

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

CENTRAL VALLEY REGION

RESOLUTION R5-2014-0047

AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR
THE SACRAMENTO AND SAN JOAQUIN RIVER BASINS TO
PROVIDE A GROUNDWATER REGULATORY FRAMEWORK TOWARDS
CLOSURE OF THE ROYAL MOUNTAIN KING MINE SITE, CALAVERAS COUNTY

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. In 1975, the Central Valley Water Board adopted the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan), which has been amended occasionally.
2. The Basin Plan may be amended in accordance with the Water Code section 13240, et seq.
3. The Basin Plan states “Unless otherwise designated by the Regional Water Board, all ground waters in the Region are considered as suitable or potentially suitable, at a minimum, for municipal and domestic water supply (MUN), agricultural supply (AGR), industrial service supply (IND), and industrial process supply (PRO).”
4. When the Central Valley Water Board adopted the Basin Plan, it did not conduct an exhaustive survey of all of the groundwater in the Region prior to designating beneficial uses. Instead, the Central Valley Water Board chose to make basin-wide designations that generally designated all of the waters within the Region as supporting a suite of beneficial uses: MUN, AGR, IND, and PRO. These basin-wide designations did not recognize that certain beneficial uses may not be attainable in areas where conditions are not expected to support these uses.
5. The Basin Plan also states “In making any exceptions to the beneficial use designation of municipal and domestic supply (MUN), the Regional Water Board will apply the criteria in State Water Board Resolution No. 88-63, ‘Sources of Drinking Water Policy.’”
6. The Central Valley Water Board has regulated groundwater and surface water discharges at the RMKM Site since 1988. The Board regulated discharges at the RMKM Site through the issuance of waste discharge requirements (WDRs), which implemented provisions of Title 27 of the California Code of Regulations (hereafter, Title 27). Under Title 27’s mining waste classification system, Group B mining wastes include those wastes that, “... consist of or contain nonhazardous soluble pollutants of concentrations which exceed water quality objectives for, or could cause, degradation of waters of the state.” (Cal. Code Regs., tit. 27, §2280(b)(2).) Group C mining wastes, on the other hand, are defined as those wastes “from which any discharge would be in compliance with the applicable water quality control plan...” (Cal. Code Regs., tit. 27, §2280(b)(3).) From 1988 through 2001, the Board classified the mining wastes in the three ODSs as Group C mining waste because these wastes did not generate acid mine drainage or contain hazardous waste.
7. Gold mining at the RMKM Site ceased in 1994. Meridian Beartrack Company (Meridian) assumed the lead role in addressing closure activities at the RMKM Site in 2000.
8. In 2001 the Central Valley Water Board reversed its Group C classification determination. Though some of the underlying groundwater was of poor quality due to naturally occurring geologic conditions, the Board found that leachate from the ODSs could cause groundwater to contain

elevated concentrations of TDS and sulfate. The Board then reclassified the material in the three ODSs from Group C mining waste to Group B mining waste. (Revised WDRs Order R5-2001-040 and Cease and Desist Order (CDO) R5-2001-0041.) This reclassification required Meridian to comply with significantly more stringent mine closure requirements.

