CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins

To Edit and Update Language

Final Staff Report

March 2014

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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DISCLAIMER
This publication is a report by staff of the California Regional Water Quality Control Board, Central Valley Region. This report contains the evaluation of alternatives and technical support for the adoption of a Basin Plan Amendment to the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Resolution No. R5-2014-0037). Mention of specific products does not represent endorsement of those products by the Central Valley Water Board.

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EXECUTIVE SUMMARY

Staff of the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) proposes for Central Valley Water Board consideration several amendments to correct errors and update language in the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins. These amendments include correcting the description of the boundary between the San Joaquin River Basin and the Tulare Lake Basin; removing, correcting and updating footnotes in several tables; correcting typographical errors; and updating references to the California Department of Public Health and the California Department of Fish and Wildlife. In addition the amendments will incorporate the State Water Resources Control Board (State Water Board) policies for supplemental environmental projects, compliance schedules and recycled water and update the incorporation of the implementation policy for toxics and the enforcement policy.

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LIST OF ACRONYMS

ACL	Administrative Civil Liability
AGR	Agricultural supply beneficial use
CEQA	California Environmental Quality Act
COLD	Cold freshwater habitat beneficial use
CV-SALTS	Central Valley Salinity Alternatives for Long-Term Sustainability
DFG	Department of Fish and Game
DFW	Department of Fish and Wildlife
GWR	Ground water recharge beneficial use
IND	Industrial service supply beneficial use
MIGR	Migration of striped bass, sturgeon, shad, salmon and steelhead beneficial use
MUN	Municipal and domestic supply beneficial use
NPDES	National Pollutant Discharge Elimination System
OAL	Office of Administrative Law
PRO	Industrial process supply beneficial use
REC-1	Water contact recreation beneficial use
REC-2	Non-contact water recreation beneficial use
SIP	Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (a.k.a. State Implementation Policy)
SEP	Supplemental Environmental Project
SPWN	Spawning, reproduction and/or early development of striped bass, sturgeon, shad, salmon and steelhead beneficial use
TMDLs	Total Maximum Daily Loads
USC	United States Code
USEPA	United States Environmental Protection Agency
WARM	Warm freshwater habitat beneficial use
WILD	Wildlife habitat beneficial use

1 INTRODUCTION

Basin Plans form the basis for regulatory actions by Regional Water Boards taken to protect waters of the state and to assure compliance with the Water Code. The preparation and adoption of a Basin Plan is required by Water Code section 13240, which implements provisions of the federal Clean Water Act (33 United States Code (USC) § 1251 et seq.). Section 303 of the Clean Water Act requires that states adopt water quality standards, which consist of the designated uses of navigable waters covered by the Clean Water Act and water quality criteria (referred to as "water quality objectives" in California) designed to protect the designated uses. Pursuant to state law, Basin Plans must consist of all of the following (Wat. Code, § 13240-13244):

a) Beneficial uses to be protected;
b) Water quality objectives;
c) A program of implementation needed for achieving water quality objectives; and
d) Surveillance and monitoring to evaluate the effectiveness of the program.

Basin Plans are adopted and amended by the Regional Water Boards using a structured process involving peer review, full public participation, state environmental review, and state and federal agency review and approval. Each of the nine Regional Water Boards in California has adopted Basin Plans for its geographic region. The Central Valley Regional Water Quality Control Board (Central Valley Water Board) has adopted two Basin Plans, one for the Sacramento River and San Joaquin River Basins and one for the Tulare Lake Basin.

The authority for the Regional Water Boards to formulate and adopt Basin Plans and to periodically review these plans is derived from Water Code section 13240. However, a Basin Plan does not become effective until approved by the State Water Resources Control Board (State Water Board) (Wat. Code, § 13245), and the Office of Administrative Law (OAL). The United States Environmental Protection Agency (USEPA) also must review and approve amendments that add or modify water quality standards for waters of the United States.

