

FINAL

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# CHARTER

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## The Santa Margarita Watershed Nutrient Initiative – Stakeholder Group

Process, Purpose and Organization for  
Potential Site-Specific Nutrient  
Objectives, Basin Planning and TMDL  
Development in the Santa Margarita  
River Watershed

# 1. Introduction

This Charter describes the purpose of the Santa Margarita River (SMR) Watershed Nutrient Initiative Stakeholders Group (Stakeholder Group). It describes the Stakeholder Group's organizational structure, participants, roles and responsibilities, general participation guidelines, and decision-making and communication methods. The Stakeholder Group will focus on the methods that are used to prepare and implement a workplan to use a nutrient numeric endpoint (NNE) methodology to potentially develop nutrient site-specific objectives (SSO) for the SMR Lagoon, and other basin plan amendments as potentially appropriate. This work is a follow-on effort to the San Diego Lagoons Investigative Order (R9-2006-0076) (Lagoon Order) and subsequent workplan developed jointly by the San Diego Regional Water Quality Control Board (RWQCB) and stakeholders in 2006. This work may eventually include the preparation of separate Total Maximum Daily Loads (TMDL) for the SMR watershed, and the SMR lagoon, using the outcomes of the NNE and SSO work.

Related to this, the U.S. Marine Corps – Camp Pendleton, in cooperation with the SMR Stakeholder Group Technical Advisory Committee (described in Section 4.3) and the RWQCB is developing an estuarine hydrodynamic and eutrophication model in a process separate from but related to Phase I of the effort covered by the Charter (described below) that will be used to support a potential estuarine SSO and/or potential TMDL. This work will use data collected as a part of the Lagoon Order, along with other available historical data to develop a model that can be used to identify management options that the Stakeholder Group may consider as a means to meet estuarine water quality objectives. The model will be designed to work interactively with a watershed model that is being developed independently by the RWQCB and U.S. Environmental Protection Agency (U.S. EPA).

## 2. Stakeholder Group Purpose – SMR Site Specific Objectives and Total Maximum Daily Load Development

The Stakeholder Group is developing the technical work that the RWQCB will potentially use to support adoption of the proposed nutrient SSO and potential TMDLs

The project consists of several phases. Phase 1 targets the development of the nutrient SSO for the lagoon. Phase 1 is supported through Proposition 84 grant funds from the San Diego Region Integrated Regional Water Management (IRWM) Program and Upper Santa Margarita Watershed IRWM Program. Key Phase 1 tasks include:

- Establish a process and agreements for stakeholder and RWQCB participation, decision-making, and funding;
- Identify key technical questions for development of an overall project scope;
- Implement supplemental river monitoring and special studies to address the technical questions and establish a workplan to guide project activities; and

- Develop a model for the lagoon to establish estuarine NNE targets, TMDLs, load and waste load allocations, and to evaluate possible SMR lagoon implementation scenarios.

Future phases of this effort are anticipated to be funded with future IRWM grants or other grants and will focus on collecting a comparable data set regarding nutrient loading, transport processes, and modeling within the river and its tributaries. Similar to what may be done for the SMR lagoon, this work will be used to establish NNE targets (and if applicable, TMDLs and implementation scenarios) for the SMR and its tributaries.

Although the Stakeholder Group will develop technical work for their use, ultimately, the RWQCB, State Water Resources Control Board (SWRCB), and U.S. EPA (collectively referred to as the “Regulatory Agencies”) will have to adopt the SSO and potential TMDLs, or specify other management methods for the SMR through some other means. As a result, the work must be acceptable for these purposes and presented in an appropriate format to facilitate the use of the work.

### **3. SMR Watershed Group Participants**

The SMR Stakeholder Group is made up of parties that have an interest in the water quality, management, and uses of the SMR. These entities may include but may not be limited to:

- Cahuilla Band of Indians
- Pechanga Band of Luisena Indians
- Sierra Club
- Trout Unlimited
- Rancho California Water District (RCWD)
- Eastern Municipal Water District
- Western Municipal Water District
- Fallbrook Public Utilities District
- Rainbow Municipal Water District
- Mission Resource Conservation District
- Elsinore-Murrieta-Anza Resource Conservation District
- Temecula Valley Wine Growers Association
- Upper Santa Margarita - Irrigated Lands Group
- San Diego County Farm Bureau – Irrigated Lands Group
- Riverside County Farm Bureau
- City of Temecula
- City of Murrieta
- City of Wildomar
- City of Menifee
- County of San Diego
- Riverside County Flood Control & Water Conservation District (RCFC&WCD)
- County of Riverside

