non-regulatory" nature of this update. We will certainly consider the change in a future "regulatory" Basin Plan update.

14B. Is the lobe of the Central Basin that runs sound from the Presidio towards Twin Peaks based upon topographic, groundwater basin or infrastructural information?

**Response:** It is based upon topographic information, as reflected in CalWater 2.2.1.

14C. The Geographic Names Information Service uses “Arroyo Valle” and not “Arroyo del Valle”

**Response:** We agree and have changed the affected table and figures. Thank you for pointing this out.

14D. The San Tomas Aquinas Creek watershed should be included with Saratoga Creek. Figure 2-7 shows it crossing the Saratoga Creek / Guadalupe River watershed boundary.

**Response:** We agree and have changed the watershed boundary to include San Tomas Aquinas Creek in the Saratoga Creek watershed.

14E. The Central Basin / San Pablo Basin boundary should run down the spine of Point San Pablo and not around the edge of the marsh.

**Response:** We agree and have made the correction.

15. **SFEI (9/12/05):** Need to revise the RMP section

**Response:** The Regional Monitoring Program (Section 6.1) was updated with the current program description.

16. **SFEI (9/14/05):** Add California Rapid Assessment Method (CRAM) and Wetland Ecological Assessment (WEA) as an assessment method to evaluate wetlands projects.

**Response:** The CRAM and WEA methods were added to Section 4.23.2 Determination Of Applicable Beneficial Uses For Wetlands.

17. **SFEI (9/14/05):** Add wetlands as an element of the SWAMP program and the Wetlands Tracker as a tool for managing SWAMP data for wetlands sites.

**Response:** We do not disagree with the idea of augmenting SWAMP to include a wetland monitoring component, but these elements are not being contemplated in the present regional work planning efforts. The Basin Plan descriptions reflect what has been done or what is being done in monitoring and surveillance. This proposed additional language reflects what could be done in the future, so we will not be adding the proposed language. The Basin Plan can be updated at a future time if these elements are incorporated into the currently under funded SWAMP program.

18. **SFEI (9/14/05):** Add Application of Elements of a State Water Monitoring and Assessment Program for Wetlands, by EPA, to the SWAMP discussion.

**Response:** For the reasons stated in the above response, we believe it is premature to amend the Basin Plan with these descriptions of embryonic, evolving efforts.

19. **SFEI (9/14/05):** Update the U.S. Fish and Wildlife reference to the classification system used in the National Wetland Inventory (NWI) and the State Wetland Inventory.

**Response:** The text was updated per your comment.

20. **SFEI (9/14/05):** Retain reference to regional wetlands management plan

**Response:** There is no longer dedicated Water Board staff funding to a regional wetland management planning effort, envisioned in 1995. The available funding in the late 1990's led to completion of the Habitat Goals reports, which was the culmination of that regional wetland management planning effort. Therefore we believe it is misleading to the public to retain this reference in the Basin Plan, because Water Board staff are not planning to work on such a plan for at least three years, as defined by the 2004 triennial review.

21. **SFPUC:** SFPUC is strongly opposed to the new, substantive regulatory language in the Pretreatment and Pollution Prevention section.

**Response:** We met with representatives of BACWA and SFPUC on Friday September 30, 2005, and concluded together that no new regulatory changes have been proposed in this section.

22. **SFPUC:** Several updates to the beneficial uses tables for groundwater in San Francisco and San Mateo Counties are in error.

**Response:** We agree. Transcription errors were made in the revised Table 2-3 Existing and Potential Beneficial Uses of Groundwater in Identified Basins. Since the August 12, 2005, draft staff report, we conducted a detailed analysis of the groundwater basin boundaries originally identified in DWR's Bulletin 118 report (1980) and compared them to the revised groundwater basin boundaries in DWR's updated Bulletin 118 report (2003). There are overlapping basin boundaries in San Francisco and San Mateo Counties. In order to accommodate these new basin boundaries and preserve the beneficial uses designated for the groundwater basins listed in the 1995 Basin Plan, we created subsets of groundwater basins. The rationale for beneficial use designations is presented in the Staff Report. Table 2-2 Groundwater Basin Characteristics has been deleted, as described in the Staff Report.



23. **SFPUC:** The beneficial use designations Water Contact Recreation and Fish Spawning Habitat for Lake Merced should be updated.

**Response:** We agree. A separate regulatory Basin Plan amendment will need to be prepared to update the beneficial uses at Lake Merced, as well as at other water bodies and groundwater basins in the Region.

24. **Santa Clara Basin WMI:** Update the discussion of the Santa Clara Basin Watershed Management Initiative to include more detail about the program.

**Response:** The proposed Basin Plan amendment was updated as follows:

This WMI *first* established a mission statement, goals, planning objectives for development of a watershed action plan, implementation objectives, and a framework for conducting a watershed assessment. The most outstanding successes of this WMI have been in sustaining organizational continuity, providing a forum for stakeholder input on regulatory actions, *and producing a variety of outreach materials for the general public to assist in natural resource protection. This WMI has continued to develop its foundation by producing watershed assessments (2002), and a watershed action plan (2003), and by further developing its priorities for implementation to protect and improve water quality (2005).*

25. **SCVWD:** Concerned that the description of the shallow well program has been reduced and is no longer informative.

**Response:** We did not intend to diminish the importance of the impact of shallow wells on groundwater quality. We appreciate the work conducted by the local agencies to protect groundwater quality and their role in minimizing the impacts from shallow wells on groundwater. The purpose for reducing the description of the shallow well program was to streamline the Basin Plan, and to emphasize the role of local and federal agencies outside of the Water Board's program. There is currently no funding for the shallow well program.