1.1 Mandates for Basin Plan Amendments

The Regional Water Boards must comply with the requirements of the California Environmental Quality Act (CEQA) (Pub. Res. Code, § 21000 et seq.) when amending Basin Plans. The Secretary for Natural Resources has certified the basin planning process as exempt from the CEQA requirement to prepare an environmental impact report or other appropriate environmental document. (Pub. Res. Code, § 21080.5.; Cal. Code Regs., tit. 14, § 15251, subd. (g).) Rather,

State Water Board regulations require that basin plan amendments be accompanied by substitute environmental documentation that consists of, at a minimum, a written report and an Environmental Checklist and Determination with respect to Significant or Potentially Significant Environmental Impacts. (Cal. Code Regs., tit 23, § 3775 et seq.)

In this case, the proposed amendments are non-regulatory corrections to the language of the Basin Plan and updates to the Basin Plan to reflect State Water Board adopted plans and policies that are already in effect. The State Water Board conducted an environmental analysis of these plans and policies when it considered these plans and policies. The proposed amendments incorporate these plans and policies by reference so there are no additional potential significant effects on the environment that will need to be analyzed as part of these amendments. These proposed edits and updates to the Basin Plan do not constitute an activity which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, the proposed amendments are not a "project"[1] for purposes of CEQA compliance, and are therefore legally exempt from CEQA requirements.[2] Likewise, the proposed amendments are exempt from the State Water Board's certified regulatory program requirements because those requirements do not apply if the Board determines that the activity is exempt from CEQA. Despite the exemption from certified regulatory program requirements, Board staff has implemented the remaining regulatory procedures used in the Basin Planning process.

1.2 Water Quality Control Plan for the Sacramento River and San Joaquin River Basins

The Basin Plan was first adopted in 1975. The Basin Plan was revised and updated in 1989 and 1994. The current edition (Fourth Edition, 2011) incorporates all new amendments adopted since 1994.

2 PROPOSED BASIN PLAN AMENDMENTS

2.1 Basin Description, Page I-1.00

The 1975 editions of the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins and the Water Quality Control Plan for the Tulare

[1] "Project" is defined by CEQA as a governmental activity "which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment…" Pub. Resources Code § 21065.
[2] Pub. Resources Code § 21080, subd. (a) (defining CEQA to apply only to discretionary "projects"): see also, 14 C.C.R. § 15060, subd. (c)(3) (clarifying that an activity is not subject to CEQA if it is not a project.)

Lake Basin relied exclusively on basin plan maps to identify boundaries between the San Joaquin River Basin and the Tulare Lake Basin. A narrative description of the boundary was added to both Basin Plans in 1994 and 1995, respectively (Resolution Nos. R5-1994-380 and R5-1995-208), and amended in 2004 for the Water Quality Control Plan for the Sacramento River and the San Joaquin River Basins (Resolution No. R5-2004-0108) as clarifying text. However, the description of the boundary in the vicinity of Millerton Lake does not accurately reflect the basin planning maps from the 1975 Basin Plans. The boundary is described to follow the San Joaquin River Channel to Millerton Lake which places the Little Dry Creek watershed (Hydrologic Subareas No. 540.70 and 545.30) in the Tulare Lake Basin. However, the basin planning maps depict the Little Dry Creek watershed as part of the San Joaquin River Basin. Therefore the following amendment is proposed for the Basin boundary description:

> The planning boundary between the San Joaquin River Basin and the Tulare Lake Basin follows the southern watershed boundaries of the Little Panoche Creek, Moreno Gulch, and Capita Canyon to boundary of the Westlands Water District. From here, the boundary follows the northern edge of the Westlands Water District until its intersection with the Fireb~~ua~~ugh Canal Company's Main Lift Canal. The basin boundary then follows the Main Lift Canal to the Mendota Pool and continues eastward along the channel of the San Joaquin River to the southern boundary of the Little Dry Creek watershed (Hydrologic Subareas No. 540.70 and 545.30) ~~Millerton Lake in the Sierra Nevada foothills,~~ and then follows along the southern boundary of the San Joaquin River drainage basin.

This proposed amendment has no effect on dischargers since staff has always included the Little Dry Creek watershed as part of the San Joaquin River Basin.