- California State University San Diego (SDSU), Santa Margarita Ecological Research Station
- Caltrans
- San Diego RWQCB
- U.S. EPA
- U.S. Bureau of Reclamation  
U.S. Marine Corps (USMC) Camp Pendleton / Naval Weapons Station Fallbrook

In the context of the Stakeholder Group purpose, different Participants in this process have different “stakes” in the outcomes and implications of defining the SSO, and the potential development of TMDL(s). All stakeholders have an interest in the well-being of the SMR however some are specifically considered “Dischargers” by the Regulatory Agencies. The following describes the Stakeholder Group process that welcomes and encourages involvement by all Participants and the general public, and differentiates unique roles and responsibilities for Participants that are currently or likely to be designated Dischargers.

#### **4. SMR Stakeholder Group Organization and Governance**

To support reader clarity and shared understanding, the following definitions are provided for commonly used terms in this Charter.

<u>Stakeholder</u>	Any individual and/or organization directly affected by and having a direct interest in the management, use, and condition of the SMR.
<u>Participant</u>	An organization that is a directly affected Stakeholder, and has illustrated a historic intent to participate in the Stakeholder Group process.
<u>Discharger</u>	Any party that has been deemed or will potentially be deemed as responsible for point source and/or non-point source discharge of waters into the SMR Watershed and/or has been issued a National Pollutant Discharge Elimination System (NPDES) permit, Waste Discharge Requirements (WDR), or discharge waiver. Due to their unique role in the SMR Watershed as regulated entities, Dischargers, and holders of NPDES permits and WDRs that are regular Participants of the SMR Group may be members of the SMR Stakeholder Group Steering Committee (described in Section 4.2)
<u>Grant Agreement</u>	The Proposition 84 IRWM Implementation - Round 1 Grant administered by the California Department of Water Resources (DWR) and entered into separate agreements between respectively DWR and the San Diego County Water Authority, and DWR and RCWD, and administered respectively by the County of San Diego and RCFC&WCD, to organize an effort to assess the nutrient water quality objectives within the upper lower SMR watershed (downstream of Skinner Reservoir and Vail Lake).

Grant Sponsors The lead and contractually responsible organizations that implement the Grant Agreement (currently County of San Diego and RCFC&WCD) and answer to the IRWM planning processes (San Diego County Water Authority and Rancho California Water District) and in turn the DWR.

Decision The SMR Stakeholder Group and sub-elements thereof make two types of decisions: 1) Coordination Decisions, and 2) Resource Decisions. The differences between these types of decisions are illustrated in the methods used to make the decisions and the Participants that are vested through this Charter with various decision authorities.

- Coordination Decisions address the routine activities of the Stakeholder Group (including but not limited to: logistics, meeting dates and times, agenda revisions, schedules, etc.). All coordination decisions are made on a simple majority vote of all Participants present at any Stakeholder Group meeting or sub-element meeting. All coordination decisions should be noticed in advance to allow Participants time to consider a decision however, Coordination Decisions can be made by the Stakeholder Group without advance notice or Participant communication.
- Resource Decisions are specific, binding decisions about technical activities (including the delegation of labor / staff services, and the expenditure of Discharger resources), policy conditions, regulatory conditions, communications, and other similar topics. Resource decisions are made by the Steering Committee (described in Section 4.2). All pending resource decisions must be publicly noticed at least two week in advance of a meeting to ensure all Participants are informed and have an equal opportunity to participate in a decision discussion. Support materials to ensure that Steering Committee participants are prepared to make the decision will be provided before a meeting however these materials and the proposed agenda for said meeting may be distributed less than two weeks before a meeting if necessary.

The following describes the related but distinct organizational sub-elements of the Stakeholder Group. Each section describes the role(s), participation criteria, decision-authority and decision limitations of each sub-elements and the Stakeholder Group in total.

#### **4.1 SMR Stakeholder Group Description**

Stakeholder Group meetings are held for Stakeholder Group Participants (as defined above) to receive informational updates, discuss topics, and make coordination and resource decisions about the SMR SSO and potential TMDL processes. Meetings are publicly noticed and open to the public. Discrete periods of public comment are provided in Stakeholder Group meeting agendas however members of the public and other interested parties do not participate in ongoing, iterative discussions with Participants. Meeting time is principally reserved for general process updates, presentations by and discussions with the SMR Technical Advisory Committee

(TAC) (described in Section 4.3), presentations by and discussions with the SMR Regulatory Subgroup (described in Section 4.4), conversations between Stakeholder Group Participants, coordination decisions by the full Group, and resource decisions by a Steering Committee (described in Section 4.2).