26. **SCVWD:** Clarify whether seepage pits used for onsite dispersal systems are considered shallow wells.

**Response:** Water Board Resolution No. 81 prohibits the use of shallow wells for sewage disposal, including "seepage pits". The State Water Board draft regulations (AB885) would allow the use of seepage pits for onsite wastewater dispersal systems. However, the draft regulations are stated as minimum standards, and specifically allow the Water Boards to maintain or enact standards that are more protective of water quality. The Water Board will need to

clarify the use of shallow wells for sewage disposal, if and when AB885 is adopted.

27. **SCVWD:** Clarify that groundwater discharge to surface water does not apply to naturally occurring groundwater seepage.

**Response:** The proposed Basin Plan amendment was revised as follows:

In addition, at a minimum, groundwater shall not contain concentrations of bacteria, chemical constituents, radioactivity, or substances producing taste and odor in excess of the objectives described below unless naturally occurring background concentrations are greater. *There exists a surface water quality objective that prohibits surface waters from containing concentrations of chemical constituents in amounts that adversely affect any designated beneficial use, which is relevant where groundwater discharges to surface water.*

28. **SCVWD:** Table 2-1 does not list all the water bodies in Santa Clara County; for example Groundwater Recharge (GWR) for Guadalupe Creek.

**Response:** Table 2-1 contains the water bodies that have formally designated beneficial uses. Additional water bodies and updated beneficial use designations will be proposed in a separate, future regulatory update of the Basin Plan (this is a non-regulatory update), consistent with the commitments of the 2004 triennial review.

29. **SCVWD:** Table 2-2 clarify Coyote is part of the Santa Clara Valley Basin

**Response:** The naming convention is consistent with Department of Water Resources Bulletin 118 (2003 revision). See response to comment No. 1. A note has been added to Table 2-2 to reference the old name for the Santa Clara Valley.

30. **SCVWD:** Table 4-16 clarify County Environmental Health is now the LOP for Santa Clara Valley

**Response:** The proposed Basin Plan amendment was updated with staff initiated changes that clarified the roles of the various agencies involved in UST cleanup. The revised text includes a listing of all LOPs. Table 4-16 was deleted from the Basin Plan.

31. **SCVWD:** Clarify saltwater intrusion caused historical land subsidence and is not an ongoing condition.

**Response:** The proposed Basin Plan amendment was updated as follows:

In Santa Clara County, land subsidence, *resulting from historical pumping that lowered the water table*, has caused the lower reaches of streams and rivers to be invaded by saline tidal waters, increasing salinity in shallow groundwater. *Land subsidence is no longer occurring in Santa Clara Valley.*

32. **SCVWD:** Need to acknowledge the role of local agencies in groundwater protection.

**Response:** The following text was moved from the Groundwater Protection Studies (Section 4.25.4) to the introduction of Groundwater Protection and Management (Section 4.25) to better emphasize the role of local agencies in groundwater protection:

Local water, fire, planning and health departments are actively involved with their own groundwater protection programs. These programs include: salt water intrusion and land subsidence control, wellhead protection, groundwater recharge area preservation, hazardous materials storage and management ordinances, Local Oversight Programs and non-Local Oversight Programs for cleanup of leaking underground fuel tanks, potential conduit well destruction, and well permitting and inspection. For some agencies, maintaining funding for protection programs is an ongoing challenge. Through numerous regional projects, the Water Board is evaluating the groundwater protection needs in specific basins, and thus will provide additional support for local agency efforts. These projects are described below.

33. **State Water Board:** Do not delete reference to "incorporated by reference" for items that are not in the Water Code because this is a regulatory change.

**Response:** The draft staff report and proposed Basin Plan amendment dated August 12, 2005 originally proposed to delete a number of citations, such as "...incorporated by reference to this Plan. This incorporation is prospective, including future changes to the incorporated provision as the changes take effect". These proposed deletions have been retracted.

34. **State Water Board:** Add rationale for why some text is being deleted.

**Response:** The Staff Report was updated as follows:

In addition to these new features, this proposed Basin Plan amendment shows text that should be deleted. The proposed deletions are for text that describe out-of-date programs, historical references, or text that has been updated and clarified in the proposed new text.

**35. State Water Board:** Do not delete reference to water quality objectives in Table 3-7; this would constitute a regulatory change.

**Response:** The proposed deletions have been retracted.

**36. State Water Board:** Add rationale for the name change from reclamation to recycled water.

**Response:** The Staff Report was updated as follows:

Terminology - The term recycling is a standard term used by the recycling industry and reflects current practices. The term reclamation has a wider connotation than water recycling, including land reclamation and mine cleanup and restoration. Water reuse is used interchangeably with water recycling.

**37. State Water Board:** Suggest deleting the text in the section on Progress of the Water Board's Groundwater Programs. This section will be quickly out-of-date and more current information is available on the Water Board's website.

**Response:** The proposed Basin Plan amendment was modified per your comment.

**38. U.S. EPA:** Title 22 will be incorporated by reference, per the 1995 Basin Plan.

**Response:** As discussed in Comment No. 30, the proposed deletion has been retracted.

**39. U.S. EPA:** Revise footnotes in Tables 3-3 and 3-4 to be consistent with the CTR

**Response:** The footnotes of Tables 3-3 and 3-4 have been revised to be consistent with the CTR footnote b.

**40. U.S. EPA:** Revise Table 3-3 for lead, should be 210 not 220 ug/l

**Response:** We agree. This was a typographic error in the online Basin Plan document, which has since been corrected. Note that the January 2004 amendments contain the correct value of 210 ug/l, making it the numeric objective "in effect."