It should be noted that regulation of dischargers in the Little Dry Creek watershed is similar regardless of which Basin Plan the watershed is assigned to. Under the San Joaquin River Basin Plan, the beneficial uses of Little Dry Creek are assigned as a tributary to the San Joaquin River, Friant Dam to Mendota Pool, and include municipal and domestic supply (MUN); agricultural supply for both irrigation and stock watering (AGR); industrial process supply (PRO); water contact recreation, including canoeing and rafting (REC-1); non-contact water recreation (REC-2); warm freshwater habitat (WARM); cold freshwater habitat (COLD); migration of striped bass, sturgeon, shad, salmon and steelhead (MIGR); spawning, reproduction and/or early development of striped bass, sturgeon, shad, salmon and steelhead (SPWN); and wildlife habitat (WILD). Under the Tulare Lake Basin Plan, the beneficial uses of Little Dry Creek would be as an "Other Eastside Stream" and include MUN, AGR, REC-1, REC-2, WARM, COLD, WILD, and ground water recharge (GWR). Under the San Joaquin River Basin Plan, the ground water in the Little Dry Creek watershed is considered to be suitable or potentially suitable for MUN, AGR, industrial service supply (IND), and PRO. Under the Tulare Lake Basin Plan, the beneficial uses of ground water in the Little Dry Creek watershed would be MUN, AGR, IND, PRO, REC-1 and WILD. Neither Basin Plan has any site specific water quality

objectives or special implementation programs that are applicable to the Little Dry Creek watershed.

2.2 Table II-1: Footnote 1

The header of the first column is “SURFACE WATER BODIES (1).” One of the subcategorized beneficial uses for RECREATION is “CANOEING AND RAFTING (1).” Footnote (1) reads, “Shown for streams and rivers only with the implication that certain flows are required for this beneficial use.” Footnote (1) is associated with the Canoeing and Rafting sub-categorical use and not the first column header. The footnote reference in the header of the first column originates from the first edition of the Basin Plan in which the tributary statement was included in the footnotes. Staff inadvertently left the footnote reference in the header when the Basin Plan was amended to move the tributary statement from the footnote into the text of the Basin Plan in 1994 (Resolution No. R5-1994-380). Therefore, staff proposes to remove the “(1)” from the header of the first column in Table II-1 as follows:

SURFACE WATER BODIES AND BENEFICIAL USES

SURFACE WATER BODIES ~~(1)~~	HYDRO UNIT NUMBER	MUN	AGRI-CULTURE		INDUSTRY			RECREATION			FRESHWATER HABITAT (2)		MIGRATION		SPAWNING		WILD	NAV
			AGR		PROC	IND	POW	REC-1		REC-2	WARM	COLD	MIGR		SPWN			
		MUNICIPAL AND DOMESTIC SUPPLY	IRRIGATION	STOCK WATERING	PROCESS	SERVICE SUPPLY	POWER	CONTACT	CANOEING (1) AND RAFTING	OTHER NONCONTACT	WARM	COLD	WARM (3)	COLD (4)	WARM (3)	COLD (4)	WILDLIFE HABITAT	NAVIGATION

This proposed amendment has no regulatory effect.

2.3 Table II-1: Footnote 5

Footnote (5) reads, “As a primary beneficial use.” However, the table has no reference to this footnote. Since the footnote is not in use, staff proposes to delete Footnote (5) as follows:

(1) Shown for streams and rivers only with the implication that certain flows are required for this beneficial use.
(2) Resident does not include anadromous. Any Segments with both COLD and WARM beneficial use designations will be considered COLD water bodies for the application of water quality objectives.
(3) Striped bass, sturgeon, and shad.
(4) Salmon and steelhead
~~(5) As a primary beneficial use.~~

This proposed amendment has no regulatory effect.

2.4 Table III-1: Footnote d

Currently, Footnote d in Table III-1 on page III-4.00 refers to objectives in an asterisk. This is a typographical error from the drafting of the Third Edition of the Basin Plan in 1994 (Resolution No. R5-1994-380). In the Second Edition, all footnotes in Table III-1 were asterisks. For the Third Edition, the footnotes were changed to letters but the reference was not corrected. Therefore, staff proposes to replace the asterisk with the letter c as follows:

[d] Does not apply to Sacramento River above State Hwy. 32 bridge at Hamilton City. See relevant objectives (~~*~~c) above.

This proposed amendment has no regulatory effect.

