

**CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD
SAN FRANCISCO BAY REGION**

**WATER QUALITY CONTROL PLAN
TRIENNIAL REVIEW
STAFF REPORT**

November 5, 2004

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INTRODUCTION

The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) establishes water quality standards for the San Francisco Bay Region. The primary purpose of the Triennial Review is to review water quality standards and take public comment on issues the Water Board should address in the future through the Basin Plan amendment process. The Triennial Review is not a Basin Plan amendment, but rather a work plan for upcoming Basin Plan amendments. During the Triennial Review process public comment is considered on what Basin Plan water quality issues the Water Board should investigate over the next three years. The Water Board develops and adopts a prioritized list of Basin Plan issues that may be investigated by the Water Board over the next three years. The inclusion of an issue on the prioritized Triennial Review list of issues does not necessarily mean that any amendment will be made to the Basin Plan. The decision on whether or not to proceed with a proposed Basin Plan amendment is only made after the 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.

In California, water quality standards include designated beneficial uses for surface and ground waters, narrative or numeric water quality objectives to protect those beneficial uses, and a provision to protect high quality waters from degradation to the minimum level allowed by the objectives (i.e., antidegradation). Basin Plans also include implementation plans for water quality objectives, consisting of various regulatory programs. Basin Plans fulfill statutory requirements for water quality planning in California Water Code (CWC) section 13240 and the federal Clean Water Act (CWA) section 303(c). Both State and federal laws mandate the periodic review and update of basin plans. Federal law [CWA section 303(c)(1)] requires that a State's water quality standards be reviewed every three years. This report and resolution fulfill these State and federal requirements for Triennial Review.

The Water Board first adopted a plan for waters inland from the Golden Gate in 1968. After several revisions, the first comprehensive Water Quality Control Plan for the region was adopted by the Water Board and approved by the State Board in April 1975. Subsequently, major revisions were adopted in 1982, 1986, 1992, and 1995, to address changing water quality conditions, priorities, and programs. The most recent amendment to the Basin Plan was adopted on January 21, 2004 and approved by the State Water Resources Control Board (State Water Board) on July 22, 2004.

Triennial Review Process

This Triennial Review was initiated by public notice dated May 5, 2004 soliciting public comments on the need to revise the Basin Plan. Written comments on water quality standards or other Basin Plan issues were received during a 44-day period beginning May 5, 2004, and closing June 18, 2004 (17 comment letters were received, from commenters

in table below)¹. The Water Board also conducted a public workshop on June 8, 2004. Appendix A includes a copy of the Notice of Public Solicitation Period and Public Workshop for Basin Plan Triennial Review, and the minutes of the public workshop.

TABLE 1 - COMMENT LETTERS RECEIVED ON SCOPING DOCUMENTS

Commenting Organization	Org. Type	Date
Napa-Solano Audubon Society	Environmental	21-May-04
Citizens Committee to Complete the Refuge	Environmental	4-Jun-04
CLEAN South Bay	Environmental	1-Jun-04
NOAA Fisheries	Federal	17-Jun-04
U.S. EPA, Region IX	Federal	15-Jun-04
Libby Lucas, in Los Altos	Individual	18-Jun-04
Carin High, in Fremont	Individual	18-Jun-04
Genny Smith, in Cupertino	Individual	4-Jun-04
Bay Planning Coalition	Industry	18-Jun-04
Western States Petroleum Association	Industry	18-Jun-04
Central Contra Costa Sanitary District	Municipal	18-Jun-04
San Francisco Public Utilities Commission	Municipal	18-Jun-04
Bay Area Stormwater Management Agencies Association	Municipal	18-Jun-04
City of San Jose Environmental Services Dept.	Municipal	18-Jun-04
Eisenberg, Olivieri and Associates (for City of Sunnyvale)	Municipal	18-Jun-04
Sonoma County Water Agency	Municipal	18-Jun-04
SWRCB DWQ, Freshwater Stds. Unit	State	18-Jun-04

Prior to the workshop, Water Board staff produced a paper entitled “Brief Issue Descriptions,” dated May 28, 2004, and distributed it to interested parties and posted it on the Water Board’s website. This paper described planning projects either already underway or not yet addressed from the previous Triennial Review process of April 2001. Interested parties were asked to comment on the priority of issues within this existing list of projects and to provide additional project ideas. In addition to the 18 specific planning issues described in this paper, the solicitation process generated additional potential planning projects to be considered in the Triennial Review process, and some initial planning issues were consolidated. In total, 32 issues were evaluated and ranked to compile the 2004 Prioritized Basin Plan Triennial Review Issue List (Appendix B). The name of and summary of each issue is included on this list. Following a review and systematic ranking of all issues submitted, the Water Board developed a prioritized list of Basin Plan issues needing investigation, and if appropriate, Basin Plan amendments during the upcoming 3-year period from November 2004 to October 2007.

This report includes a description of the methodology used by the Water Board to evaluate and rank each issue, a brief description of each issue evaluated, estimates of the time and staff resources needed to investigate the issue and to prepare a Basin Plan amendment, which organization suggested the issue, which organization(s) or individual(s) support the issue, and a generalized ranking of the issues by priority.

¹ Comment letters are available for review at the Regional Water Quality Control Board offices during normal business hours.

To formally complete the 2004 Triennial Review, the Water Board must adopt a resolution approving the 2004 Basin Plan Triennial Review of the Water Quality Control Plan for the San Francisco Bay Basin and adopting a Prioritized List of Basin Plan Issues (Appendix C). The tentative resolution includes findings regarding the requirements for and the intent of the Triennial Review, and relevant actions taken (public workshop, ranking criteria defined, and issues evaluated). Attached to the resolution is the Prioritized List of Basin Plan Issues for Investigation from November 2004 to October 2007. The issues on this list may lead to Basin Plan amendments in the upcoming three years.

Water Board staff may revise the report and prioritization based on comments received in writing by October 25, 2004. Staff will consider and prepare written responses to the comments received. A public hearing on the Triennial Review will be held on November 17, 2004. The tentative resolution may be revised to reflect the public comment and Water Board direction at the hearing.

Summary of Comments Received

Generally, public input into the Triennial Review process has encouraged the Water Board to continue working on planning initiatives already underway, citing the need for efficiency in light of scarce staff resources and investments already made by external parties. Appendix A includes minutes of the public workshop.

The ranking process described below was influenced by comments received in writing and at the workshop. Some highlights of comments received are worth noting. The Bay Area Stormwater Management Agencies Association (BASMAA) comments focused on the concepts of prioritization rather than specific issues. They encouraged the Water Board to focus on mission-critical, first-in/first-out, and path-of-least-resistance projects. Similarly, the Bay Planning Coalition, Central Contra Costa Sanitary District, the Sonoma County Water Agency, and Cities of San Jose and Sunnyvale suggested that completion of projects partially underway should be the Basin Planning priority. San Jose suggested that outstanding NPDES planning issues should be resolved in advance of new planning initiatives such as the stream protection initiative. Conversely, Santa Clara Valley Water District and many organizations emphasized the need to increase specificity in the Basin Plan for stream protection to gain efficiencies in permitting for flood management and stream restoration projects.

Specific issues were suggested by certain parties. San Francisco Public Utilities Commission highlighted issues related to their unique combined sewer overflow (CSO) system, but raised awareness of the overlap of the issues of water quality standards with urban runoff programs and sanitary sewer overflow (SSO) systems in the region. They recommended revising Table 3-5 for municipal (drinking) water supply to include objectives for source water, not tap water. Along with Western States Petroleum Association (WSPA), they suggested that the mixing zone or dilution policy be updated in the Basin Plan and address bioaccumulative pollutants. Both entities wanted

clarification as to whether stream protection policies would be retroactively applied to channelization projects. The City of Palo Alto suggested that more non-conservative pollutants than cyanide (e.g., trihalomethanes) should be addressed in a dilution or attenuation policy. National Oceanic and Atmospheric Administration (NOAA) Fisheries brought attention to studies that should be considered in the copper site-specific objective development.

The State Water Board and U.S. Environmental Protection Agency, Region IX (U.S. EPA) have approval authority over Basin Plan amendments, and therefore their input is summarized herein. First it is noteworthy that the Basin Planning roundtable was reformed in November 2003 and includes representatives from all nine Regional Water Boards, the State Water Board, and U.S. EPA. Since this Triennial Review was initiated, the roundtable has identified Basin Planning issues of statewide applicability that may be better addressed at the State Water Board level. Some of the issues in this report have been ranked as high statewide planning priorities by the roundtable, including bacteriological water quality objectives (discussed below); statewide consistent definitions of beneficial uses for streams and wetlands; update of beneficial use definitions to have less overlaps and be more consistent with federal definitions, and compliance determination with effluent limits for continuously monitored parameters like chlorine. In the next three years, Basin Planning staff will closely coordinate any Basin Plan projects with statewide efforts to avoid duplication of effort.

The State Water Board Freshwater Standards Unit indicated some reservations about policies for continuous monitoring compliance, since policies are under development at the State level for chlorine and federal regulations address pH monitoring, at least for industrial dischargers (40 CFR 401.17). At the Basin Planning roundtable and the 401 "Corcom" roundtable (re: Clean Water Act Section 401 water quality certifications for Section 404 permits issued by the U.S. Army Corps of Engineers), the issues of beneficial uses "Water Quality Enhancement" and "Flood Peak Storage/Flood Water Attenuation" have been under active discussion. EPA expressed support for stream protection policies and updating the water body and beneficial use list, consistent with their comments approving the Basin Plan in 2000. Both U.S. EPA and the State Water Board desired more clarification on alternate bacteriological effluent limits, which would be forthcoming in any proposed amendment.

Some bacteriological criteria are currently cited in Table 3-2 of the Basin Plan as EPA criteria, not water quality objectives. In their comment letter, EPA requested that Water Board adoption of bacteriological criteria as water quality objectives precede their promulgation of these criteria in the State's coastal waters. EPA is encouraging all Regional Water Boards to adopt the 1986 criteria as State water quality objectives for their non-coastal waters. This issue is under active discussion at the Basin Plan roundtable as a statewide planning priority, in order to make Regional Water Board planning resources available for other priorities. In this Water Board's experience, federally promulgated statewide criteria (e.g., the California Toxics Rule), where technically applicable, are preferable to State-adopted objectives due to statewide consistency and efficiency of the process. EPA noted that such promulgation would only

affect coastal waters in our region, and requests that this Water Board adopt the objectives for inland surface waters. Table 3-1 of the Basin Plan already contains bacteriological objectives (fecal coliform) to protect these waters, and our experience has shown that the EPA objectives are not significantly different from Basin Plan objectives based on analyses from the Section 303d impaired water bodies listings in 2002. For example, an analysis of compliance with Table 3-1 (objectives) and 3-2 (EPA criteria) yielded the identical conclusions of percent exceedances and impairment at every beach analyzed in the 2002 303d process, as documented in the administrative record for that action.

Internally, divisions of the Water Board that implement permitting and enforcement programs were consulted for division priorities. As discussed below, special weight was given to this input to the process, as efficiency of implementing programs is the Water Board's priority guiding Basin Planning efforts. The two groundwater divisions conceived six planning projects to address their priorities over the next three years and provided staff resources to address them. The NPDES division indicated that alternate limits for bacteria for publicly-owned treatment works (POTWs) was the division priority, as well as completing copper and nickel site-specific objectives. The two watershed divisions indicated that stream protection policy is the priority for both divisions. The right column of Table B-1 in Appendix B reflects the input from the Water Board's implementation divisions.

RANKING PROCESS

In this Triennial Review, the Water Board is considering how to address 32 basin plan issues with less than two full-time staff positions. A ranking process was devised to prioritize the candidate basin plan issues. Ultimately, each issue was assigned a numerical score and prioritized according to that score (Table B-1 of Appendix B).

The 2004 Triennial Review Issue List in Appendix B is organized by priority in descending order. Each issue includes a written summary, its category, generalized rank, complexity, staff resource estimation, and ranking score. Each issue also includes which organization proposed the issue, and which organization(s) or individual(s) support the issue being addressed in a Basin Plan amendment.