The Stakeholder Group is convened by a Chairperson (described below). Meetings are facilitated by a neutral facilitator (described in Section 4.6). Administrative project support for the Stakeholder Group is currently provided by the County of San Diego in the form of in-kind services (described in Section 4.5).

The Chairperson works with the facilitator to review and modify Stakeholder Group meeting agendas, assess the status of assignments made to Stakeholder Group Participants, Group sub-elements, and the TAC. The Chairperson acts as the formal external speaker on behalf of the Stakeholder Group (when warranted and after having vetted comments / perspectives with the Stakeholder Group in advance). The Chairperson (or a designee) participates in all Regulatory Subgroup meetings (described in Section 4.4). The Chairperson has no unique or unilateral decision authorities. The Chairperson's role is principally that of strategic management, oversight, and communication. Selection methods and duration of term for Chairpersons are described below in Section 5. The Stakeholder Group makes coordination decisions. Within the Stakeholder Group is a Steering Committee (described in Section 4.2). The Steering Committee makes resource decisions (defined above) as informed by discussions of the full Stakeholder Group.

In addition to the above, Stakeholder Group Participants have the following responsibilities:

1. Provide honest perspectives representing a broad scope of interests about the SMR.
2. Review and provide recommendations on policy and technical issues relevant to the SSO and potential TMDLs.
3. Develop Resource and text or provide other assistance to staff and facilitators as appropriate.
4. Consistently participate in Stakeholder Group meetings (and subcommittee meetings, where appropriate).
5. Anticipate short- and long-term future events, trends and conditions that will impact and shape the SMR work.
6. Help identify, review, verify and critique data, assumptions, analysis and methods used by the TAC and others in support of the SMR process.
7. Communicate information about the process and products with respective constituencies.
8. Seek agreement on proposals and/or recommendations.

## **4.2 Steering Committee Description**

The purpose of the Steering Committee is to be informed by full Stakeholder Group discussions and perspectives and to then make resource decisions. The Steering Committee is comprised of SMR Participants that are Dischargers (as fully described below). Members of the Steering Committee will be directly or potentially fiscally impacted by any revisions to the Basin Plan to incorporate SSOs and/or potential TMDLs.

Steering Committee Participants include Dischargers identified in the RWQCB Lagoon Order:

- USMC Camp Pendleton / Naval Weapons Station Fallbrook,
- City of Murrieta (either directly or as represented by RCFC&WCD),
- City of Temecula (either directly or as represented by RCFC&WCD),
- County of Riverside,
- RCFC&WCD,
- County of San Diego, and
- Caltrans

In addition to these organizations, two other organizations are Dischargers that were not incorporated local governments at the time of the Lagoon Order but have since been incorporated. These are:

- The City of Wildomar (either directly or as represented by RCFC&WCD),
- The City of Menifee (either directly or as represented by RCFC&WCD)

In addition to these Dischargers (and according to personal interviews between a Regional Board representative and the Stakeholder Group neutral facilitator, and discussions by the Stakeholder Group) other Steering Committee members might also include:

- The organizations that represent waiver holders such as agricultural lands managers / owners whose property discharges flows to the SMR and that participate in existing Irrigated Lands Regulatory Program groups in the SMR Watershed,
- NPDES permit holders in the SMR Watershed.
- Other organizations that have defined point and non-point source discharges (e.g. tribal entities, U.S. Forest Service, California Department of Fish and Game, SDSU, RCWD, Temecula Wine Growers Association, etc.).
- Other holders of WDRs that may be affected by decisions on the SMR and/or amendment of the San Diego Basin Plan.

The current and potential Dischargers, NPDES permits holders and WDR holders have unique responsibilities to achieve nutrient load and waste load allocations in the SMR, and several of them are making financial and in-kind contributions to support the technical work of the process. In this context, there is a reasonable hierarchy of decision-making authority in the Stakeholder Group related to which organization has the most pronounced implications associated with regulatory actions.

The Steering Committee meets as part of full Stakeholder Group meetings and individually in separate meetings as needed. Individual Steering Committee meetings will take place to address items unique to Dischargers such as to address funding and in-kind support topics, or to discuss policy conditions related to regulatory actions. However for the purpose of transparency, all

resource decisions are made by the Steering Committee within a facilitated Stakeholder Group meeting.

Steering Committee members are subject to the same responsibilities described for the Stakeholder Group in Section 4.1.