2.5 Table IV-3: Footnote 1

Currently, Footnote 1 in Table IV-3 on page IV-29.01 refers to definitions in Figure III-2. However, Figure III-2 was removed when the Basin Plan was amended in 2009 (Resolution No. R5-2009-0069). Figure III-2 was the Sacramento Valley Water Year Hydrologic Classification from the State Water Board's "Water Quality Control Plan for Salinity," May 1991, Figure 3-4. The Figure is currently Figure 2 of the State Water Board's Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, 2006 (Bay-Delta Plan). Therefore, staff proposes to replace the reference in Footnote 1 with a reference to Figure 2 of the 2006 Bay-Delta Plan:

1 Relative to unimpaired runoff to Delta Based on 1922 -1971 period. See definitions in Figure ~~III-2~~2 of the 2006 Bay-Delta Plan
2 Less than 57% , or less than 70% when preceding year critical
3 Less than 70%, or less than 90% when preceding year critical
4 Greater than 125%

This proposed amendment has no regulatory effect.

2.6 Typographical Error on Page IV-33.25

The Basin Plan was amended in 2010 (Resolution No. R5-2010-0043) to add a control program for mercury in the Delta. The control program lists the waste load allocations in Table IV-7B. The NPDES Permit No. for Lincoln Center Groundwater Treatment Facility is incorrectly listed as CA008255. Staff proposes amending the Basin Plan to correct the NPDES Permit number to CA0084255 as follows:

TABLE IV-7B MUNICIPAL AND INDUSTRIAL WASTEWATER METHYLMERCURY (MeHg) ALLOCATIONS		
PERMITTEE [(a)]	**NPDES Permit No.**	**MeHg Waste Load Allocation** [(b)] (g/yr)
Central Delta		
Discovery Bay WWTP	CA0078590	0.37
Lincoln Center Groundwater Treatment Facility	CA0084255	0.018
Lodi White Slough WWTP	CA0079243	0.94
Metropolitan Stevedore Company	CA0084174	[(c)]
Unassigned allocation for NPDES facility discharges	[(d)]	0.31

This proposed amendment has no regulatory effect.

2.7 Typographical Error on Page IV-36.03.01

The Basin Plan was amended in 2006 (Resolution No. R5-2006-0061) to add an implementation program for diazinon and chlorpyrifos runoff into the Delta. When the amendment language was incorporated into the Basin Plan, the units for C_D and C_C in the formula in Item 6 on page IV-36-03.01 were transcribed incorrectly as mg/l rather than µg/l. The basin plan language amended by Resolution No. R5-2006-0061 has the correct units. Staff proposes amending the Basin Plan to correct the units to µg/l as follows:

6. The waste load allocations (WLA) for all NPDES-permitted dischargers, load allocations (LA) for nonpoint source discharges, and the loading capacity (LC) of each of the Sacramento-San Joaquin Delta Waterways defined in Appendix 42 shall not exceed the sum (S) of one (1) as defined below.

$$S = \frac{C_D}{WQO_D} + \frac{C_C}{WQO_C} \leq 1.0$$

where

C_D = diazinon concentration in ~~mg/L~~µg/L of point source discharge for the WLA; nonpoint source discharge for the LA; or a Delta Waterway for the LC.
C_C = chlorpyrifos concentration in ~~mg/L~~µg/L of point source discharge for the WLA; nonpoint source discharge for the LA; or a Delta Waterway for the LC.
WQO_D = acute or chronic diazinon water quality objective in µg/L.
WQO_C = acute or chronic chlorpyrifos water quality objective in µg/L.

Available samples collected within the applicable averaging period for the water quality objective will be used to determine compliance with the allocations and loading capacity. For purposes of calculating the sum (S) above, analytical results that are reported as "non-detectable" concentrations are considered to be zero.

This proposed amendment is has no regulatory effect since this typographical error was recognized immediately and staff has always used this formula correctly.