The issues were grouped by category: Beneficial Uses, Water Quality Objectives, Implementation Plan, and Plans and Policies, corresponding to Basin Plan chapters.

The ranking score for each issue was calculated as the sum of scores for each individual ranking criterion, described below. For each ranking criterion, the potential Basin Plan issue was given a score between 1 (low rank) and 5 (high rank), based on staff experience in the basin planning process, and input received in comment letters and the public workshop.

Ranking Criteria

The Water Board considered a wide range of factors in developing ranking criteria, including input received in comment letters and the June 8, 2004 public workshop. First and foremost, any proposed changes to the Basin Plan must be consistent with the Board's mission of protecting beneficial uses of water. Other guiding principles for prioritizing the Basin Plan work plan over the next three years are fairly straightforward, and form the basis of the ranking criteria. For instance, it is unlikely that the Water Board would recommend stoppage of work on issues in which we have invested significant staff resources or other organizations have invested significant resources. The Water Board should consider including issues in the work plan that may exceed our internal resources when there is interest in the regulated community to devote resources to the issue.

Customer service is important to the Water Board. As we consider changes to the Basin Plan, users of the Basin Plan are the primary audience, including implementing divisions of the Water Board (e.g., NPDES division, Toxics Cleanup Division, etc.). There may be instances where chronic compliance issues are an artifact of the system of current regulation rather than substantive issues of environmental protection. The Water Board is interested in rectifying such instances. Simple non-regulatory clarifications can go a long way toward making the Basin Plan more user-friendly, for instance cross-referencing related regulatory requirements in State law or policy, or updating maps and program descriptions. Based on input received in comment letters and at the public workshop, some issues appear to have garnered more public interest than others.

The Basin Plan amendment process is lengthy, and issues that are not controversial or technically complex tend to be handled more efficiently, and should receive higher priority because of the likelihood of success. The Water Board is interested in planning exercises that are broad in geographic scope and address issues that affect a wider array of organizations and the public. Because the State Board and U.S. EPA have approval authority for any Basin Plan amendment, ranking criteria should include consistency with State Board and U.S. EPA policies and directives.

In order to prioritize work plan elements, Basin Plan issues were assigned a score of 1 to 5 for each of the following 12 criteria:

- Water Board Mission (Protect Beneficial Uses)
- Staff Resources Already Invested
- External Resources Already Invested
- External Resources Likely Available
- Customer Service (address non-compliance, streamline permitting, etc.)
- User-Friendly Basin Plan
- Perceived Public Interest
- Geographic Scope (regionwide or site-specific)
- Low Controversy
- Low Technical Complexity

- Implement State Board Policy (e.g., Ocean Plan, Drinking Water Policy, etc.)
- Respond to U.S. EPA Basin Plan Approval Letter Comments

Divisions of the Water Board evaluated each issue and top priority planning items were given a score of 5, added onto the summed score above. All other issues received no score for this criterion:

- Input from Implementing Divisions of the Water Board

Water Board Mission (Protect Beneficial Uses). Each issue was assigned a score in relation to the Board's mission. Issues that improve protection of beneficial uses were given higher scores, and issues that would result in little or no direct improvement of beneficial uses were given lower scores. The Water Board would not consider Basin Plan amendments that would weaken protection of beneficial uses.

Staff Resources Already Invested. This criterion recognizes that projects partially completed using Basin Plan staff resources should receive higher priority in the Triennial Review work plan. Based on review of staff work plans over the past few years, specific issues were assigned a higher score in cases where substantial staff resources have already been expended on the issue. Projects already underway for a year or more received a score of 5. Projects that have not been worked on received a score of 1. Projects that have received some staff resources, but are not beyond developmental stages were assigned scores of 2 to 4, depending on how much work has been completed.

External Resources Already Invested. This criterion acknowledges issues where substantial resources from external organizations have been invested in the project. For some projects, regulated entities have invested resources in good faith to resolve issues in the Basin Plan. In the last decade, the administrative burden of a Basin Plan amendment project has increased substantially. Affected parties have recognized the benefits of providing resources to assist the Water Board in coordinating technical information and stakeholder outreach for Basin Plan amendments. Several of the issues in the Triennial Review have had external resources invested. Projects that have had substantial reports, technical memoranda, or monitoring studies contributed by external organizations received a score of 5, and projects that have received negligible external investment received a score of 1.

External Resources Likely Available. This criterion responds to input received during the comment period, that controversial or complex issues should not receive overall lower priority in cases where external resources are likely available to augment Basin Plan staff resources. Some issues would address compliance issues for regulated entities, with the potential to concurrently meet the Water Board's mission of protecting beneficial uses. During the public comment period and workshop, some entities indicated willingness to provide in-kind or contract resources to assist Water Board staff with the preparation of technical information for a Basin Plan amendment staff report package for such issues. Projects with customer service value, particularly in the NPDES permit category, were given higher scores for this ranking criterion. Projects were given lower scores in cases where Water Board staff could not identify obvious

external funders for a project. These scores were assigned based on experience with projects where external resources have been invested, described above.

Customer Service (address non-compliance, streamline permitting, etc.). Higher scores for this criterion were given to issues that respond to input from the regulated community on how the Basin Plan could be improved or clarified. Higher scores were also given to issues that would update explanations of the Water Board's permitting program elements, assisting Water Board staff in implementing divisions (e.g., Watershed Divisions, Groundwater Protection and Waste Containment Division, etc.).

User-Friendly Basin Plan. The last major update to the Basin Plan was nine years ago in 1995. Therefore there are many opportunities to clarify the Board's evolving permitting and grant programs and to make the Basin Plan language consistent with recent State Board policy changes and State laws. Basin Plan changes that would make the Water Board's regulatory programs easier to understand or more consistent with current permitting program implementation were given higher scores for this ranking criterion.

Perceived Public Interest. In this and previous Triennial Reviews, Water Board staff have received input not only from the regulated community segment of the public, but also the public-at-large. Higher scores were assigned to issues that are perceived by staff to have higher public interest based on a combination of input from the regulated community and the public-at-large. Staff not only considered input from the 2004 process, but also previous processes in 1998 and 2001.

Geographic Scope (regionwide or site-specific). The Water Board is interested in targeting its extremely limited planning resources to issues that will benefit the greatest possible area of its regional jurisdiction. Therefore, issues that address multiple waterbodies and regulated entities throughout the region received higher scores for this ranking criterion than issues that were more site-specific or discharger-specific.

Low Controversy and Low Technical Complexity. These two ranking criteria recognize that Basin Plan issues with lower controversy and lower technical complexity have a higher likelihood of success in making it through the Basin Planning process in an efficient manner. Issues were assigned higher scores for these ranking criteria if perceived to be non-controversial and straightforward from a technical perspective.

Implement State Board Policy (e.g., Ocean Plan, Drinking Water Policy, etc.). In all Triennial Reviews by Regional Water Boards, one of the first items reviewed is whether there have been changes in statewide policies or plans that are inconsistent with specific Basin Plan language. Higher scores for this criterion were given to issues that would bring the Basin Plan into conformance with statewide plans or policies, especially those that have been adopted by State Board since 1995.

Respond to U.S. EPA Basin Plan Approval Letter Comments. U.S. EPA approved the 1995 Basin Plan amendments (Regional Board Resolution No. 95-076), and the 1998 nunc pro tunc amendments (Regional Board Resolution No. 97-058) in a letter dated May

29, 2000. In that approval letter, they recommended issues to be addressed in future Triennial Reviews. Issues that address comments in the U.S. EPA Basin Plan approval letter or other input from U.S. EPA, such as the comment letters on previous Basin Plan amendments or the comment letter on this Triennial Review, were given a score of 5, and issues that did not relate to U.S. EPA stated interests received a score of 1.

Input from Implementing Divisions. Five (5) points were added to the total score for each issue identified as the top planning priority for the Water Board's implementing divisions. Internally, Water Board staff from the two Groundwater, two Watershed, and NPDES divisions provided input to planning staff about priorities for Basin Plan changes. The implementing divisions identified the Basin Plan issues of the greatest urgency to facilitate permitting programs, provide customer service, public access, and provide greater clarity in the most efficient manner. This criteria was the most heavily weighted, since the purpose of Basin Planning is to guide implementation of the Water Board's programs.

Assignment of Generalized Rank to Each Issue

After all of the issues were assigned a score, the point scores were evaluated and point ranges for generalized ranks of high, medium, low were established. The top 11 issues were given high rank, the next 11 given medium, and the lowest 10 issues given low rank. The resulting point ranges are:

TABLE 2 – POINT RANGES FOR GENERALIZED RANK CATEGORIES

Point Range	Generalized Rank
≥ 48	High
37-47	Medium
≤ 36	Low

Available Staff Resources

Non-TMDL Basin Planning in the San Francisco Bay Region consists of 1.8 personnel-years (PY). Available planning staff equals 5.4 PY for the next three years. Basin Plan projects are a minimum of 0.3 PY, due to the substantial process, even after Basin Plan amendments are adopted at the Regional Water Board level. It is anticipated that projects with estimates less than 0.3 PY would be combined with other proposed amendments to create a larger package of changes for efficiency.

In the San Francisco Bay Region, staffing for planning has been augmented by other sections or divisions in order to address an outstanding issue that affects the particular part of the agency.

Projects currently underway using other resources include:

TABLE 3 – BASIN PLAN PROJECTS USING FUNDING OTHER THAN BASIN PLANNING

PROJECT	ESTIMATED PY	ACTUAL PY	SOURCE OF FUNDING
Copper SSO	0.6	0.2	TMDL Section
Nickel SSO	0.6	0.2	TMDL Section
Cyanide SSO	0.6	0.2	Bay Area Clean Water Agencies (BACWA) ²
Cyanide Effluent Limit Policy for Shallow Discharges	1.5	0.3	Bay Area Clean Water Agencies (BACWA) ¹
Groundwater Amendments	6.3	3.0	Underground Storage Tank (UST)
TOTAL	9.6	3.9	

Recognizing these existing planning commitments, the available 5.4 PY (over three years) is assumed to be augmented by 3.9 PY targeted toward these other specific projects, which will be included in the work plan, even though they may be medium or low priority in some cases. In total, based on current information, it appears there will be approximately 9.3 PY or 3.1 staff available per year over the next three years. Assuming that administrative functions and participation in the statewide Basin Planning roundtable require 0.3 PY per year (or 0.9 for three years), the prioritized list for specific projects uses 8.4 PY or 2.8 PY per year plus an additional 25% totaling 10.5, recognizing that additional resources, internal or external, may be made available to do Basin Planning over the next three years.

Estimates of PY to accomplish an approved Basin Plan amendment are rough approximations. After Regional Water Board approval, an administrative record must be compiled and transmitted to the State Water Board for their approval process. This usually takes about 2 months and constitutes about half of the workload for a staff person over those two months (0.08 PY) plus administrative assistance. Depending on the complexity and level of controversy of the project, substantial additional staff time may be required to accomplish approval at the State Board level and subsequently at the Office of Administrative Law (OAL) and U.S. EPA levels.

For work planning purposes, Basin Plan amendments of low complexity are assumed to require 0.3 PY. Medium complexity amendments are assumed to be between 0.6 to 1.2 PY, depending on whether substantial investigation work has already occurred on a project, including dedication of resources external to the Water Board (e.g., copper, nickel, and cyanide SSO projects have been worked on from time to time, and were

² Arranged through a Clean Estuary Partnership (CEP) contract with Association of Bay Area Governments (ABAG). BACWA is one member of the CEP.

estimated at 0.6 PY). High complexity projects are assumed to require from 1.5 to 3.0 PY, depending on staff's judgment of the controversy that could be anticipated.