### **4.3 Technical Advisory Committee Description**

The Stakeholder Group process is served by a TAC. The TAC is comprised of consultants, staff specialists from Participant organizations, and Participants with applicable technical proficiency and interest. Currently, the consultant and staff specialists includes representatives from the following organizations:

- Southern California Coastal Water Research Project (SCCWRP),
- U.S. Navy, Space and Naval Warfare Systems Center Pacific (SPAWAR)
- Larry Walker Associates
- Tetra Tech Inc.
- Stetson Engineers, Inc., and
- Michael Welch Associates.

While these respective TAC members serve the interests of various Participants, collectively, their role is to conduct technical activities on behalf of the full process and Stakeholder Group. More specifically, TAC consultants and staff have the following responsibilities:

1. Provide technical guidance to the Stakeholder Group including the development of informational materials, delivery of technical presentations, and availability to answer technical questions.
2. Conduct technical tasks on behalf of the project and at the direction of the Steering Committee (as informed by the full Stakeholder Group).
3. Develop technical work products for use by the full Stakeholder Group, the Steering Committee, and/or the Regulatory Subgroup (described in Section 4.4).
4. Provide and update a project timeline and schedule to help manage technical assignments and decision milestones.
5. Prepare and modify the process work plan to be mutually agreed on by the Steering Committee and the RWQCB.

At times, a consultant or staff member of the TAC may be asked by their “sponsor” in the Stakeholder Group to represent them on the TAC. This is acceptable but the TAC member is expected to disclose this situation to all Stakeholders.

The TAC is led by a Team Leader. The Team Leader is currently designated by the Grant Sponsors and defined within the work plan of the Phase 1 Grant Agreement (both described in Section 4.0). In future phases of the project, the TAC Team Leader may be selected by the Steering Committee as informed by discussion of the entire Stakeholder Group. The Team Leader is responsible to track the status of, and manage the TAC consultant and staff responsibilities listed above. In addition, the Team Leader is expected to act as the technical



spokesperson to the Stakeholder Group and the general public on behalf of the TAC (as authorized by the Steering Committee). Similarly, the Team Leader will act as the technical spokesperson and liaison on behalf of the Stakeholder Group with the Regulatory Subgroup. The Technical Team Leader has no unique, or unilateral decision authorities. The Team Leader's role is principally that of technical management and oversight. Any need for technical decisions identified by the Team Leader is communicated to the Stakeholder Group and the neutral facilitator to be agendized at a subsequent Stakeholder Group meeting.

Stakeholder Group participation on the TAC is based on Participant willingness and interest to provide additional support to the process. Participant members should have appropriate education and/or professional skill to best serve the technical discussions. The Participant representatives have the following responsibilities.

1. Attend TAC meetings as needed to review and discuss technical topics,
2. Provide guidance to the technical consultants and staff about project priorities and technical questions,
3. Attend all Stakeholder Group meetings and provide recommendations to fellow Participants about the status and direction of technical activities.

TAC meetings are held monthly (or as needed) and are attended by the TAC consultants and staff (as listed above), the neutral facilitator (in observation mode rather than as a facilitator), a representative from the County of San Diego (acting as the administrative project manager as described in Section 4.5), and are open to stakeholders to attend.

Additionally, the TAC works interactively with the Camp Pendleton/SPAWAR modeling staff to ensure that the potential estuary TMDL effort receives sufficient data, guidance, and SSO and/or TMDL regulatory requirements of the Stakeholder Group or pertinent regulatory agencies.

#### **4.4 Regulatory Subgroup Description**

The Regulatory Subgroup includes staff from the:

- San Diego RWQCB,
- SWRCB, and
- U.S. EPA

The Subgroup also includes the TAC Team Leader, the neutral facilitator, and the Stakeholder Group Chairperson (or designee). The purpose of the Subgroup is to provide opportunities for candid discussions about the SMR process with the Regulators. The TAC Team Leader attends Regulatory Subgroup meetings to discuss the process and interim / final technical outcomes. The Chairperson represents the Stakeholder Group and ensures that various Participant interests are considered. The neutral facilitator participates as a representative of and on behalf of all Stakeholder Group members and relies on his/her neutral role to similarly ensure various Participant interests are considered and to ensure shared understanding about Regulatory Subgroup meeting outcomes. The Regulatory Subgroup meets as requested and/or directed by the Steering Committee.

Outcomes of the Regulatory Subgroup meetings are memorialized by the neutral facilitator and provided to the SMR Stakeholder Group.