2.8 Update references to the Department of Pesticide Regulation, Department of Public Health and the Department of Fish and Wildlife

In 1991, California's environmental authority was unified in a single Cabinet-level agency – the California Environmental Protection Agency (Cal/EPA). This brought the Air Resources Board, State Water Board, and Integrated Waste Management Board under an umbrella agency with the newly created Department of Toxic Substances Control and Office of Environmental Health and Hazard Assessment. As part of this reorganization, the pesticide regulation program was removed from the California Department of Food and Agriculture and given departmental status as the Department of Pesticide Regulation (DPR) within Cal/EPA. Pesticide-related statutory responsibilities and authorities were transferred to DPR. For clarity, staff proposes to update all references to the pesticide regulation responsibilities of the Department of Food and Agriculture to the Department of Pesticide Regulation. This proposed amendment has no regulatory effect.

Senate Bill 162, Chapter 241, Statutes of 2006 established a new Department of Public Health and transferred certain responsibilities, including the Drinking Water and Environmental Health Program and the Laboratory Field Services Program from the former Department of Health Services to the new Department of Public Health. For clarity, staff proposes to update all references in the Basin Plan from the Department of Health Services to the Department of Public Health. This proposed amendment has no regulatory effect.

Assembly Bill 2402, Chapter 559, Statutes of 2012 renamed the Department of Fish and Game to the Department of Fish and Wildlife. Therefore, for clarity, staff proposes to update all references in the Basin Plan from the Department of Fish and Game to the Department of Fish and Wildlife including changing any acronyms from DFG to DFW. This proposed amendment has no regulatory effect.

The following are the proposed amendments:

Page III-8.00

> The Regional Water Board will also consider all material and relevant information submitted by the discharger and other interested parties and numerical criteria and guidelines for toxic substances developed by the State Water Board, the California Office of Environmental Health Hazard Assessment, the California Department of Public Health ~~Services~~, the U.S. Food and Drug Administration, the National Academy of Sciences, the U.S. Environmental Protection Agency, and other appropriate …

Page IV-9.00

7. *State Water Board Resolution No. 88-23, Policy Regarding the Underground Storage Tanks Pilot Program*

The State Water Board adopted this policy on 18 February 1988. The policy implements a pilot program to fund oversight of remedial action at leaking underground storage tank sites, in cooperation with the California Department of Public Health (formerly the California Department of Health Services). Oversight may be deferred to the Regional Water Boards. See Appendix Item 7.

Page IV-12.00

2. *Department of Public Health ~~Services~~*

On 27 January 1986, the State Water Board Chairperson signed an MOA with the Department of Health Services (later renamed to the Department of Public Health) regarding the implementation of the hazardous waste program. The agreement covers surveillance and enforcement related to water quality at landfills, surface impoundments, waste piles, and land treatment facilities that treat, store, or dispose of hazardous waste. It also covers the issuance, modification, or denial of permits to facilities, including the revision of the water quality aspects of hazardous waste management facility siting, design, closure, post-closure, and surface and ground water monitoring and protection. See Appendix Item 14.

3. *Department of Public Health ~~Services~~*

In 1988, the Chairman of the State Water Board signed an MOA with the Department of Health Services (later renamed to the Department of Public Health) regarding the use of reclaimed water. …

Page IV-13.00

6. *~~Department of Health~~ ~~Services~~/Department of Toxic Substances Control*

In July 1990, the State Water Board and the Department of Health Services, Toxic Substances Control Program (later reorganized into the Department of Toxic Substances Control) signed an MOU which explains the roles of the agencies (and of the Regional Water Boards) in the cleanup of hazardous waste sites. The MOU describes the protocol the agencies will follow to determine which agency will act as lead and which will act as support, the responsibilities of the agencies in their respective roles, the procedures the agencies will follow to ensure coordinated action, the technical and procedural requirements which each agency must satisfy, the procedures for enforcement and settlement, and the mechanism for dispute resolution. This MOU does not alter the Board's responsibilities with respect to water quality protection. See Appendix Item 18.

Page IV-14.00

10. *Implementation of the San Joaquin Valley Drainage Program's Recommended Plan*

In January 1992, the State Water Board Chairman signed a MOU with the U.S. Bureau of Reclamation, the U.S. Fish and Wildlife Service, the U.S. Soil Conservation Service, the U.S. Geological Survey, the California Department of Fish and Game (later renamed the California Department of Fish and Wildlife, and the Department of Food and Agriculture.

The MOU is an agreement by the agencies to use the management plan described in the September 1990 final report of the San Joaquin Valley Drainage Program as a guide for remedying subsurface drainage and related problems. See Appendix Item 22.