Selection of Prioritized Basin Plan Issue List

The final Triennial Review Basin Plan issue list was developed based on the top priority issues and available staffing, described above. The prioritized issue list, attached to the tentative resolution in Appendix C, comprises the Basin Plan work plan for the San Francisco Bay Region for the next three years. It was based on ranking the issues, and considering the current availability of staff resources, including the 5.4 PY allocated to the Water Board for Basin planning plus other resources, external and from other divisions of the Water Board, assumed to be 3.9 PY. Subtracting 0.3 PY per year for administrative functions, available planning staff resources for Basin Plan issues totals 8.4 PY total for the upcoming three years. More resources, internal or external, may be made available in the next three years to address these issues, and therefore an additional 25% was assumed, totaling 10.5 PY.

This list of issues represents the Water Board's best estimate of the planning work that will be accomplished over the next three years. Projects underway with external resources already dedicated will be included even though they may not have been the highest ranked projects (e.g., cyanide effluent limit policy). Basin Plan issues that fell below the available PY are not eliminated from further consideration. For instance, in the event that projects take less staff time than estimated, more projects may be addressed in the next three years. Affected parties may provide resources to address specific planning issues in partnership with the Water Board, recognizing that at least some Water Board staff time is necessary to accomplish such Basin Planning. Each year Water Board staff will develop an annual work plan for non-TMDL planning, coordinated with the statewide Basin Planning Roundtable, and use this prioritized list as a starting point.

PRIORITIZED BASIN PLAN ISSUES

Planning staff believes that all issues in this Triennial Review represent issues that warrant Water Board planning attention. Just because issues received lower ranking does not indicate that staff believe that the issue should not be addressed. This work planning exercise brings light to the systemic problem that numerous outstanding Basin Planning actions are warranted at this and other Water Boards, and the allocated staff resources do not align with the associated workload of Basin Planning.

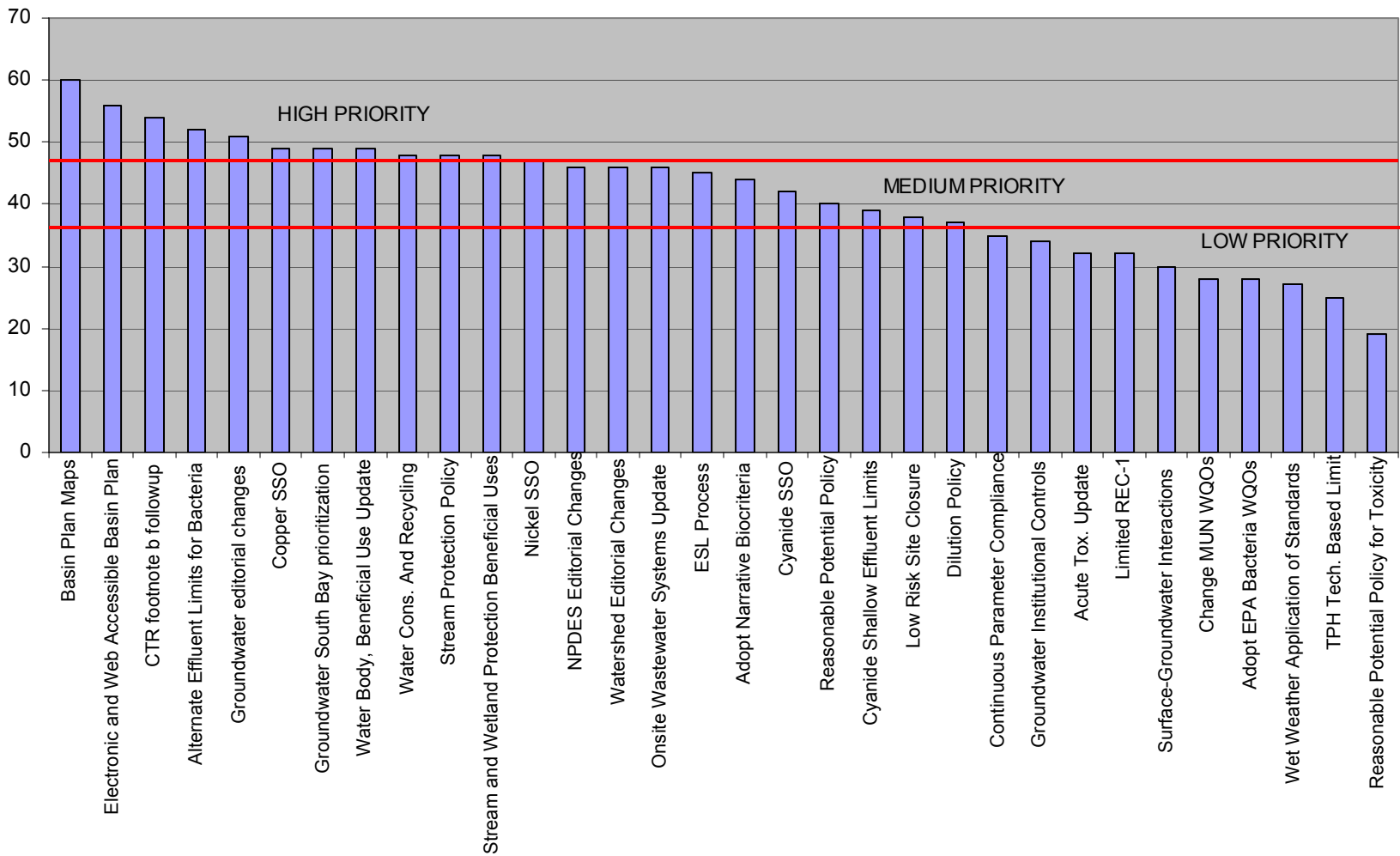
Appendix B contains the complete prioritized list of the 32 Basin plan issues considered in this Triennial Review. Included for each sequential issue is its Prioritized Rank, Category, Generalized Rank, Complexity, Score, Issue Title (abbreviated), Issue Name, Issue Summary, what organization proposed the Issue and what additional organization(s) or individuals support the Issue being addressed, based on input at the public workshop and comment letters received by June 18, 2004.

Table B-1 in Appendix B contains the scores that were attributed to each issue for each ranking criterion. Figure 1, below, is a graphical display of the 32 ranked issues and their respective scores. Attachment 1 to the tentative resolution (Appendix A of Item 8 of

November 17, 2004 Water Board Agenda) is the proposed list of issues to be investigated in the next three years, ending in 2007.

The tentative resolution and the attached 2004 Prioritized List of Basin Plan Issues for Investigation summarizes the list of issues, which is expected to require 8.4 PY or more to accomplish. Issues on this list ranked highest according to the ranking process. Those issues that are specifically funded, but lower ranked, were also included, such as Copper, Nickel and Cyanide Site-Specific Objectives, the Cyanide Effluent Limit Policy, and Groundwater Updates that are estimated to use the 3 PY furnished by the Groundwater Divisions. As resources are identified and targeted to Basin Planning over the next three years, the prioritized list of Appendix B will provide guidance as to where to direct those resources, internal or external.

FIGURE 1 - BASIN PLAN ISSUE RANKING SCORES



APPENDIX A of Staff Report

PUBLIC NOTICE

AND

MEETING MINUTES OF PUBLIC WORKSHOP

June 8, 2004

**NOTICE OF PUBLIC SOLICITATION PERIOD
AND PUBLIC WORKSHOP**

TRIENNIAL REVIEW

WATER QUALITY CONTROL PLAN, SAN FRANCISCO BAY BASIN

May 5, 2004

The California Regional Water Quality Control Board, San Francisco Bay Region (Water Board) is initiating the Triennial Review process for the Water Quality Control Plan, San Francisco Bay Basin (Basin Plan). The Basin Plan is the master policy document that contains descriptions of the legal, technical, and programmatic bases of water quality regulation in the San Francisco Bay Region, including water quality standards.

The purpose of the Triennial Review is to examine and update the focus of Water Board planning efforts for the next three-year period, excluding TMDL developments underway. Federal law (Clean Water Act Section 303(c)(1)) requires that a State's water quality standards be reviewed every three years. The Triennial Review process will result in an amendment to the "Continuing Planning" section at the end of Chapter 4 of the Basin Plan, describing proposed allocation of available Basin planning staff resources for the next three years (i.e., work plan). The last update of the Basin planning work plan occurred in April 2001.

The public workshop on the Basin Plan Triennial Review will be held:

DATE: **Tuesday June 8, 2004**
TIME: 10 a.m. to 12 p.m.
LOCATION: Elihu M. Harris State Building
2nd Floor, Room 15
1515 Clay Street
Oakland, California 94612

STAFF CONTACT: Steve Moore, Planning Section Leader
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This notice solicits public input for the preparation of the Water Board's Triennial Review work plan, with written comments due to the above address on **June 18, 2004**.

Based on previous stakeholder comments, coordination with the statewide Basin Plan roundtable, and a review of regulatory program needs, Water Board staff has identified three general topics for consideration in the upcoming Triennial Review. These are listed

below, along with examples of specific issues that could be addressed within each topic area.

- Evaluate need for site-specific objectives for toxic pollutants
 - Cyanide (marine objective) and associated effluent limitation policy for shallow water dischargers
 - Copper (marine objective) north of Dumbarton Bridge
 - Nickel (marine objective) north of Dumbarton Bridge
- Stream Protection and Management
 - Incorporate explicit policy on stream protection into 401 water quality certification and Stormwater NPDES regulatory programs
 - Designation of Beneficial Uses related to physical stream and wetland functions that improve water quality
 - Associated update of significant Water Bodies and associated Beneficial Uses (the list has not been updated since 1975) with readily available documentation
 - Address municipal water supply designations per May 2000 letter from U.S. Environmental Protection Agency, Region IX
- Updates of Regulatory Programs
 - Establishing Fecal Coliform Effluent Limitations in lieu of Total Coliform
 - Acute Toxicity methods
 - Chronic Toxicity methods
 - Add technology based limit for Total Petroleum Hydrocarbons (TPH)
 - Mixing zone policy for riverine and estuarine discharges, consistent with State Implementation Policy for Toxic Pollutants (SIP)
 - Compliance Determination with Continuously Monitored Parameters (e.g., chlorine residual and pH)
 - Policy on use of Hardness data to Calculate Freshwater Metals Objectives
 - Update pollution prevention language to include reference to SB 709
 - If U.S. EPA removes “footnote b” of the California Toxics Rule (CTR), amend Tables 3-3 and 3-4 to recognize the CTR as the basis of water quality objectives so that future CTR updates do not require a subsequent Basin planning process
 - Editorial revisions and minor clarifications or corrections to text and reference to new laws, plans and regulations

The above list of potential work plan elements for Basin planning staff far exceeds available staff resources, currently funded by the State’s General Fund at less than two person-years. The list of potential issues is not limited to the examples noted above. The above topics are listed to encourage input from interested parties to assist planning staff in prioritizing Basin Plan amendment projects that will best address water quality planning needs of our region.

We encourage interested parties to obtain relevant project documents at www.swrcb.ca.gov/rwqcb2/basinplan.htm under “Triennial Review.”

After we have received public comments, staff will prepare a final work plan and Basin Plan amendment and send out a notice announcing a formal 45-day public comment period. Staff will then bring a proposed amendment to the Board for consideration and adoption in the fall of 2004.

Triennial Review Solicitation Period:

Solicitation Period Opens	Wednesday May 5, 2004
Public Workshop	Tuesday June 8, 2004
Solicitation Period Closes	Friday June 18, 2004
Final date for	
Submitting comments	Friday June 18, 2004
Board Hearing	Fall 2004

AGENDA

**BASIN PLAN TRIENNIAL REVIEW
SAN FRANCISCO BAY REGION**

PUBLIC WORKSHOP

**Room 15, 2nd Floor
State Building, 1515 Clay St., Oakland, CA
10:00 a.m. – 12:00 p.m.**

June 8, 2004

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|----|--|-------------|
| 1. | Introductions | All |
| 2. | What is a Triennial Review? | Steve Moore |
| 3. | Water Board Staff Review of Issue Areas | Steve Moore |
| | a. Potential Site-Specific Objectives | |
| | b. Stream Protection and Management | |
| | c. Regulatory Program Updates | |
| | d. Issues brought up during Comment Period | |
| 4. | Comments from Workshop Attendees | All |
| 5. | Discussion and Next Steps | Steve Moore |

Basin Plan Triennial Review Workshop
Summary of Public Comments/Questions
San Francisco Bay Regional Water Quality Control Board
Oakland, CA
June 8, 2004

I. Background

San Francisco Bay Regional Water Quality Control Board (Water Board) staff is conducting its Triennial Review of the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Water Board held a public workshop from 10:00 a.m. to 12:00 p.m. on Tuesday, June 8, 2004, at the Elihu Harris State Office Building. Approximately 25 representatives from public agencies, environmental organizations, and other members of the public attended.

