

# **D R A F T**

## **ATTACHMENT 2**

### **MITIGATION MONITORING AND REPORTING PLAN**

Prepared for the

#### **POLICY FOR MAINTAINING INSTREAM FLOWS IN NORTHERN CALIFORNIA COASTAL STREAMS**

##### **DIVISION OF WATER RIGHTS STATE WATER RESOURCES CONTROL BOARD**

###### **California Environmental Protection Agency**

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared in accordance with the California Environmental Quality Act (CEQA). (See Pub. Resources Code, § 21081.6; Cal. Code Regs., tit. 14, § 15097.) The MMRP has been developed based on the information and mitigation measures contained in the Substitute Environmental Document (SED) prepared for the Policy for Maintaining Instream Flows in Northern California Coastal Streams (Policy). The purpose of this MMRP is to ensure compliance with the mitigation measures and project revisions identified in the SED and associated Policy. As the lead agency, the State Water Resources Control Board (State Water Board) is responsible for ensuring that implementation of the mitigation measures occurs in accordance with this MMRP.

The CEQA Findings prepared for the Policy included: 1) written findings for each of the significant effects identified in the SED and 2) a list of the mitigation measure(s) identified in the SED for each impact where applicable. The mitigation measures for findings made pursuant to section 15091, subdivision (a)(1) have been incorporated as changes or alterations in the Policy. These mitigation measures can be categorized as either the State Water Board's authority to take enforcement action or the Board's authority to condition appropriative water rights.

#### **Enforcement Authority**

The State Water Board's authority under article X, section 2 of the California Constitution and Water Code section 100, has been incorporated into the Policy (see Policy sections 8.2 and 8.4). These provisions prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water. The State Water Board's authority under the public trust doctrine also has been incorporated into the Policy (see Policy sections 8.2 and 8.5). As described in the CEQA Findings (sections 1.2, 2.2, and 7.2) the exercise of these authorities could avoid or substantially lessen the potentially significant environmental impacts of any increase in groundwater pumping or riparian water use in cases where regulation to prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water is justified or action to ensure the protection of public trust resources is necessary.

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Enforcement activities may occur in response to various violations including, but not limited to, the following: waste or unreasonable use or diversion, public trust violations, unauthorized diversions, and noncompliance with permit or license terms. Provisions included in Policy section 8.2 and Policy Appendix G describe a system for monitoring and reporting enforcement activities. This system ensures that all known violations will be reviewed and will receive an appropriate level of enforcement. Pursuant to Policy Appendix F section F.6.0, the State Water Board will post copies of water right enforcement notices and all final enforcement orders on its website. Records of settlement of enforcement actions will also be posted on the State Water Board website.

## **Authority to Condition Appropriative Water Rights and Petition Approvals**

The State Water Board's authority to incorporate terms and conditions in water rights and water right petition approvals has been incorporated into the Policy (Policy Appendix F section F.1.0). This authority ensures that specific projects are carried out in ways that avoid or minimize potentially significant environmental effects. As described in the CEQA Findings (sections 4.2 and 6.2), this authority can be expected to avoid or substantially lessen the potentially significant environmental impacts of modification of onstream dams and construction of offstream storage in cases where new or amended appropriative water rights are required. This authority can also be expected to avoid or substantially lessen the potentially significant environmental impacts of the use of recycled water as an alternative supply (section 3.2) in cases where a waste water change petition is required.

For individual projects, the State Water Board will issue water rights with clear and enforceable provisions (Appendix F, section F.1.0), require and review compliance plans (Policy section 7.0), and maintain a field presence in the Policy area through compliance inspections, licensing inspections and complaint investigations (Policy section 8.1). In accordance with the State Water Board's Performance Management and Reporting program, the Division of Water Rights has established a performance target of including terms and conditions to protect public trust resources in 100 percent of new or amended water rights issued. This goal is tracked continuously and reported quarterly and annually in performance updates. All issued water rights will be posted on the State Water Board's website and terms and conditions will be entered into the eWRIMs database for individual projects. Copies of compliance plans, field reports, compliance and licensing inspections, and complaint investigations are included in the subject water right files.