Page IV-17.00, second column

To evaluate compliance with the narrative water quality objectives, the Regional Water Board considers, on a case-by-case basis, direct evidence of beneficial use impacts, all material and relevant information submitted by the discharger and other interested parties, and relevant numerical criteria and guidelines developed and/or published by other agencies and organizations (e.g., State Water Board , California Department of Public Health ~~Services~~, California Office of Environmental Health Hazard Assessment, California Department of Toxic Substances Control, University of California Cooperative Extension, California Department of Fish and ~~Game~~Wildlife, USEPA, U.S. Food and Drug Administration, National Academy of Sciences, U.S. Fish and Wildlife Service, Food and Agricultural Organization of the United Nations). In considering such criteria, the Board evaluates whether the ~~specificnumerical~~specific numerical criteria, which are available through these sources and through other information supplied to the Board, are relevant and appropriate to the situation at hand and, therefore, should be used in determining compliance with the narrative objective. For example, compliance with the narrative objective for taste and odor may be evaluated by comparing concentrations of pollutants in water with numerical taste and odor thresholds that have been published by other agencies. This technique provides relevant numerical limits for constituents and parameters which lack numerical water quality objectives. To assist dischargers and other interested parties, the Regional Water Board staff has compiled many of these numerical water quality criteria from other appropriate agencies and organizations in the Central Valley Regional Water Board's staff report, *A Compilation of Water Quality Goals*. This staff report is updated regularly to reflect changes in these numerical criteria.

Page IV-21.01

3. *California Department of Fish and ~~Game~~Wildlife and Mosquito Abatement and Vector Control Districts of the South San Joaquin Valley*

On 25 February 1993, the Regional Water Board Executive Officer signed an MOU with the California Department of Fish and Game (later renamed to the California Department of Fish and Wildlife) and 11 mosquito abatement and vector control districts of the south

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Text continued on next page

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Page IV-30.00

6. The selenium water quality objective for the wetland channels can not be achieved without removal of drainage water from these channels. The present use of the Grassland channels has developed over a 30-year period through agreements between the dischargers, water and irrigation districts, the U.S. Bureau of Reclamation, the California Department of Water Resources, the U.S. Fish and Wildlife Service, the California Department of Fish and Game, (now the Department of Fish and Wildlife), the Grassland Water District and the Grassland Resource Conservation District. Because each entity shared in the development of the present drainage routing system, each shares the responsibility for implementation of a wetlands bypass.

Page IV-33.07, Table IV-6.3

Table IV-6.3
Implementation Summary

Implementation Activity	Affected Watersheds	Assigned Responsibility	Action	Completion Date
Inactive Mines	Bear Creek, Harley Gulch, Sulphur Creek	Mine owners and other responsible parties, USBLM	Cleanup mines, sediment, and wetlands	2011
Creek Sediments-Harley Gulch Delta	Harley Gulch	USBLM	Conduct additional studies	2006
			Submit report on engineering options	2008
			Conduct projects, as required	2011
Creek Sediments-Upper Watershed	Bear Creek, Davis Creek, Harley Gulch, Sulphur Creek, and Cache Creek (Harley Gulch to Camp Haswell)	USBLM, SLC, ~~CDFG~~CDFW, Colusa, Lake, and Yolo Counties, private landowners	Conduct additional studies	2007
			Feasibility studies	(Scope and time schedule for plan and reports determined as needed)
			Conduct Projects (as required)	
Erosion Control-Upper Watershed	Sub-watersheds with "enriched" mercury. Includes areas of Bear Creek, Sulphur Creek, and Cache Creek (Harley Gulch to Camp Haswell)	USBLM, SLC, ~~CDFG~~CDFW, Colusa, Lake, and Yolo Counties, private landowners	Conduct additional studies	2006
			Identify activities that increase erosion	2007
			Submit erosion control plans, as required	2009
			Implement erosion control plans, as required	2011