9. Meridian petitioned the State Water Board to review Revised WDRs Order R5-2001-040 and CDO R5-2001-041. In 2003, the Central Valley Water Board issued Revised CDO R5-2003-0055, which still required that Meridian comply with Group B closure requirements. Meridian petitioned the revised CDO to the State Water Board as well. After considering the merits of the petitions, the State Water Board issued WQO-2004-0007 (*RMKM Remand Order*).
10. In the *RMKM Remand Order*, the State Water Board made several findings with respect to the elevated concentrations of TDS and other inorganic constituents in the groundwater. The State Water Board found that although large-scale mining activities increased the amount of leachable salts and other minerals as water passes through the mining wastes in the ODSs, other factors, including the naturally occurring presence of salt-bearing geologic formations at the Site, contributed to the poor quality of the underlying groundwater. In the *RMKM Remand Order*, the State Water Board concluded that the Central Valley Water Board should pursue alternate compliance strategies in lieu of enforcing requirements that would require Meridian to build a cover over the RMKM mining wastes to meet Title 27 standards. Alternate compliance strategies could also include a re-evaluation of whether it was appropriate for the Basin Plan to consider the groundwater underlying the Site as supporting a full range of beneficial uses.
11. In the years since the State Water Board issued the *RMKM Remand Order*, the Central Valley Water Board has issued a National Pollution Discharge Elimination System (NPDES) Permit to allow for controlled discharges of water from Skyrocket Pit Lake to Littlejohns Creek during periods of high seasonal baseline creek flow. (WDRs Order R5-2013-0071, NPDES Permit CA0085243.)
12. The Central Valley Water Board has also prescribed updated closure WDRs (Order R5-2008-0021), though the ultimate issue of how Meridian would implement closure operations to protect groundwater over the long-term was not settled in Order R5-2008-0021.
13. The Central Valley Water Board has found that it cannot effectuate closure of the RMKM Site consistent with the *RMKM Remand Order* without amending the Basin Plan.
14. After evaluating all relevant evidence, Staff concludes that de-designation of certain beneficial uses is warranted at portions of the RMKM Site.
15. The proposed Basin Plan Amendment (Proposed Amendment) will modify Basin Plan Chapter II (Existing and Potential Beneficial Uses, under the heading "Ground Waters") to add a new subsection that defines the area proposed for beneficial use de-designations of groundwater for MUN and AGR at the RMKM Site.
16. The Proposed Amendment modifies Basin Plan Chapter IV (Implementation, under the heading "Control Action Considerations of the Central Valley Regional Water Board") to add a policy for managing poor-quality groundwater and a variance for specified constituents in groundwater for IND and PRO beneficial uses at the RMKM Site.
17. The Central Valley Water Board has considered the factors set forth in Water Code section 13241, including economic considerations, in developing the Proposed Amendment. There are no additional costs associated with implementing the Proposed Amendment.
18. Central Valley Water Board staff developed a draft Staff Report in support of the Proposed Amendment that was subjected to independent, external scientific peer review in November 2012

in accordance with Health and Safety Code section 57004. The draft Staff Report and Proposed Amendment have been changed to conform to the recommendations of the peer reviewers.

19. The Central Valley Water Board finds that the scientific portions of the Proposed Amendment are based on sound scientific knowledge, methods, and practices in accordance with Health and Safety Code section 57004.
20. The Central Valley Water Board finds that the Proposed Amendment is consistent with existing policies of the Central Valley Water Board and the State Water Resources Control Board, including State Water Board Resolution 68-16, Statement of Policy with Respect to Maintaining High Quality of Water in California (*Antidegradation Policy*), as described in the Staff Report.
21. The regulatory action proposed meets the "Necessity" standard of Government Code section 11353(b).
22. The Central Valley Water Board or Board is the Lead Agency under the California Environmental Quality Act (CEQA)(Pub. Resources Code, § 21000 et seq.) and is responsible for evaluating potentially significant environmental impacts that may occur as a result of the Proposed Amendment. The Secretary of Resources has determined that the Board's Basin Planning Process qualifies as a certified regulatory program pursuant to Public Resources Code section 21080.5 and California Code of Regulations, title 14, section 15251(g). This determination means that the Board may prepare Substitute Environmental Documentation, which includes the Staff Report and an Environmental Factors Checklist, instead of preparing an environmental impact report. The Substitute Environmental Documentation satisfies the requirements of State Water Board's regulations for the implementation of CEQA for exempt regulatory programs. (Cal. Code Regs., tit. 23, §§ 3775 et seq.)
23. Central Valley Water Board staff held CEQA scoping meetings on 23 June 2011 and 20 August 2011 to identify any significant issues and alternatives that should be considered during the development of the Staff Report and the Proposed Amendment.
24. The November 2013 Staff Report includes a description of the Proposed Amendment and analysis of reasonable alternatives to the proposed Amendment. The draft Staff Report included an analysis of the reasonably foreseeable environmental impacts of the methods of compliance and an analysis of the reasonably foreseeable alternative methods of compliance with the proposed Amendment. No environmental impacts were identified based on the analysis of the reasonably foreseeable methods of compliance.
25. While the Proposed Amendment is partially inconsistent with the *Sources of Drinking Water Policy*, the Central Valley Water Board will request that the State Water Board make a site-specific modification to the *Sources of Drinking Water Policy* to resolve this inconsistency.
26. Central Valley Water Board staff completed an environmental checklist that concluded that the proposed Amendment results in no effect, either individually or cumulatively, on fish, wildlife or the environment.
27. Central Valley Water Board staff has circulated a Notice of Public Hearing, Notice of Filing, a written Staff Report, environmental checklist, and a draft proposed Amendment to interested individuals and public agencies, including persons having special expertise with regard to the environmental effects involved with the proposed Amendment, for review and comment. (Cal. Code Regs., tit. 23, § 3775.)
28. One comment letter was received regarding the draft Basin Plan Amendment and a response to the comments was developed to address the comments. The draft Staff Report was also modified in response to the comments.