The goals of the meeting were to:

1. Update stakeholders on the Triennial Review Process.
2. Present general topics for consideration in the upcoming Triennial Review.
3. Solicit comments from the regulated community and members of the public on the potential scope of planning efforts for the next three years.

Steve Moore, Section Leader of Planning for the Water Board opened the workshop by reviewing the agenda and explaining how this workshop fit into the overall Triennial Review development process and schedule. He emphasized that, in the next steps in the process, Water Board staff would be looking to stakeholders for their input. He then presented an overview of the Triennial Review process and the three general topics for consideration:

- Evaluate the need for site-specific objectives for toxic pollutants.
- Stream protection and management.
- Updates of regulatory programs.

An issue paper providing detail about these topics is available at <http://www.swrcb.ca.gov/rwqcb2/basinplan.htm>.

Steve Moore's presentation was followed by a question and answer/comment period. Thomas Mumley, Division Chief, Planning & TMDL Division participated in this question and answer session. The public was also encouraged to submit comments in writing, by electronic mail, or by telephone by June 18, 2004. The questions and answers from the meeting are summarized below. **Please note: this document is not intended to be an actual transcript of the workshop. Rather, it is a summary of the question and answer session.** We tried to capture the speakers' comments as accurately as possible. These comments will be used to inform the next step in the process: an amendment to the Water Quality Control Plan for the San Francisco Bay Basin entitled "Continuing Planning," located at the end of Chapter 4 of the Basin Plan.

II. Next Steps

Water Board staff will prepare a final work plan and draft Basin Plan Amendment. These documents will be circulated for a formal 45-day public comment period. After responses to these comments are prepared, Staff will then bring a proposed amendment to the Board for consideration and adoption in fall 2004.

III. Summary of Questions and Answers

Questions During Presentation:

Kevin Buchan, WSPA—When you were talking about the legislation and counting beneficial uses for the streams, was that linked to the legislation?

Steve Moore response—The proposed legislation is something I don't know a whole lot about. You know how legislation works. What's there one week may be dropped next week.

Kevin Buchan, WSPA—Has that legislation been adopted?

Steve Moore response—No. It's legislation that is currently under consideration that was looking at the Los Angeles Water Board and the Lahontan Water Board, which includes Tahoe, who had come up with these beneficial uses. It's something that gets us where we need to go as far as tying our permitting programs to protection of beneficial uses, which is part of water quality standards. The question for a 401 permit is "Will the project be a violation of water quality standards?" And that's a tough question to answer with just your traditional water quality measures. But if we make it more explicit that physical characteristics of water bodies are part of the standard, that makes it clearer what the rationale is.

Kevin Buchan, WSPA —Could you clarify what a 401 project is?

Steve Moore response—Section 401 requires certification that a planned project in waters of the U.S., such as a stream bank stabilization, will not violate water quality standards. The Water Board is responsible for this certification, but it is not always easy to determine whether water quality standards will be violated or not. 401 certification goes hand in hand with 404 certification by the U.S. Army Corps of Engineers. The 401 provides the States with veto power over the federal permit.

Susan Glendenning, San Francisco Public Utilities Commission (S.F. PUC)—Would these new beneficial use standards be applied to existing projects or will they start with new projects?

Steve Moore response—We aren't planning to revise the whole list of use designations, but rather will focus on general use designations that look at water bodies and watersheds holistically, rather than specific segments. It's advantageous to everyone for us to be more general in use designations because these are dynamic systems.

Nancy Yoshikawa, U.S. Environmental Protection Agency—Will you be changing the objectives in the Basin Plan or are you talking procedures for not having a limit in a permit or both?

Steve Moore response—This is a procedure for establishing E. Coli or enterococcus limits in place of Total Coliform limits.

Nancy Yoshikawa—So you mean the procedure to not have a limit in the permit for a given amount of time?

Steve Moore response—I'm not clear that that's part of the process.

Nancy Yoshikawa, U.S. Environmental Protection Agency (U.S. EPA)—You could just have a different limit based on water quality objectives, but I think this is something beyond that. The other permits that I've seen, they suspend the limit for a certain amount of time.

Steve Moore response—There's an experimental period. That's part of the procedure.

Nancy Yoshikawa, U.S. EPA —So it's basically to standardize how you do that.

Steve Moore response—That would be part of it. Being clear about the procedure.

Nancy Yoshikawa, U.S. EPA—Why would that have to be in the Basin Plan, rather than a policy?

Steve Moore response—We could do this with a separate policy, but it would have the same administrative burden as a Basin Plan Amendment, so we could call it an “effluent limit policy” and include it in Chapter 5 of the Basin Plan, “Plans and Policies,” or we could include it in Chapter 4, “Implementation Programs,” and I like that better because then it's part of an existing set of text that describes how effluent limits are calculated.

Tom Hall, EOA, Inc. and City of Sunnyvale —Just to further clarify. There's currently a disconnect in the Basin Plan between Total Coliform in one section and the water quality objectives for E. Coli and enterococcus. What's missing is a section on how to calculate effluent limits based on enterococcus or E. Coli. What's been done so far on a case-by-case basis is to set the effluent limit as equal to the objective, but that doesn't address issues such as dilution.

Nancy Yoshikawa, U.S. EPA —Is this something that might be better to address this on a statewide level?

Steve Moore response—This didn't come up as a statewide issue in the Basin Planning roundtable discussions of priority statewide planning topics. The statewide issue for bacteria is one of the objectives. There's a consensus to work on that.

Phil Bobel, Santa Clara Basin Watershed Management Initiative (SCBWMI) and City of Palo Alto —Nancy, you used the word suspension and I wanted to reassure you that, in practice, limits haven't been suspended. In our case, an alternative limit for enterococci was used during the period of testing.

Steve Moore response—That's an example of something that's part of the NPDES workload, but it's not currently described in the Basin Plan. It seems to me that it ought to be.

Kevin Buchan, WSPA—What about dilution for bioaccumulatives? Is that going to be a part of the discussion here?

Steve Moore response—You can make the comment that it should be part of the discussion. That's a good example of the many issues that can come up.

Question and Answer Session:

Dave Tucker, City of San Jose—How about translators in the Basin Plan.

Steve Moore response—That's certainly an option. Can you explain what's missing?

Dave Tucker, City of San Jose—Currently, the translators are negotiated on a permit-by-permit basis.

The Basin Plan should be amended to clarify the process by which metals translators are selected for effluent limits. Consistency would go a long way towards making the process smoother.

Steve Moore response—We'll add this to the list.

Tom Hall, EOA, Inc. and City of Sunnyvale—The Board could consider bundling several effluent limit guideline activities into one Basin plan amendment project: translators, selection of the representative hardness value for freshwater-based metals objectives, selection of background value for the effluent limits calculation, how much data are needed for each element. This way the process would be more generalized for different dischargers in the region and not so site-specific.

Steve Moore response—This is more of an issue in our Region as we have approximately 40 municipal dischargers, as compared to less than 10 in the L. A. Region. It may make more sense for our Region to do this as a planning exercise, than for some other Regions.

Nancy Yoshikawa, U.S. EPA, Region IX—This makes sense to do as part of the Basin Plan because you could generalize it more. I'm interested in more clarity on how to calculate bacteriological and chlorine residual effluent limitations derived from the water quality objectives in the Basin Plan. We're concerned about suspension of effluent limits during period when alternative disinfection and effluent limits are employed (several months). Example: Delta Diablo permit.

Tom Hall, EOA and City of Sunnyvale—What's been happening for the last 10 or 12 years is that we've taken a very very conservative approach where the effluent limit equals the water quality criteria. There's a disconnect, as I said, because we can't comply with both a fecal or an enterococcus water quality objective based limit and a performance-based total coliform limit. One of the issues is how much effort, if any, needs to go into additional studies about the impact on beneficial uses to justify a fecal or enterococcus based limit. One suggestion is that the Water Board consider adding a limited water contact recreation beneficial use. What we have now is a beneficial use of REC 1 [water contact recreation] that assumes full immersion.

Steve Moore response—One example of this is the East Bay creeks, where there are few swimming holes. Sometimes kids will wade in these creeks, but there is not full immersion. We recently had a Basin Planning roundtable meeting where we compiled a list of potential basin planning issues to be addressed at the State level. Each Regional Board, State Board and U.S. EPA had 10 votes for which issues they thought were the highest priorities. Tied for first place were: review and update beneficial use definitions; and biocriteria development and adoption based on macroinvertebrates. One example of where beneficial use definitions need updating is that we have the Commercial and sport fishing (COMM) beneficial use and the Recreational

(REC1) beneficial use and there is overlap between these two. All of our beneficial uses fit into four broad categories: water supply (drinking water, industrial, and agricultural); consumption of fish and shellfish; recreation in and on the water; and protection of aquatic life. The aquatic life beneficial use could be refined based on bioassessment. The 3rd top vote getter was bacteria objectives for REC1. Tied for 4th were regulations for septic tanks and clarifications of the definition of wetlands for 401 certifications.

Dave Tucker, City of San Jose—What is the status of removing footnote b from the California Toxics Rule (CTR)?

Nancy Yoshikawa, U.S. Environmental Protection Agency—This has been held up because it's been bundled with the mercury and cadmium issues, and as you know mercury is controversial right now. It could potentially be unbundled and we could address cadmium and footnote b separately. If interested, agencies can contact Diane Fleck to discuss options of decoupling the project to move it along faster.

Dave Tucker, City of San Jose—Has the report that was put together with U.S. EPA and U.S. Fish and Wildlife been sent out for internal review yet?

Nancy Yoshikawa, U.S. EPA—I believe so. I'll have to check.

Steve Moore response—The recent Basin Plan amendment, when fully approved later this year, implements the same CTR numbers. So for the near term, dischargers' interests are met, but in the long term, in the event EPA were to propose new CTR changes, the process would only then become inefficient again without a footnote b action. So for the near term, there should be no reason to speed up the footnote b process ahead of the other CTR amendments.

Dave Tucker, City of San Jose—You've got a long list of projects. What percentage do you see yourselves actually accomplishing in the next three years given your limited resources. Just as a guestimate, would you say 50%?

Steve Moore response—Well in the last three years, we accomplished roughly 50 % of our projects for various reasons including staff attrition, so we will attempt to improve on that mark.

Dave Tucker, City of San Jose—I recommend that the Water Board consider prioritizing projects that are relatively "easily fixable" due to severe resource limitations over the next couple of years, rather than biting off more than you can chew.

Steve Moore response—That's true, and we can illuminate that through our staff report. We'll make our best guess at the resource needs to accomplish our tasks. We may have to focus on the easily fixable things, but we'd like input on what bigger projects people would like us to work on as well.

Tom Hall, EOA, Inc. and City of Sunnyvale—I suggest that Water Board staff identify opportunities for collaboration in instances where staff resources may be inadequate to take on certain projects.

Phil Bobel, SCBWI and City of Palo Alto—The WMI wanted to write a letter to support the stream protection policy, since it was identified as one of our very highest priorities in a recent priority setting exercise, which referred to the issue as "Integrated flood, stewardship, and habitat assessment planning and implementation." But the WMI members were unable to come to

consensus on a letter of support to the Water Board, and so separate members will provide input. We thought it might be constructive for the Water Board to know about this difficulty reaching consensus. Many landmines were identified, including: property rights and local government flexibility on implementing the stream protection elements; and what to do about existing developments that may not be in compliance. That's our mixed message—extremely high priority, many landmines. We stand ready to work with you, but it is a telltale sign that we're having trouble with a comment letter. If we can get some of these issues behind us that our taking up resources, than it will also help stream protection because it will free up resources. An example is the cyanide issue.