#### **4.5 Administrative Project Support Description.**

The SMR SSO and potential TMDL processes requires administrative support to keep efforts efficient and effective. Staff from the County of San Diego currently handle all of the administrative functions necessary for ensuring the work for the SSO and potential TMDLs is completed on schedule, and with sufficient stakeholder input (as defined in the Grant Agreement workplan). The administrative project support staff from the County are responsible for the following duties:

1. Verify the achievement of key milestones and recording reasons for not meeting milestones.
2. Track expenditures to verify the project is on budget,
3. Work with the San Diego RWQCB to ensure a mechanism to maintain the administrative record and organizing the final record.
4. Maintain a current mailing/contact list of stakeholders and interested parties.
5. Distribute information to the contact list in coordination with the facilitator.
6. Prepare draft meeting summaries and provide to the neutral facilitator for draft final review.
7. Maintain an ongoing list of conflicts to be addressed.
8. Facilitate information gathering and sharing in coordination with the facilitator.
9. Track public contact and stakeholder participation.
10. Provide a point of contact for public inquiries about the process. *Note: This role is different from the communication role assigned to the Chairperson to be available to speak about and on behalf of content and policy issues addressed by the SMR Stakeholder Group.*
11. Receive and respond to telephone, FAX, email and written requests for information from stakeholders and other interested parties.
12. Copy and assemble mailing and e-mailing information in coordination with the facilitator.
13. Prepare progress reports, invoices and deliverables under the Proposition 84 IRWM Grant Agreement.

#### **4.6 Facilitator Description**

The Stakeholder Group is supported by a neutral facilitator. The responsibilities of the facilitator are:

1. Serve as a professional neutral and be responsible to manage dialogue in meetings and oversee the provisions of this charter.
2. Design, implement and refine (as needed) a consensus-seeking process.
3. Facilitate meetings and sub-element meetings as necessary.
4. Receive input on items of a personal or process nature from Participants. (Technical or policy issues will be discussed in open session of the Stakeholder Group).

5. Ensure that all points of view held by Participants are heard and that the interests of each Participant's constituencies are considered.
6. Provide assistance to Participants requesting help with communications.
7. Prepare and distribute meeting agendas, attendance sheets, and Draft Final meeting summaries.
8. Address and resolve ongoing conflicts.
9. Facilitate information gathering and sharing in coordination with the Administrative Project Support.
10. Distribute information to the contact list in coordination with the Administrative Project Support.

As of the approval date of this Charter, the facilitator works under a contractual agreement with the County of San Diego. In this context, the facilitator has a scope of services and contract that has been mutually agreed on by the facilitator and the County. In the future, the contract manager for facilitation services may change. Regardless, the following is applicable for all future facilitation support agreements.

Any Participant may submit a request to remove and replace a facilitator. The request will be considered by the Steering Committee and will be addressed as a decision-item at the next appropriate full Stakeholders Group meeting. Should a facilitator be removed, the SMR Stakeholder Group has the latitude to proceed without a facilitator or hire a new facilitator. In the event a new facilitator is sought, the solicitation, review, and selection process will be managed by the Chairperson and Steering Committee.

#### **4.7 Other Committees**

On an as-needed basis the Stakeholder Group convenes other advisory committees to address key topics or outstanding items. These will include but not be limited to:

- Outreach - An Outreach Committee will be convened as directed by the Steering Committee. The purpose of the Outreach Committee is to ensure that all parties that might be affected by the SSO and/or potential TMDL processes are aware of the planning and technical activities by the SMR Stakeholder Group. These activities may include but are not limited to:
  - Stakeholder meetings
  - Steering Committee meetings
  - TAC meetings
  - Public meetings
  - Updates on Regulatory Subgroup consideration including respective updates from and about San Diego RWQCB, SWRCB, and U.S. EPA consideration of the proposed SSO and/or potential TMDLs

Activities may also include but not be limited to coordinating contact databases to maximize communication with the general public, creation and shared distribution of standardized speaking points and project facts to ensure consistent messaging, and similar tasks

Other advisory committees may be deemed necessary by the Steering Committee. When convened, these advisory committees function under the same decision and communication methods as the Stakeholder Group.