Page IV-33.08, second column

At other sites, further assessments are needed to determine whether responsible parties should be required to conduct feasibility studies to evaluate methods to control sources of mercury and methylmercury. The Executive Officer will, to the extent appropriate, prioritize the need for feasibility studies and subsequent remediation actions based on mercury concentrations and masses, erosion potential, and accessibility. Staff intends to complete the assessments by 6 February 2009. Where applicable, the Executive Officer will notify responsible parties to submit feasibility studies. Following review of the feasibility studies, the Executive Officer will determine whether cleanup actions will be required. Responsible parties that could be required to conduct feasibility studies include the US Bureau of Land Management (USBLM); State Lands Commission (SLC), California Department of Fish and ~~Game~~Wildlife (~~CDFG~~CDFW); Yolo, Lake, and Colusa Counties, mine owners, and private landowners. Assessments are needed of stream beds and banks in the following areas: Cache Creek from Harley Gulch to Camp Haswell, Harley Gulch, Sulphur Creek, and Bear Creek south of the Bear Valley Road crossing.

Page IV-33.09, first column

Other Activities

A goal of the Regional Water Board is to minimize erosion from areas with enriched mercury concentrations. Further studies are needed to identify specific upland sites within

the watershed areas described above that have enriched mercury concentrations and to evaluate whether activities at these sites could result in increased erosion (i.e., grazing, timber harvest activities, etc.) or contribute to increases in methylmercury production. Staff will identify areas with enriched mercury concentrations by 6 February 2008. After the studies are complete, the Executive Officer will require affected landowners and/or land managers to 1) submit reports that identify anthropogenic activities on their lands that could result in increased erosion and 2) implement management practices to control erosion. As necessary, erosion control plans will be required no later than 6 February 2011. Entities responsible for controlling erosion include the US Bureau of Land Management (USBLM); State Lands Commission (SLC); California Department of Fish and ~~Game~~Wildlife (~~CDFG~~CDFW); Yolo, Lake, and Colusa Counties; and private landowners.

Page IV-33.10, first column

The Executive Officer may waive, consistent with State and federal law, the requirement for erosion control from a project conducted in the 10-year floodplain for habitat conservation or development activities for bank swallows that are proposed under the State's adopted Bank Swallow Recovery Plan (Department of Fish and Game (later renamed the Department of Fish and Wildlife), 1992).

Page IV-33.18, second column

New wetland, floodplain, and other aquatic habitat restoration and enhancement projects, including but not limited to projects developed, planned, funded, or approved by individuals, private businesses, nonprofit organizations, and local, State, and federal agencies such as USACE, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration Fisheries, U.S. Environmental Protection Agency, U.S. Bureau of Reclamation, State Water Resources Control Board, California Department of Water Resources, and California Department of Fish and ~~Game~~Wildlife, shall comply with all applicable requirements of this program, including conducting or participating in Control Studies and complying with allocations. …

Page IV-34.00, first column

To ensure that new pesticides do not create a threat to water quality, the Board, either directly or through the State Water Resources Control Board, will review the pesticides that are processed through the Department of ~~Food and Agriculture's (DFA)~~ Pesticide Regulation's (DPR) registration program. Where use of the pesticide may result in a discharge to surface waters, the Board staff will make efforts to ensure that label instructions or use restrictions require management practices that will result in compliance with water quality objectives. When the Board determines that despite any actions taken by ~~DFA~~DPR, use of the pesticide may result in discharge to surface waters in violation of the objectives, the Board will take regulatory action, such as adoption of a prohibition of discharge or issuance of waste discharge requirements to control discharges of the pesticide. Monitoring may be required to verify that management practices are effective in protecting water quality.
The Board will notify pesticide dischargers through public notices, educational programs and ~~the Department of Food and Agriculture's pesticide regulatory program~~DPR of the water quality objectives related to pesticide discharges. …

Page IV-34.00, second column

1. Where the Board finds that pesticide discharges pose a significant threat to drinking water supplies or other beneficial uses, it will request ~~DFA~~DPR to act to prevent further impacts. If ~~DFA~~DPR does not proceed with such action(s) within six months of the Board's request, the Board will act within a reasonable time period to place restrictions on the discharges.