Tom Mumley response—Clearly, stream protection has been a priority of ours for the past three or four years. If it were easy, it would be done by now. Coming up with the concepts is the easy part, but the implementation is the issue, partly because of fear about unintended consequences of the regulation, or treading on the authorities of local government. We're aware of some of the issues. Local governments feel “we want to do it. It's the right thing to do, but we don't want to have to do it.” Currently, we're addressing issues on a project-by-project basis.

Phil Bobel, SCBWMI and City of Palo Alto—We want to keep an eye on this issue. The more we look into it, for instance, in San Francisquito Creek, we realize it's probably not a pollutant issue, it's physical characteristics of streams when it comes to protecting beneficial uses (e.g., COLD water fish habitat). The WMI is therefore very interested in the stream protection proposals and want to keep an eye on the ball.

Steve Moore response—One idea, in terms of trying to deflect the concerns about property rights, is to describe the stream protection policy in terms of the Water Board implementing these standards only through its regulatory process, so the issue only comes up to the Water Board when somebody wants a permit and then we ask questions such as “is this going to cause a net increase in erosion or deposition.” This procedure is laid out in Riley's technical circular, “A Primer on Stream and River Protection for the Regulator and Program Manager,” on our website under “Available Documents.”

B.C. Capps, Bay Area Open Space Council, San Francisco Bay Joint Venture—I have a couple of questions on stream protection issues. You had mentioned the CEQA scoping meeting from last June for the stream protection and waterbody amendments. Will comments we made at that time be included in this Triennial Review exercise, or should they be re-submitted?

Steve Moore response—Those comments will be part of the Administrative Record for the Stream Protection and Waterbody Amendment. However, they can be resubmitted.

B.C. Capps, Bay Area Open Space Council, Joint Venture—Will the watershed boundaries of the Basin Plan be synchronized with the CalWater watersheds? That seems to make sense to me and I don't see why that wouldn't be done, other than the fact that there are problems with CalWater.

Steve Moore response—Yes. We are going beyond that. In areas where CalWater is inadequate (flat- gradient urban areas of the region), we have made progress in incorporating local mapping information, such as the Oakland Museum watershed maps of the East Bay drainages, and where local jurisdictions have shared data layers (e.g., Santa Clara Valley Water District). We're lucky to have a GIS analyst, Jeff Kapellas, on staff to manage this process.

B.C. Capps, Bay Area Open Space Council, Joint Venture—What input is the Water Board staff interested in getting from stream advocates? We can act as a conduit for input at the local level.

Steve Moore response—We would be interested if you could give us as Water Board staff a sense of how important this is and how important our regulatory process is in protecting creeks. If we were to put something in the Basin Plan, whether its existing regulatory programs or the idea of opening the door a bit in how we evaluate urban runoff programs and how they're protecting their streams; what kind of rules local governments are making to protect their streams and how they're implementing them and how they're doing. We did a regionwide survey and I believe 41% of local governments of the Bay Area have stream protection ordinances. So we would like input on what in our regulatory process do stream advocates support now, what could we be better at, and what kind of accountability mechanisms do you think are reasonable for the State to have on local governments in this arena. There's concern about land use policy and the State overstepping its legal authority and yet the Water Board needs to evaluate physical characteristics to determine if a project will affect water quality.

Kevin Buchan, WSPA—The Basin plan should address the dilution credit for bioaccumulative pollutants and the question of assimilative capacity for bioaccumulatives.

Steve Moore response—Is this a Region 2 specific issue, or have any other WSPA members in California had a similar issue?

Kevin Buchan, WSPA—I'm only familiar with the refineries in this Region.

Steve Moore response—I guess, in your written comments, you'll discuss why the current language in the Basin Plan is unclear?

Kevin Buchan, WSPA—After the SIP got adopted, originally deep water got 10 to 1 dilution and shallow water didn't and then it became if it's a bioaccumulative, you don't get dilution.

Steve Moore response—And the basis for that was the findings of the permit and the fact sheet as opposed to in the Basin Plan.

Kevin Buchan, WSPA —And I know the SIP allows you to grant dilution on a case-by-case basis, watershed-by-watershed basis, permit-by-permit basis, etc. It seemed like there was a decision at the Regional Board level not to grant dilution. I'd like to see this on your list as we move forward with the Basin Plan, because I think it's going to be a problem with other pollutants down the road that with other pollutants that the RMP is seeing. It's truly problematic for dischargers to meet limits that they don't even have control over.

Tom Hall, EOA, Inc. and City of Sunnyvale—On the issue of policy by permit, I would take the next step that it's been developed through litigation and that different permit writers may be more or less familiar with certain State Board rulings and court rulings. The suggestion is to capture those precedential rulings and actions and include them in Chapter 5, Plans and Policies.

Marian Gonzalez, Alameda County Water District—Our NPDES permit requires us to use Stickleback fish, but that is not allowed in the 4th edition of the U.S. EPA acute toxicity manual.

What is the procedure for changing that in our permit? Does it go into affect after our permit expires or does the Water Board contact us to make that change prior to when our permit expires.

Steve Moore response—Change in monitoring protocol is required only by permit action. Until the Basin Plan is amended, no permit will change, so there are not imminent changes anticipated with respect to fish used in the acute toxicity assays.

Tom Mumley response—The answer is to comply with the permit requirement. Every permit has a reopener. We can't enforce a basin plan requirement; we can enforce permit requirements. In general, we would deal with this kind of change when the permit is reissued. We could reopen the permit, but that's highly unlikely in your case.

Steve Moore response—It's part of our permit decision making process—monitoring procedures.

Marian Gonzalez, Alameda County Water District—But if those procedures are in the SMP than it might be easier to make those changes than if it's in the actual permit.

Steve Moore response—Yes. Anything in our monitoring program requirements can be changed by Executive Officer signature, but limits and procedures that are outlined in the permit, would require a Board action.

Dave Tucker, City of San Jose—To follow up, the Effluent Toxicity Characterization Program (ETCP) --some things are in here but a lot are not. Procedures that we're supposed to be following. It would be a lot better if everything could be brought together in one place.

Steve Moore response—Some changes have already been drafted as part of the previous amendment process, and can be bundled into a basin plan amendment project when appropriate.

Tom Hall, EOA, Inc. and City of Sunnyvale —On that chronic and acute toxicity issue, one thought to consider would be adopting some type of reasonable potential policy for toxicity testing so that permit writers can have some guidance for when those limits and triggers are required to be in permits. It would be good if the basin plan could be consistent with the Ocean Plan.

Phil Bobel, SCBWMI and City of Palo Alto— On the subject of mixing zones, we've got conservative pollutants and the need to deal with them in the context of other discharges; that could be in one part of the Basin Plan. And then a non-conservative pollutant, cyanide, there might Statements associated with the cyanide SSO that alert the permit writer on how to deal with attenuation. To alert you, there are more non-conservative pollutants that may be like cyanide. We're dealing with one now that's a byproduct of disinfection, chlorodibromomethane and we're investigating it and maybe we can adjust our in plant processes to get below the standard, but maybe not. Maybe we can look to what you're going to do on cyanide as the example, or maybe as you're doing it, you can generalize to anticipate other pollutants. The other category that Kevin brought up is bioaccumulative pollutants.

Sarah Young, Santa Clara Valley Water District (SCVWD)—The Water District fully supports the stream protection and management effort. We are thrilled that it is a planning priority of the Water Board, because it is a priority of the District, part of its mission and interests. SCVWD is involved in the WMI. SCVWD encourages the Water Board to consider local knowledge for better understanding of stream functions in specific areas of the region.

SCVWD wants to share the knowledge gained and lessons learned in its stewardship, flood planning, and stream maintenance activities.

Steve Moore response—We appreciate it and we recognize the District’s partnership with us and with the WMI, especially in this last year with the stream collaborative process. There are economic incentives to enforce this kind of policy regionwide.

Nancy Yoshikawa, U.S. EPA—What are the next steps? There’ll be a staff report, will that include a list of issues?

Steve Moore response —Yes. The actual amendment is a table with these types of tasks, probably reorganized, with some tasks bundled together. We’ll come up with tasks and an estimate of resources in terms of staff and we will come up with a prioritization that considers the input we’ve received and considers factors like how long it will take and how efficient it makes the programs for the implementing divisions of the Water Board.

Nancy Yoshikawa, U.S. EPA—So what about the issues that you’re going to set aside as more of a State Board issue? Are you planning to write a letter to the State Board?

Steve Moore response —They’re involved in the Triennial Review.

Nancy Yoshikawa, U.S. EPA —Will there be a feedback from them as to whether they will follow through?

Steve Moore response —We’re bundling the statewide planning priorities from the Basin Plan Roundtable into a proposal to U.S. EPA to help make these things happen. There’s a pretty good tracking system for EPA now with the roundtables. Also, we’re making Basin Planning more of an official program with work plans, so you’ll be able to see in that what the individual regions and the Division of Water Quality will be doing.

Tom Mumley response—You’ll find that our Basin Planning process will be much more transparent from here on out, for a variety of reasons, most importantly our own interests. A lot of these questions will be answered in the staff report. For State Board issues, we’ll mark those and track those.

Tom Hall, EOA, Inc. and City of Sunnyvale—I have a process suggestion. In its planning, the Water Board should consider opportunities for collaboration, and suggestions for other resources, such as local government or special district funding to achieve planning projects.

Steve Moore response —In our draft staff report, we’ll include some ideas for collaboration and leveraging resources.

Tom Hall, EOA, Inc. and City of Sunnyvale --Also, the water recycling language of the Basin Plan is dated and needs updating. The Water Board needs to continue to send the message to local government that recycling is a water resource priority in the Bay Area.

Steve Moore response —That’s the kind of thing we can bundle with some other language that’s not regulatory, but planning. Strong Statements can go a long way at the local level. Great suggestions.

IV. Conclusion

Steve Moore thanked everyone for coming and told participants he looked forward to receiving their written comments. The meeting was adjourned.