#### **4.8 General Stakeholder Group Guidelines**

To ensure Stakeholder Group and associated sub-element meetings are effective, all Participants commit to the following guidelines:

- All Participants will have scheduled opportunities to accurately represent the interests of his or her participating organization in the development and implementation of the SSO and/or potential TMDLs.
- The personal integrity, values and legitimacy of the interests of each Participant will be respected by other Participants. Everyone will participate; no one will dominate.
- All interests will be considered by all Participants in general deliberation and in decision-making procedures (described in Section 5)
- Participants participate regularly and in person (if possible) and will be well informed on the issues under discussion.
- Every Participant will communicate his or her interests and will disclose pertinent information on issues under consideration.
- Commitments will not be made lightly and will be kept. Delay will not be employed as a tactic to avoid an undesired result.
- All Participants will have the authority necessary to represent their respective organizations in deliberations.
- All Participants will inform their respective decision-making bodies in a timely manner of developments in the proposed program. All Participants will notify the Stakeholder Group when a decision-making body's approval is required to enter any formal commitment and will work to secure approval from their respective organization.

### **5. SMR Stakeholder Group Decision Making and Participation Guidelines**

This section describes expectations for attendance and the use of Alternates by Participants, methods to replace Participants in the event of resignation and/or removal, decision-making methods for all groups within the SMR Stakeholder Group process, and specific terms of service and selection processes for the Stakeholder Group Chairperson, and the TAC Team Leader.

#### **5.1 Participant Attendance and the use of Alternates**

Given the volume of information to be considered and various demands on Participants' schedules, Alternates may be used by a participating organization. Alternates must be identified in advance, fully briefed, and able to represent the Participant and Participant's constituents during decision making. Alternates are expected to be kept up to date on all project activities by their Participant representatives and are expected to attend on behalf of a Participant, fully

prepared to discuss agenda items. No items addressed at previous meetings will be revisited to accommodate an Alternate.

## **5.2 Participant Resignation and Replacement**

Participant Resignation: Participants and/or their organization may resign their service to the process. They are encouraged to do the following:

- Provide written resignation communication (e.g., letter, email) to the Chairperson and facilitator.
- Recommend a replacement either from the Participant's organization, or from a similar interest organization.

Participant Replacement: In the event a Participant resigns, that person's organization is expected to recommend a replacement. That individual will automatically be included as a Participant representative. If a prior organization chooses to not submit a new representative, they may recommend a representative from a different organization that has similar interests. The Stakeholder Group will consider replacement recommendations from the prior organization at the next available meeting and will determine if the recommended replacement is appropriate to be added.

In the event a new, interested organization requests to become an active Participant on the Stakeholder Group (beyond attending as a member of the public), the person / organization must do the following and the Stakeholder Group will conduct the following review steps:

1. The prospective new Participant will be instructed to submit a letter of application to the Chairperson describing why their interest is unique and is not currently and adequately represented on the Stakeholder Group by existing Participants.
2. The Chairperson will work with the facilitator and agendize consideration of the request at the next appropriate Stakeholder Group meeting.
3. The Stakeholder Group will review the application and will decide if the requested position is warranted to be added to the Group. Criteria for new Participants should include but not necessarily be limited to the following questions:
  - Will the new Participant add interests / perspectives not currently served on the Stakeholder Group?
  - Will the new Participant add geographic representation not currently served by the Stakeholder Group?
  - Will the new Participant provide some other form of diversity not currently served by Stakeholder Group?

## **5.3 Stakeholder Group Decision Making Procedures**

As a voluntary partnership of diverse organizations, the Stakeholder Group cannot be “*consensus based*”. Organizations within the process, nor individual participants on behalf of their organizations, do not necessarily have the authority to make or implement binding decisions. Therefore, all elements of the SMR SSO and potential TMDL processes are “*consensus-seeking*”

wherein, each part of the organizational structure takes reasonable and appropriate steps to reach consensus (as described below).

### **Consensus-Seeking Decision Method**

The consensus decision method is based on principles of “consensus with accountability”. Consensus with accountability requires all Participants to try to reach consensus while at all times supporting and expressing their self-interest. In the event a Participant must reject a proposal, that Participant is expected to provide a counter proposal that legitimately attempts to achieve their interest, and the interests of the other Participants. When seeking consensus, a group will not vote and will not seek to identify numeric “winners and losers” on key topics. Rather, a group will seek mutually acceptable and beneficial conclusions.

In seeking consensus on an interim or final recommendation, participants will voice their opinions with specific proposals along the way, rather than waiting until a final recommendation has been developed. At all times, participants will ensure that they are providing input commensurate to their prescribed role and constituency. The basic decision-making process is as follows:

Straw Polls: Participants will use straw polls to assess the degree of preliminary support for an idea before it is submitted as a formal proposal for final consideration by the group. Participants may indicate only tentative approval for a preliminary proposal without fully committing to its support.

Draft and Final Decisions: A group will use the following three levels to indicate Participants’ degree of approval and support for any proposal being considered and to determine the degree of consensus.