29. Based on the record as a whole, including the draft Basin Plan Amendment, accompanying written documentation, and public comments received, which makes up the substitute environmental documentation, the Central Valley Water Board concurs with staff's conclusion that the Amendment will result in no effect on fish, wildlife or the environment and therefore no mitigation measures are proposed.
30. A Basin Plan Amendment must be approved by the State Water Board and Office of Administrative Law (OAL). The proposed Amendment becomes effective after OAL approval.
31. The Central Valley Water Board finds that the Amendment to the Basin Plan was developed in accordance with Water Code section 13240, et seq.

THEREFORE BE IT RESOLVED:

1. The Central Valley Water Board hereby approves the Substitute Environmental Documentation that has been prepared in conformity with the CEQA regulations pertaining to Certified Regulatory Programs.
2. Pursuant to Water Code section 13240, et seq., the Central Valley Water Board, after considering the entire record, including oral testimony at the hearing, and any late revisions, hereby approves the Staff Report and adopts the Amendment to the Basin Plan as set forth in Attachment 1.
3. The Central Valley Water Board requests that the State Water Board make a site-specific modification to the *Sources of Drinking Water Policy* to include the groundwater de-designation as set forth in Attachment 1.
4. The Executive Officer is directed to forward copies of the Basin Plan Amendment to the State Water Board in accordance with the requirements of Water Code section 13245.
5. The Central Valley Water Board requests that the State Water Board approve the Basin Plan Amendment in accordance with the requirements of Water Code sections 13245 and 13246 and forward it to OAL.
6. If during its approval process the Central Valley Water Board staff, State Water Board or OAL determines that minor, non-substantive corrections to the language of the Amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Valley Water Board of any such changes.
7. Following approval of the Basin Plan Amendment by the OAL, the Executive Officer shall file a Notice of Decision with the Secretary for Resources in accordance with Public Resources Code section 21080.5(d)(2)(E) and California Code of Regulations, title 23, section 3781.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 28 March 2014.

Original signed by
PAMELA C. CREEDON, Executive Officer

Attachment 1: Basin Plan Amendment to Provide a Groundwater Regulatory Framework towards Closure of the Royal Mountain King Mine Site, Calaveras County

Attachment 1

Amendment to Basin Plan to Provide a Groundwater Regulatory Framework towards Closure of the Royal Mountain King Mine Site, Calaveras County

1. Amend the Basin Plan under the heading “Ground Waters” (page II-2.01), as follows:

Beneficial uses of groundwater of the basins are presented below. For the purposes of assigning beneficial uses, the term groundwater is defined in Chapter I.

Unless otherwise designated by the Regional Water Board, all ground waters in the Region are considered as suitable or potentially suitable, at a minimum, for municipal and domestic water supply (MUN), agricultural supply (AGR), industrial service supply (IND), and industrial process supply (PRO).

Beneficial Use De-designations

Ground waters at the Royal Mountain King Mine Site are de-designated for MUN and AGR in the de-designation area shown in Figure II-2.

2. Amend the Basin Plan under the heading, “The Nature of Control Actions Implemented by the Regional Water Board” and subheading, “Control Action Considerations of the Central Valley Regional Water Board” (page IV-21.00) by adding:

12. Policy for the Royal Mountain King Mine Site in Calaveras County

- a. Groundwater Management Strategy at the Royal Mountain King Mine Site, in Calaveras County

The owner of the Royal Mountain King Mine Site shall continue to implement a groundwater management strategy to manage poor-quality groundwater at the Site and to protect good-quality groundwater. The strategy is to maintain the lowest practicable level of water in Skyrocket Pit Lake and prevent any measurably significant degradation of current water quality in groundwater downgradient of the MUN and AGR de-designation area shown in Figure II-2. In addition, saline leachate that emerges as springs at the base of the Gold Knoll Overburden Disposal Site and the West Overburden Disposal Site, as well as the Flotation Tailings Reservoir leachate collection and recovery system, shall be collected in sumps and transferred by pumping to Skyrocket Pit Lake or regulated with an NPDES permit or WDRs.

- b. Variance for IND and PRO Uses in Groundwaters at the Royal Mountain King Mine site, in Calaveras County

Groundwaters within the area shown in Figure II-2 at the Royal Mountain King Mine Site are subject to a variance for the IND and PRO uses based on high background levels of total dissolved solids. The variance exempts the constituents listed in the table, below, from regulatory limits that would otherwise be determined from the IND and PRO beneficial uses.

Constituents in groundwater subject to the variance for IND and PRO include:

<u>Total Dissolved Solids</u>
<u>Arsenic</u>
<u>Chloride</u>
<u>Nitrate</u>
<u>Selenium</u>
<u>Sulfate</u>