APPENDIX B of the Staff Report

2004 PRIORITIZED BASIN PLAN TRIENNIAL REVIEW ISSUE LIST

ISSUE TITLE	Basin Plan Maps
PRIORITIZED RANK	1
CATEGORY	Beneficial Uses
GENERALIZED RANK	HIGH
COMPLEXITY	LOW
SCORE	60
ISSUE NAME	Update of Basin Plan Maps
ISSUE SUMMARY	Update the Basin Plan maps (Figures 2-1 through 2-11) incorporating new hydrologic boundaries, stream linework, and geographic information. Update beneficial uses and water bodies according to the newly revised maps. Reconcile nomenclature in the beneficial use tables for surface and ground water with the nomenclature on the Basin Maps. Re-format Maps in Chapter 4 for consistency and any relevant updates. Beneficial Use Tables 2-1 through 2-7 for surface waters should include the designations for Hydrologic Unit (HU), Hydrologic Area (HA), or Hydrologic Subarea (HSA). Beneficial Use Table 2-8 for ground waters should include the updated DWR Bulletin 118 basin numbers. These conventions should reconcile the water body classifications with the Calwater System and provide updates to that statewide system as appropriate (e.g., in flat, urbanized portions of the region based on local information).
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	0.3
IMPLEMENTING DIVISION	Planning and TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	Electronic and Web Accessible Basin Plan
PRIORITIZED RANK	2
CATEGORY	ALL
GENERALIZED RANK	HIGH
COMPLEXITY	LOW
SCORE	56
ISSUE NAME	Electronic and Web Accessible Basin Plan
ISSUE SUMMARY	Important administrative task to make the most current form of the Basin Plan, including fully approved amendments since 1995, available on the Water Board's website in PDF and HTML format. Prepare a Microsoft WORD document of the Basin Plan as a template for Basin Plan amendment work. This will greatly improve public access to the applicable and relevant regulations of the Basin Plan.
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	0.6
IMPLEMENTING DIVISION	ALL
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	CTR footnote b followup
PRIORITIZED RANK	3
CATEGORY	Water Quality Objectives
GENERALIZED RANK	HIGH
COMPLEXITY	LOW
SCORE	54
ISSUE NAME	Amend Tables 3-3 and 3-4 to recognize the California Toxics Rule (CTR) as the basis of water quality objectives
ISSUE SUMMARY	Water Board staff propose that, upon final promulgation of an update to the CTR that removes footnote “b,” the Water Board remove (vacate) the CTR-based numbers in the Basin Plan tables 3-3 and 3-4, thereby recognizing that the federal CTR is the basis of the water quality objectives and not the Basin Plan. This will create consistency in water quality objectives for toxic pollutants in this region, promote statewide consistency and reduce confusion and inefficiency in later years if and when the CTR is modified.
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	0.9
IMPLEMENTING DIVISION	NPDES, Planning and TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	Alternate Effluent Limits for Bacteria
PRIORITIZED RANK	4
CATEGORY	Implementation
GENERALIZED RANK	HIGH
COMPLEXITY	MEDIUM
SCORE	52
ISSUE NAME	Procedure for establishing Fecal Coliform or other bacterial effluent limitations in lieu of Total Coliform
ISSUE SUMMARY	The NPDES division has instituted procedures to allow a discharger to receive a fecal coliform-based or enterococci-based limit in lieu of a total coliform limit. It includes an experimental period where chemical uses are changed to meet a fecal coliform-based or enterococci-based limit and receiving waters are surveyed to ensure compliance with bacteria water quality objectives where the beneficial use of water contact recreation occurs. An alternate procedure has been to establish fecal coliform or enterococci limits in the discharge that are equivalent to the objectives. A Basin Plan Amendment would fine tune these procedures based on experience with dischargers such as San Francisco Southeast Water Pollution Control Plant, and formalize them for use by other municipal dischargers in the region.
ESTIMATED PERSONNEL-YEARS (PY)	0.6
PY RUNNING TOTAL	1.5
IMPLEMENTING DIVISION	NPDES, Planning and TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	San Francisco Public Utilities Commission Central Contra Costa Sanitary District City of Sunnyvale

ISSUE TITLE	Groundwater editorial changes
PRIORITIZED RANK	5
CATEGORY	Implementation
GENERALIZED RANK	HIGH
COMPLEXITY	LOW
SCORE	51
ISSUE NAME	Groundwater: Editorial revisions and minor clarifications or corrections to text and reference to new laws, plans and regulations
ISSUE SUMMARY	Make editorial changes that clarify or update regulatory program descriptions to be consistent with new laws, plans and regulations. These changes are sometimes needed for clarity and to ensure that the public is informed about the latest requirements to protect water quality. Such proposed elements of Basin Plan Amendments would be non-regulatory, i.e., they would not impose new requirements on permittees, but rather clarify existing regulatory requirements or program descriptions not addressed in the current version of the Basin Plan.
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	1.8
IMPLEMENTING DIVISION	Toxic Cleanup, Groundwater Protection & Waste Containment
PROPOSED BY:	Water Board
SUPPORTED BY:	Bay Planning Coalition Bay Area Stormwater Management Agencies Association

ISSUE TITLE	Copper SSO
PRIORITIZED RANK	6
CATEGORY	Water Quality Objectives
GENERALIZED RANK	HIGH
COMPLEXITY	MEDIUM
SCORE	49
ISSUE NAME	Copper Site-Specific Objective (Marine), San Francisco Bay Segments North of the Dumbarton Bridge
ISSUE SUMMARY	Currently, the California Toxics Rule provides the basis for the marine water quality objective for copper in this region, 3.1 ug/l (chronic, or 4-day average) multiplied by a default water effect ratio (WER) of 1.0. This objective is used to derive effluent limits, and several dischargers are unable to comply with the derived limits. It is also used to determine whether the Bay is impaired due to copper. Available data from San Francisco Bay indicates that site waters exert a WER greater than 1.0, meaning that the waters have a consistent binding capacity for copper that renders some of the dissolved copper non-toxic. The Water Board established a site-specific objective of 6.9 ug/l (chronic, marine) south of Dumbarton Bridge based on WER data from that portion of the region. A similar methodology can be employed north of Dumbarton Bridge that uses representative WER data that has been collected in cooperation with the dischargers.
ESTIMATED PERSONNEL-YEARS (PY)	0.6
PY RUNNING TOTAL	2.4
IMPLEMENTING DIVISION	NPDES, Planning & TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	Central Contra Costa Sanitary District City of San Jose City of Sunnyvale Sonoma County Water Agency Bay Planning Coalition

ISSUE TITLE	Groundwater South Bay prioritization
PRIORITIZED RANK	6
CATEGORY	Implementation
GENERALIZED RANK	HIGH
COMPLEXITY	MEDIUM
SCORE	49
ISSUE NAME	A policy for prioritizing groundwater pollution sites in the South Bay Basins
ISSUE SUMMARY	With very limited exceptions, all groundwater in the South Bay serves as a significant drinking water resource. Public water supply wells serve half the drinking water supply to residents in these basins. However, there are areas within the South Bay Basins that are more vulnerable and/or critical in terms of groundwater protection. Thus it is possible to prioritize areas for groundwater protection. High priority areas are those where unconfined aquifers are potentially in direct contact with pollutants. Medium priority areas are more protected from pollutants due to the presence of an aquitard that retards or inhibits pollutant migration. Low priority areas are located in fine-grained sediments, low yielding aquifers and have extremely flat horizontal gradients.
ESTIMATED PERSONNEL-YEARS (PY)	0.6
PY RUNNING TOTAL	3.0
IMPLEMENTING DIVISION	Toxic Cleanup, Groundwater Protection & Waste Containment
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	Water Body, Beneficial Use Update
PRIORITIZED RANK	6
CATEGORY	Beneficial Uses
GENERALIZED RANK	HIGH
COMPLEXITY	MEDIUM
SCORE	49
ISSUE NAME	Update of significant Water Bodies and associated Beneficial Uses with readily available documentation
ISSUE SUMMARY	A number of the Region's water bodies with substantial public interest are not specifically identified in the Plan's water body list and need to be added and appropriate beneficial uses designated where they have existed after November 1975. There are also some errors in the 1995 update's designated uses that can be corrected. For instance, the sport fishing beneficial use is not designated for some of the Region's water bodies where California Dept. of Fish and Game issues fishing licenses. Basin Plan maps can be concurrently updated using in-house GIS resources. The COMM use (which includes sport fishing and consumption of organisms) should be re-defined for consistency with the Statewide definition, which includes freshwaters.
ESTIMATED PERSONNEL-YEARS (PY)	1.2
PY RUNNING TOTAL	4.2
IMPLEMENTING DIVISION	Watershed, Planning & TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	Bay Planning Coalition CLEAN South Bay Citizens Committee to Complete the Refuge Carin High Genny Smith Libby Lucas U.S. EPA, Region IX Friends of Five Creeks

ISSUE TITLE	Water Conservation and Recycling
PRIORITIZED RANK	9
CATEGORY	Implementation
GENERALIZED RANK	HIGH
COMPLEXITY	LOW
SCORE	48
ISSUE NAME	Update sections on Water Conservation and Water Recycling
ISSUE SUMMARY	Update sections on water conservation and recycling to encourage more dischargers to pursue these important projects.
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	4.5
IMPLEMENTING DIVISION	Watershed, Planning and TMDL, NPDES
PROPOSED BY:	City of San Jose
SUPPORTED BY:	City of Sunnyvale Sonoma County Water Agency

ISSUE TITLE	Stream Protection Policy
PRIORITIZED RANK	9
CATEGORY	Implementation
GENERALIZED RANK	HIGH
COMPLEXITY	HIGH
SCORE	48
ISSUE NAME	Incorporate explicit policy on stream protection into Clean Water Act (CWA) Section 401 water quality certification and stormwater NPDES regulatory programs
ISSUE SUMMARY	The Water Board has two regulatory programs where it must consider the effects of programs or projects on the physical characteristics of streams in determining whether water quality standards are achieved. For projects that require a U.S. Army Corps of Engineers (USACE) CWA Section 404 permit for fill or excavation, the Water Board is responsible for issuing the State's CWA Section 401 water quality certification. The Water Board also regulates local jurisdictions through its NPDES permits for discharges of urban runoff. Stream protection and management policies adopted in a Basin Plan Amendment would be implemented in existing elements of these programs, encouraging local jurisdictions to not only continue urban runoff pollution prevention, but also to protect and enhance the abilities of the water bodies in their jurisdictions to assimilate and/or remove pollutants through the water bodies' natural stream and wetland functions.
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	6.0
IMPLEMENTING DIVISION	Watershed
PROPOSED BY:	Water Board
SUPPORTED BY:	Bay Planning Coalition CLEAN South Bay Citizens Committee to Complete the Refuge Carin High Genny Smith Libby Lucas Napa-Solano Audubon Society U.S. EPA, Region IX

ISSUE TITLE	Stream and Wetland Protection Beneficial Uses
PRIORITIZED RANK	9
CATEGORY	Implementation
GENERALIZED RANK	HIGH
COMPLEXITY	HIGH
SCORE	48
ISSUE NAME	Designation of Beneficial Uses related to physical stream and wetland functions that improve water quality
ISSUE SUMMARY	<p>The proposed stream protection amendment would designate two beneficial uses of streams and wetlands, water quality enhancement (WQE) and flood peak attenuation/flood water storage (FLD). These beneficial uses explicitly recognize that physical characteristics of water bodies contribute to better water quality, and that these physical characteristics need to be protected in the Board's permitting programs in order to achieve the Board's mission of protecting all beneficial uses of the Region's water bodies. The Lahontan Regional Water Board adopted these two beneficial uses in its Basin Plan in the early 1990's, and they allow a linkage between the physical functions of water bodies and water quality.</p> <p>Since this Triennial Review was initiated, the Basin Plan Roundtable has taken up the issue of the need for statewide consistency in wetland and water quality enhancement beneficial uses. Other regions have adopted a different suite of these uses than the Lahontan Board. For the time being, we will postpone action until consistent wetland beneficial uses are defined at statewide level in the Roundtable.</p>
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	7.5
IMPLEMENTING DIVISION	Watershed, Planning and TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	<p>Bay Planning Coalition CLEAN South Bay Citizens Committee to Complete the Refuge Carin High Genny Smith Libby Lucas Napa-Solano Audubon Society U.S. EPA, Region IX</p>

ISSUE TITLE	Nickel SSO
PRIORITIZED RANK	12
CATEGORY	Water Quality Objectives
GENERALIZED RANK	MEDIUM
COMPLEXITY	MEDIUM
SCORE	47
ISSUE NAME	Nickel Site-Specific Objective (Marine), San Francisco Bay Segments North of the Dumbarton Bridge
ISSUE SUMMARY	The 1986 Basin Plan saltwater, total-recoverable objective for Nickel is in the process of being updated to the CTR value of 8.2 ug/l dissolved (estimated to be in effect in Fall of 2004). Impaired water body listings triggered by the older number are expected to be delisted based on use of the statewide CTR criteria. South of the Dumbarton Bridge, the Bay's marine water quality objective for nickel is a Site-specific objective of 11.9 ug/l, based on a recalculation of the national criteria using more recent toxicity data. The regulated community has requested that the Water Board use the same recalculation method for the entire San Francisco Bay Estuary as was done to establish the Site-specific objective in the segment south of the Dumbarton Bridge.
ESTIMATED PERSONNEL-YEARS (PY)	0.6
PY RUNNING TOTAL	8.1
IMPLEMENTING DIVISION	NPDES, Planning and TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	Central Contra Costa Sanitary District City of San Jose City of Sunnyvale Sonoma County Water Agency Bay Planning Coalition