Thumbs Down:	I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.
Thumbs Sideways:	I am not enthusiastic about it, but I can accept the proposal.
Thumbs Up:	I think this proposal is the best choice of the options available to us.
Abstention	At times, a pending decision may be infeasible for a Participant to weigh in on. Examples could include but not be limited to: a topic that has statutory implications that an agency representative cannot be on record conflicting with; a Participant cannot get a consensus of his/her decision-makers and therefore cannot offer a proposal or opinion; and other similar conditions.

The goal is for all Participants to be in the ‘Thumbs Up’, or Thumbs Sideways’ levels of agreement. Any group will be considered to have reached consensus when there is a quorum of

participants present, and all Participants present are at Thumbs Up or Thumbs Sideways levels. If any Participant is at a 'Thumbs Down' level, that Participant must provide a counter proposal that legitimately attempts to achieve their interest and the interests of the other Participants. The group will then evaluate how best to proceed. Participants that abstain from particular proposals are encouraged to explain why abstention is in their best interest.

Consensus decisions / recommendations will be made at each appropriate meeting and will be noticed at least one week in advance. A group will not revisit previously agreed on decisions or recommendations, unless new information is brought to light that would likely affect the outcome of the group's previous work.

### **Majority Rule Decision Method**

Should consensus not be achievable, any group in the process uses a majority rule method to complete and memorialize a decision process (as described below). For all circumstances, decision-making will take place using the following criteria:

- Coordination Decisions. Coordination decisions will be made by the Stakeholder Group using a simple majority of all Participants present (51 percent or more) at any given meeting.
- Resource Decisions. Resource decisions are made by the Steering Committee after sufficient discussion and deliberation has been conducted by the full Stakeholder Group. In the event consensus cannot be achieved, a resource decision will be made by a super majority of all Steering Committee members present (67 percent or more with caveat that if the supermajority is made up of Riverside County entities, there must be one additional non-Riverside County vote in favor of a proposal).

All groups within the SMR organizational structure will have one voting member per represented organization. All voting Participants from any group within SMR organizational structure are required to recuse themselves from voting on issues with potential conflict of interest.

### **5.4 Service Terms and Selection Guidelines**

The Stakeholder Group process has two designated leadership positions: 1) The Stakeholder Group Chairperson, and 2) the Technical Team Leader. The following describes the guidelines to select these positions and the duration they will serve.

Chairperson: A Chairperson will serve a one year term. On completion of that term, the Chairperson may be considered for an additional term or may step down from the position. There are no term limits for Chairperson.

A Chairperson nominee must be a Discharger member of the Steering Committee to be eligible to serve as the Chairperson

For the duration of Phase 1 of the SSO and potential TMDL efforts, the position of Chairperson will alternate between the RCFC&WCD and the County of San Diego (as the Grant Sponsors). Beyond Phase 1, the selection of Chairperson will be determined by the source of funding. If

grant funds are obtained, then Chairperson will be selected from the future grant sponsors. If no grant funds are obtained, then the Chairperson will be appointed by the Steering Committee through consensus or a majority process (as described above).

**TAC Team Leader:** The TAC Team Leader will serve for the duration of Phase 1 of the SSO and potential TMDL effort (as appointed by the Grant Sponsors and defined within the work plan of the Phase 1 Grant Agreement). Beyond Phase 1, the TAC Team Leader will serve a term as determined by the source of funding available with the default of a one year term. On completion of that term, the Leader may be considered for an additional term or may step down from the position. There are no term limits for TAC Team Leader. Alternatively and if no grant funding / funder exists, the TAC Team Leader will be selected by the Steering Committee through the consensus or majority rule processes.

### **5.5 Charter Ratification and Amendment**

The Stakeholder Group may amend this Charter by following the same decision rule set forth above. Amendments may be proposed by the Participants during or between meetings to the Chairperson. The proposal will be agendaized for discussion and possible action, using the consensus decision rule process, at the next meeting, or through email and/or conference call communication if feasible and appropriate. Amendments will be decided on by the Steering Committee as advised by the Stakeholder Group

## **6. SMR Stakeholder Group Communication Guidelines**

The following describes specific caveats and guidelines to support decision making with the regulating agencies, and to establish shared expectations on the feasibility / infeasibility of decision steps in the process.