ISSUE TITLE	NPDES editorial changes
PRIORITIZED RANK	13
CATEGORY	Implementation, Plans and Policies
GENERALIZED RANK	MEDIUM
COMPLEXITY	LOW
SCORE	46
ISSUE NAME	NPDES: Editorial revisions and minor clarifications (e.g., pollution prevention, chronic toxicity, court rulings and State Water Board actions)
ISSUE SUMMARY	<p>Make editorial changes that clarify or update NPDES regulatory program descriptions to be consistent with new laws, plans and regulations. The Effluent Toxicity Characterization Program was initiated in 1986, and the program description needs to be updated. Table 4-5 (Critical Life Stage Toxicity Test Species and Protocols) should be updated to be consistent with the State Board's California Ocean Plan (1997). Since the Basin Plan language was drafted on pollution prevention in 1995, the program has evolved. Also, the SIP has provisions for pollution prevention, and there is language in SB709, which established mandatory minimum penalties for effluent limit violations. There is a need to review and update the program description, and evaluate consistency between the Basin Plan, the SIP, and SB709, especially for any regulatory requirements. Many permitting decisions are made based on rulings (Orders) from the State Board in response to petitions of Water Board permitting actions. Other decisions are made based on court rulings on appeals of these State Board permit petition rulings. Important State Board and court rulings affecting permitting should be referenced in Chapter 5, Plans and Policies.</p>
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	8.4
IMPLEMENTING DIVISION	NPDES
PROPOSED BY:	Water Board
SUPPORTED BY:	<p>Bay Planning Coalition Bay Area Stormwater Management Agencies Association City of Sunnyvale City of San Jose U.S. EPA, Region IX</p>

ISSUE TITLE	Watershed editorial changes
PRIORITIZED RANK	13
CATEGORY	Implementation, Plans and Policies
GENERALIZED RANK	MEDIUM
COMPLEXITY	LOW
SCORE	46
ISSUE NAME	Watershed: Editorial revisions and minor clarifications or corrections to text and reference to new laws, plans and regulations
ISSUE SUMMARY	Make editorial changes that clarify or update Watershed regulatory program descriptions to be consistent with new laws, plans and regulations. These changes are sometimes needed for clarity and to ensure that the public is informed about the latest requirements to protect water quality. Such proposed elements of Basin Plan Amendments would be non-regulatory, that is, they would not impose new requirements on permittees, but rather clarify existing regulatory requirements or program descriptions not addressed in the current version of the Basin Plan. Since the Basin Plan language was drafted on watershed management in 1995, the program has evolved, including several annual updates of the Watershed Management Initiative Chapter and a Grant administration program that can be incorporated into the Basin Plan for better transparency.
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	8.7
IMPLEMENTING DIVISION	Watershed
PROPOSED BY:	Water Board
SUPPORTED BY:	Bay Planning Coalition Bay Area Stormwater Management Agencies Association U.S. EPA, Region IX

ISSUE TITLE	Onsite Wastewater Systems Update
PRIORITIZED RANK	13
CATEGORY	Implementation
GENERALIZED RANK	MEDIUM
COMPLEXITY	LOW
SCORE	46
ISSUE NAME	Onsite Wastewater Systems Update
ISSUE SUMMARY	Add newly promulgated regulations pertaining to onsite sewage treatment systems to the Basin Plan pursuant to California Water Code Section 13291(e). The amendment would update Chapter 4 regarding regulation of on-site wastewater treatment and dispersal systems. The amendment would include prescriptive and performance standards for the design, operation, and monitoring of these systems, and requirements for local government agency programs involved in regulation of these systems pursuant to conditional waivers from the Board.
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	9.0
IMPLEMENTING DIVISION	Watershed
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	ESL Process
PRIORITIZED RANK	16
CATEGORY	Implementation
GENERALIZED RANK	MEDIUM
COMPLEXITY	MEDIUM
SCORE	45
ISSUE NAME	Process to determine appropriate site cleanup levels using environmental screening levels (ESLs)
ISSUE SUMMARY	A description of the tiered-decision process used to determine relevant exposure pathways and appropriate site cleanup levels using environmental screening levels (ESLs). The decision process expands the existing protection of groundwater beneficial uses to include potential risk to human health from indoor air exposure and protection of aquatic receptors.
ESTIMATED PERSONNEL-YEARS (PY)	0.9
PY RUNNING TOTAL	9.9
IMPLEMENTING DIVISION	Toxic Cleanup, Groundwater Protection & Waste Containment
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	Adopt Narrative Biocriteria
PRIORITIZED RANK	17
CATEGORY	Water Quality Objectives
GENERALIZED RANK	MEDIUM
COMPLEXITY	HIGH
SCORE	44
ISSUE NAME	Adopt Narrative Biocriteria
ISSUE SUMMARY	In the 2003 memorandum of understanding between State Board and U.S. EPA, Biocriteria is a statewide planning priority. The first phase of the program is the development of narrative biological criteria. These are essentially Statements of intent incorporated into State water regulations to formally consider the fate and status of aquatic biological communities. Biological criteria are officially defined as "...numerical values or narrative expressions that describe the reference biological integrity of aquatic communities inhabiting waters of a given designated aquatic life use." (U.S. EPA, 1990) The narrative objective should establish a reasonable expectation of the achievable water resource quality for the Region. Consistent with antidegradation requirements, the best existing conditions achieved since 1975 [40 CFR 131.3(c) and 131.12(a)(1)] must be the lowest acceptable status for interim consideration while planning, managing, and regulating to meet a higher criteria. This project would probably entail proposing tiered aquatic life uses for inland surface waters, as has been done in other States, based on data from the Board's Surface Water Ambient Monitoring Program and other partner organizations.
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	11.4
IMPLEMENTING DIVISION	Planning and TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	U.S. EPA, Region IX

ISSUE TITLE	Cyanide SSO
PRIORITIZED RANK	18
CATEGORY	Water Quality Objectives
GENERALIZED RANK	MEDIUM
COMPLEXITY	MEDIUM
SCORE	42
ISSUE NAME	Cyanide Site-Specific Objective (Marine), San Francisco Bay Segments
ISSUE SUMMARY	Cyanide has become an NPDES permit compliance issue for municipal and industrial dischargers in the San Francisco Bay Region. A first step in this effort is to update the current U.S. EPA cyanide criterion to incorporate the most recent, and scientifically defensible toxicity data. The CTR marine cyanide acute and chronic criteria are both 1.0 ug/l. These were derived in 1985 using the minimum data set allowed by the U.S. EPA Guidelines (acute toxicity data for eight genera, chronic data for 5 freshwater and two saltwater species). The updated criteria have already been adopted by the State of Washington for Puget Sound and we are proposing to adopt the same number, 2.9 ug/l, for San Francisco Bay.
ESTIMATED PERSONNEL-YEARS (PY)	0.6
PY RUNNING TOTAL	12.0
IMPLEMENTING DIVISION	NPDES, Planning and TMDL
PROPOSED BY:	Water Board
SUPPORTED BY:	Bay Planning Coalition Central Contra Costa Sanitary District City of San Jose City of Sunnyvale Sonoma County Water Agency

ISSUE TITLE	Reasonable Potential Policy
PRIORITIZED RANK	19
CATEGORY	Implementation
GENERALIZED RANK	MEDIUM
COMPLEXITY	HIGH
SCORE	40
ISSUE NAME	Procedures for Reasonable Potential Analysis: metals translators, hardness, number of years of data, selection of background concentration
ISSUE SUMMARY	The State Implementation Policy (SIP) for toxic pollutant objectives gives discretion to Regional Water Boards regarding selection of elements to use in determination of whether effluent limits are warranted for a given pollutant ("Reasonable Potential Analysis"). There are a number of decisions that permit authors must make, such as the appropriate metals translators and how to set up a study, the representative hardness value for receiving waters, and the representative background concentrations of a given pollutant for a given discharge, and number of years of data used in the Reasonable Potential Analysis.
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	13.5
IMPLEMENTING DIVISION	NPDES
PROPOSED BY:	Water Board
SUPPORTED BY:	City of San Jose City of Sunnyvale Sonoma County Water Agency

ISSUE TITLE	Cyanide Shallow Effluent Limits
PRIORITIZED RANK	20
CATEGORY	Implementation
GENERALIZED RANK	MEDIUM
COMPLEXITY	HIGH
SCORE	39
ISSUE NAME	Cyanide Effluent Limitations Policy for Shallow Water Dischargers
ISSUE SUMMARY	<p>If the Water Board adopts a marine chronic site-specific objective (SSO) of 2.9 ug/l for cyanide as described in Issue Rank 18, dischargers which receive dilution of at least 10:1 in receiving waters will be able to comply with effluent limitations derived from the SSO. However, there are dischargers to shallow water to whom the Board has not granted dilution credits (zero dilution). These dischargers may not be assured of achieving the SSO-based effluent limitation through reasonable treatment, source control and pollution prevention measures. Unlike metals and selenium, cyanide is not a conservative pollutant and data from the Regional Monitoring Program (RMP) indicate it does not threaten to accumulate in the waters and sediment of the Bay. Cyanide attenuates in the receiving waters due to degradation as well as dilution, but detailed information on fate and transport of cyanide in the Bay is incomplete. Point source dischargers are the only significant source of cyanide to the Bay. Information is now being collected by shallow water dischargers to better define attenuation of cyanide in areas of the region near their discharges. This information will be used to develop an effluent limitation policy for shallow dischargers.</p>
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	15.0
IMPLEMENTING DIVISION	NPDES
PROPOSED BY:	Water Board
SUPPORTED BY:	City of San Jose City of Sunnyvale Sonoma County Water Agency

ISSUE TITLE	Low Risk Site Closure
PRIORITIZED RANK	21
CATEGORY	Implementation
GENERALIZED RANK	MEDIUM
COMPLEXITY	MEDIUM
SCORE	38
ISSUE NAME	A policy to address closure for low-risk groundwater contaminant sites
ISSUE SUMMARY	Resolution 92-49 directs the Water Board to ensure that water affected by an unauthorized release attains either background water quality or the best water quality which is reasonable if background water quality cannot be restored. Any alternative level of water quality less stringent than background must be consistent with the maximum benefit to the people of the State, not unreasonably affect current and probable future beneficial use of affected water, and not result in water quality less than that prescribed in the water quality control plan for the basin within which the site is located. Resolution 92-49 does not require, however, that the requisite level of water quality be met at the time of site closure. Even if the requisite level of water quality has not yet been attained, a site may be closed if the level will be attained within a reasonable period of time. Such sites include petroleum and solvent sites where biodegradation is occurring.
ESTIMATED PERSONNEL-YEARS (PY)	0.9
PY RUNNING TOTAL	15.9
IMPLEMENTING DIVISION	Toxic Cleanup, Groundwater Protection & Waste Containment
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	Dilution Policy
PRIORITIZED RANK	22
CATEGORY	Implementation
GENERALIZED RANK	MEDIUM
COMPLEXITY	HIGH
SCORE	37
ISSUE NAME	Mixing zone policy for riverine and estuarine discharges, consistent with State Implementation Policy for Toxic Pollutants (SIP)
ISSUE SUMMARY	In 2000, the SIP superseded dilution policy provisions of the Basin Plan, and recent January 2004 amendments removed superseded language. Dilution for the purposes of calculating effluent limitations is being implemented on a permit-by-permit basis, consistent with past Water Board actions. The regulated community has requested that the Water Board consider the more sophisticated hydrodynamic modeling tools that have been developed in the last few years to develop a revised dilution policy for riverine and estuarine discharges in the region. These modeling tools can address the implications of multiple discharges in an estuarine system, including urban runoff, that could not be ascertained back in 1986 when the policy was established. This project is expected to take substantial staff resources, due to the controversial history on the topic and the need to effectively communicate technical results and assumptions to the interested public.
ESTIMATED PERSONNEL-YEARS (PY)	2.1
PY RUNNING TOTAL	19.0
IMPLEMENTING DIVISION	NPDES
PROPOSED BY:	Water Board
SUPPORTED BY:	Bay Planning Coalition City of San Jose City of Sunnyvale San Francisco Public Utilities Commission Sonoma County Water Agency Western States Petroleum Association

ISSUE TITLE	Continuous Parameter Compliance
PRIORITIZED RANK	23
CATEGORY	Implementation
GENERALIZED RANK	LOW
COMPLEXITY	MEDIUM
SCORE	35
ISSUE NAME	Compliance Determination with Continuously Monitored Parameters (e.g., chlorine residual and pH)
ISSUE SUMMARY	<p>Federal regulations require grab samples for compliance monitoring. But based on experience, the Water Board believes that continuous pH monitoring provides better surveillance and more rapid response, consistent with its flow-through bioassay requirements. Compliance determination for continuous monitoring should be statistically appropriate. In this proposed amendment, the Water Board would revise pH limitations to provide an excursion allowance that ensures compliance 99% of time (7 hrs., 26 minutes per month; 60 minute/single event). Excursion allowance is regulation for industrial dischargers in 40 CFR 401.17. A similar approach could be employed for other continuously monitored parameters, such as total chlorine residual, provided that water quality objectives are met in the receiving waters.</p> <p>State Water Board is currently reviewing such policies for adoption at the statewide level. Water Board staff believe that the statewide level would be the appropriate level of planning for this issue, if it addresses region-specific issues. Water Board staff will continue to track the issue through the Basin Plan roundtable and other means.</p>
ESTIMATED PERSONNEL-YEARS (PY)	0.9
PY RUNNING TOTAL	19.9
IMPLEMENTING DIVISION	NPDES
PROPOSED BY:	Water Board
SUPPORTED BY:	City of Sunnyvale

ISSUE TITLE	Groundwater Institutional Controls
PRIORITIZED RANK	24
CATEGORY	Implementation
GENERALIZED RANK	LOW
COMPLEXITY	HIGH
SCORE	34
ISSUE NAME	A policy to require the development and implementation of institutional controls and site management plans at sites with residual contamination.
ISSUE SUMMARY	Institutional controls, such as deed restrictions, limit use of the property to commercial/industrial purposes and prohibit residential and other sensitive uses. The policy would also require implementation of appropriate health and safety plans in the event that subsurface activities are performed, and restricts the use of groundwater.
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	20.4
IMPLEMENTING DIVISION	Toxic Cleanup, Groundwater Protection & Waste Containment
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	Acute Toxicity Update
PRIORITIZED RANK	25
CATEGORY	Implementation
GENERALIZED RANK	LOW
COMPLEXITY	MEDIUM
SCORE	32
ISSUE NAME	Acute Toxicity methods
ISSUE SUMMARY	<p>U.S. EPA has requested that the Water Board change its acute toxicity program described in the Basin Plan. Currently, NPDES permit limits are based on evaluation of the 11-sample median and 90th percentile values for monitoring frequencies of monthly or more frequent (Table 4-4). Federal regulations specify acute toxicity limits to be expressed as: Maximum Daily Limitation = minimum of 70% survival; Monthly Median Limitation = minimum of 90% survival and a statistically significant difference between the effluent and control samples. U.S. EPA has requested that acute toxicity testing protocols follow U.S. EPA's most recent guidance, which is currently the 5th edition of Methods for Measuring the Acute Toxicity and Effluents and Receiving Waters to Freshwater and Marine Organisms (EPA 821-R-012-02).</p> <p>In response to comments received from U.S. EPA, Water Board staff reviewed the issue and confirmed that the 5th edition is already being implemented in NPDES permits. Since the mandatory minimum penalty law was revised in 2003, whole effluent toxicity violations do not trigger mandatory minimum penalties unless there are no toxic pollutant limits (which is not the case in permits from the San Francisco Bay Region). Therefore, changing the allowable exceedance frequency to conform with federal regulations would not trigger non-discretionary enforcement as had been feared. Staff will consider making changes to Table 4-4 in accordance with U.S. EPA comments in conjunction with general editorial updates to the NPDES program and the effluent toxicity characterization program.</p>
ESTIMATED PERSONNEL-YEARS (PY)	0.9
PY RUNNING TOTAL	21.3
IMPLEMENTING DIVISION	NPDES
PROPOSED BY:	Water Board
SUPPORTED BY:	U.S. EPA, Region IX

ISSUE TITLE	Limited REC-1
PRIORITIZED RANK	25
CATEGORY	Beneficial Uses
GENERALIZED RANK	LOW
COMPLEXITY	LOW
SCORE	32
ISSUE NAME	Add Beneficial Use of Limited Contact Recreation
ISSUE SUMMARY	<p>Add a new Beneficial Use of Limited Water Contact Recreation and narrow the current definition of Water Contact Recreation (REC-1) to full immersion swimming. Incidental exposures associated with fishing could fall under Limited Contact Recreation.</p> <p>Water Board staff review of the issue during the comment period concluded that since the issue of Beneficial Use definitions is being addressed through the Basin Plan Roundtable, that it is better addressed at the statewide level than regional basin planning.</p>
ESTIMATED PERSONNEL-YEARS (PY)	0.3
PY RUNNING TOTAL	21.6
IMPLEMENTING DIVISION	NPDES, Planning and TMDL
PROPOSED BY:	City of Sunnyvale
SUPPORTED BY:	

ISSUE TITLE	Surface Water-Groundwater Interactions
PRIORITIZED RANK	27
CATEGORY	Implementation
GENERALIZED RANK	LOW
COMPLEXITY	HIGH
SCORE	30
ISSUE NAME	A policy to address Surface Water-Groundwater Interactions
ISSUE SUMMARY	Several issues have been identified, which simultaneously affect the quality and quantity of surface water and groundwater due to the dynamic relationship between the two. These issues include surface water infiltration to groundwater (e.g., recharge and stormwater infiltration), groundwater discharge to surface water (e.g., plume discharges), changing land use as it affects runoff and recharge to groundwater, and the effects of surface water diversion and groundwater withdrawal on creek and riparian habitat and on water quality. The Basin Plan currently only addresses the policy for constructing, using and permitting shallow drainage wells (dry wells).
ESTIMATED PERSONNEL-YEARS (PY)	2.1
PY RUNNING TOTAL	23.7
IMPLEMENTING DIVISION	Toxic Cleanup, Groundwater Protection & Waste Containment, Watershed
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	Change MUN WQOs
PRIORITIZED RANK	28
CATEGORY	Beneficial Uses
GENERALIZED RANK	LOW
COMPLEXITY	HIGH
SCORE	28
ISSUE NAME	Correct Water Quality Objectives for MUN beneficial use (Table 3-5)
ISSUE SUMMARY	<p>Application of water quality objectives in Table 3-5, to protect MUN (municipal water supply or drinking water), is based on Title 22 drinking water standards. These standards were developed for finished tap water and are not necessarily appropriate for source water which will subsequently be treated at a water treatment plant. Objectives in Table 3-5 should take into account that these waters will be subjected to additional treatment before being used as drinking water.</p> <p>Water Board staff note that such proposed changes are not straightforward unless specific numeric values are substituted and cited appropriately, preferably in State or federal regulation. It is probably an issue better addressed at the statewide level and not an efficient use of regional planning resources.</p>
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	25.2
IMPLEMENTING DIVISION	ALL
PROPOSED BY:	San Francisco Public Utilities Commission
SUPPORTED BY:	

ISSUE TITLE	Adopt U.S. EPA Bacteria WQOs
PRIORITIZED RANK	28
CATEGORY	Water Quality Objectives
GENERALIZED RANK	LOW
COMPLEXITY	HIGH
SCORE	28
ISSUE NAME	Adopt U.S. EPA's Bacteriological Criteria as Water Quality Objectives
ISSUE SUMMARY	<p>In 1986, the Water Board included the then-newly adopted U.S. EPA bacteriological criteria for reference (Table 3-2), but not as water quality objectives. U.S. EPA has requested that the Water Board take the next step of adopting them as State water quality objectives, as has been done in some other Regional Water Board jurisdictions. Table 3-1 contains bacteriological water quality objectives.</p> <p>Some bacteriological criteria are currently cited in Table 3-2 of the Basin Plan as U.S. EPA criteria, not water quality objectives. In their comment letter, U.S. EPA requested that Water Board adoption of bacteriological criteria as water quality objectives precede U.S. EPA's promulgation of these criteria in the State's coastal waters. U.S. EPA is encouraging all Regional Water Boards to adopt the 1986 criteria as State water quality objectives for their non-coastal waters. This issue is under active discussion at the Basin Plan roundtable as a statewide planning priority, in order to make Regional Water Board planning resources available for other priorities. U.S. EPA noted that such promulgation would only affect coastal waters in our region, and requests that this Water Board adopt the objectives for inland surface waters. Table 3-1 of the Basin Plan already contains bacteriological objectives (fecal coliform) to protect these waters, and our experience has shown that the U.S. EPA objectives are not significantly different from Basin Plan objectives based on analyses from the Section 303d impaired water bodies listings in 2002. For example, an analysis of compliance with Table 3-1 (objectives) and 3-2 (U.S. EPA criteria) yielded the identical conclusions of percent exceedances and impairment at every beach analyzed in the 2002 303d process, as documented in the administrative record for that action.</p>
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	26.7
IMPLEMENTING DIVISION	Planning and TMDL
PROPOSED BY:	U.S. EPA, Region IX

ISSUE TITLE	Wet Weather Application of Standards
PRIORITIZED RANK	30
CATEGORY	Beneficial Uses
GENERALIZED RANK	LOW
COMPLEXITY	HIGH
SCORE	27
ISSUE NAME	Application of Water Quality Standards during wet weather
ISSUE SUMMARY	The compliance status of wet weather overflows is problematic if the constituent concentrations are compared directly with receiving water objectives. Stormwater from separate sewer systems have potentially similar compliance problems. This issue would entail developing a new policy for addressing wet weather discharges that recognizes that they are highly variable and intermittent and may have different impacts depending on the receiving water.
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	28.2
IMPLEMENTING DIVISION	NPDES, Watershed, Planning and TMDL
PROPOSED BY:	San Francisco Public Utilities Commission
SUPPORTED BY:	

ISSUE TITLE	TPH Tech. Based Limit
PRIORITIZED RANK	31
CATEGORY	Implementation
GENERALIZED RANK	LOW
COMPLEXITY	HIGH
SCORE	25
ISSUE NAME	Add technology based limit for Total Petroleum Hydrocarbons (TPH)
ISSUE SUMMARY	The two general NPDES permits for the discharge of treated groundwater from fuel leak and solvent cleanup sites contain a technology-based limit of 50 ug/l total petroleum hydrocarbons (TPH). This was included in the initial permits based on the analytical level of detection, defining the best available technology as that which treats the TPH levels to “non-detect.” In this project the 50 ug/l or similar technology-based limit would be placed in Chapter 4 of the Basin Plan.
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	29.7
IMPLEMENTING DIVISION	NPDES, Toxic Cleanup
PROPOSED BY:	Water Board
SUPPORTED BY:	

ISSUE TITLE	Reasonable Potential Policy for Toxicity
PRIORITIZED RANK	32
CATEGORY	Implementation
GENERALIZED RANK	LOW
COMPLEXITY	HIGH
SCORE	19
ISSUE NAME	Reasonable potential strategy for toxicity or potential for allowing chronic toxicity testing only
ISSUE SUMMARY	<p>The State Implementation Policy (SIP) for toxic pollutant objectives gives discretion to Regional Water Boards regarding selection of elements to use in determination of whether effluent limits are warranted for a given pollutant ("Reasonable Potential Analysis"). A strategy could be spelled out in the Basin Plan to evaluate reasonable potential for toxicity to determine whether limits are necessary or to permit chronic toxicity monitoring only, if reasonable potential for acute toxicity is not found.</p> <p>Water Board staff believe that acute toxicity monitoring and limitations assist compliance and attention to process control and pollution prevention, and are unsure about developing the proposed strategy.</p>
ESTIMATED PERSONNEL-YEARS (PY)	1.5
PY RUNNING TOTAL	31.8
IMPLEMENTING DIVISION	NPDES
PROPOSED BY:	City of San Jose
SUPPORTED BY:	