### **6.1 Communication and Decision-Making with RWQCB and U.S. EPA**

One of the keys to the success of the process is an effective communication process with the regulatory agencies. The developed process recognizes the following constraints:

1. The RWQCB and U.S. EPA have limited resources and time to participate in the stakeholder process.
2. The Regional Board and U.S. EPA are ultimately responsible for approving the SSO and/or potential TMDLs.
3. The RWQCB and U.S. EPA may have limited ability to enter into agreements, such as memorandums of understanding, for the conduct of work by stakeholder groups.
4. The Regional Board and U.S. EPA cannot guarantee any outcome from the proposed process and will maintain their discretion to determine the nutrient SSO and/or potential TMDLs requirements.
5. The Stakeholder Group and Steering Committee need some type of assurance that the technical work products will be utilized by the RWQCB and U.S. EPA for developing the SSO and/or potential TMDLs.



6. The Stakeholder Group and Steering Committee may choose not to support the nutrient SSOs and/or potential TMDLs developed by the RWQCB even if the SMR Stakeholder Group's technical work is utilized to develop the documents.

Given these constraints, the following process has been identified to facilitate interactions and decision-making.

1. The Stakeholder Group will develop a work plan to submit to the RWQCB for approval. The work plan will consist of the technical work to be completed and this administrative process document as an appendix. The work plan will identify key decision points that will require RWQCB and/or U.S. EPA input.
2. The RWQCB will review and approve the work plan. As part of the approval, the RWQCB shall agree to participate in the process outlined in this administrative process document and consider any work products developed in accordance with the work plan in developing nutrient SSOs and/or potential TMDLs for the Santa Margarita watershed.
3. The RWQCB and U.S. EPA will each identify a staff person that will be responsible for participating in the stakeholder meetings as much as possible, but at a minimum for meetings at which key decisions need to be made. The identified staff person will be responsible for communicating technical information and needed decisions to their management as appropriate to provide meaningful input to the process. All parties, Stakeholder and Regulator alike, agree to keep an open mind on the results of the scientific questions to be answered, and to abide by agreed upon processes in implementing the results of studies undertaken pursuant to this initiative.
4. For each key decision, the Stakeholder Group will submit "briefing" information to the regulatory agencies at least one week ahead of the meeting at which the decision will be discussed.
5. The RWQCB and/or U.S. EPA will use the "briefing" information to discuss the decision internally prior to the Stakeholder Group meetings and they may opt to conduct a Regulatory Subgroup meeting in advance of a full Stakeholder Group meeting. At the Stakeholder Group meeting, the designated staff person will attend to discuss RWQCB, and/or U.S. EPA issues and concerns with the Group. If needed, the staff person will take information obtained from the meeting back to their management to obtain approval of the decision. If a situation arises where the RWQCB, and/or U.S. EPA cannot provide a final decision on an issue, they will assist the Stakeholder Group in identifying a method for moving forward and developing information that will allow a decision to be made in a timely manner.
6. The RWQCB and U.S. EPA will review and provide comments on the technical work products developed by the Stakeholder Group.
7. During the development of the nutrient SSO and/or potential TMDLs by the RWQCB, the designated staff person will continue to meet regularly with the Stakeholder Group to

provide updates on the RWQCB development process. To the extent possible, key policy decisions and the proposed approach will be discussed with the Stakeholder Group and sections of the documents will be shared to facilitate discussion. At a minimum, the draft nutrient SSO and/or potential TMDL documents (Basin Plan Amendments and Staff Report) will be shared with the Stakeholder group prior to being released for the official public comment period.

To facilitate the success of the process outlined above, the Stakeholder Group Participants, and the regulating agencies will adhere to the rules of participation outlined throughout this Charter.

In addition to the process outlined above, the Stakeholder Group will provide updates and education to other parties as necessary to support the development of the nutrient SSO or/or potential TMDLs. Possible actions include but are not limited to:

1. Initial meetings with the RWQCB Executive Officer, U.S. EPA and other key staff to provide an overview of the project and the proposed process to get agreement on RWQCB and U.S. EPA participation in the project.
2. Periodic updates to the Executive Officer on the project status.
3. Periodic information items or public comments to the RWQCB members to educate them on the work being conducted ahead of the adoption of the SSO and/or TMDL.
4. Periodic updates and discussions with State Board staff regarding the relationship of the project to the State's nutrient criteria development process.

## **7. Peer Review**

Peer review and outside technical advisory committees may be employed during the completion of the work identified in the work plan. The Stakeholder Group and Steering Committee will potentially seek to have a role in the selection and use of a Peer Review Committee. This decision will be made by the Steering Committee. If the Stakeholder Group takes a role in this process, the Steering Committee and Chairperson will agendaize this topic on future meeting agendas and will support the consideration of options that can provide informed, independent, and balanced review. This Charter may be amended to represent future decisions about this topic.