Page IV-35.00, second column

To ensure the best possible program, the Board will coordinate its pesticide control efforts with other agencies and organizations. Wherever possible, the burdens on pesticide dischargers will be reduced by working through the ~~DFA~~DPR or other appropriate regulatory processes. …

Page V-1.00, second column

Data Collected by Other Agencies

The Regional Water Board relies on data collected by a variety of other agencies. For example, the Department of Water Resources (DWR) has an ongoing monitoring program in the Delta and the United States Geological Survey (USGS) and DWR conduct monitoring in some upstream rivers. The Department of Fish and ~~Game~~Wildlife, Fish and Wildlife Service, USGS, and Department of Public Health ~~Services~~ also conduct special studies and collect data.

Page V-3.01, first column

Trophic level 3 and 4 fish sample sets will include three species from each trophic level and will include both anadromous and non-anadromous fish. Trophic level 3 and 4 fish sample sets will include a range of fish sizes between 150 and 500 mm total length. Striped bass, largemouth bass, and sturgeon caught for mercury analysis will be within the ~~CDFG~~CDFW legal catch size limits. Sample sets for fish less than 50 mm will include at least two fish species that are the primary prey species consumed by wildlife at sensitive life stages. In any subarea, if multiple species for a particular trophic level are not available, one species in the sample set is acceptable.

Titles of Appendices 14, 15, 18 and 30

14. State Water Board MOA with Department of Health Services (later renamed the Department of Public Health) (implementation of hazardous waste program)

15. State Water Board MOA with Department of Health Services (later renamed the Department of Public Health) (use of reclaimed water)

18. State Water Board MOU with Department of Health Services /Department of Toxic Substances Control (later the Department of Health Services was renamed the Department of Public Health and the Toxic Substances Control Program was reorganized into the Department of Toxic Substances Control)

30. Regional Water Board MOU with California Dept. of Fish and Game (later renamed the California Dept. of Fish and Wildlife) and Mosquito

2.9 Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP)

In March 2000, the State Water Board adopted the SIP. On 24 February 2005, the State Water Board amended the SIP to allow water effects ratios to be established in individual National Pollutant Discharge Elimination System permits, make a minor change to the reasonable potential trigger, and make other non-regulatory language corrections.

Staff proposes the following amendment to the Basin Plan:

> *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (a.k.a. State Implementation ~~Plan~~ Policy or SIP)*
>
> ~~In March 2000, t~~The State Water Board adopted ~~the SIP in Resolution No. 2000-015. This Policy~~ a policy that establishes:
>
> (1) Implementation provisions for priority pollutant criteria promulgated by the U.S. Environmental Protection Agency (U.S. EPA) through the National Toxics Rule (40 CFR 131.36) (promulgated on 22 December 1992 and amended on 4 May 1995) and through the California Toxics Rule (40 CFR 131.38) (promulgated on 18 May 2000 and amended on 13 February 2001), and for priority pollutant objectives established by Regional Water Boards in their basin plans; and
> (2) Monitoring requirements for 2,3,7,8-TCDD equivalents; and
> (3) Chronic toxicity control provisions.
>
> In addition, ~~this Policy~~ the SIP includes special provisions for certain types of discharges and factors that could affect the application of other provisions in ~~this Policy~~the SIP. The SIP, including future revisions, is incorporated into this Basin Plan and shall be implemented according to the policy's provisions.

When the State Water Board adopted the SIP in 2000, the State Water Board identified one potentially significant adverse environmental impact that was associated with allowing regional water boards the authority to issue longer compliance schedules to allow for developing and implementing Total Maximum Daily Loads (TMDLs). To address the identified environmental impact, the State Water Board included provisions to lesson or avoid potentially significant adverse effects on the environment stemming from the TMDL compliance schedule provisions and found that there are overriding considerations that outweigh any adverse environmental effects that might potentially occur. The State Water

Board determined when adopting an amendment to the SIP in 2005 that the proposed revisions would not degrade the quality of the environment, substantially reduce fish or wildlife habitat, cause fish or wildlife population to drop below self-sustaining levels, or threaten to eliminate a plant or animal community. The State Water Board also determined that the revisions would not cause effects on human beings directly or indirectly. Finally, the State Water Board determined that no economic impacts would result from adoption of the revisions. It should be noted that the State Water Board has since adopted a Policy for Compliance Schedules in National Pollutant Discharge Elimination System (NPDES) Permits (Compliance Schedule Policy) that specifies the criteria that the Water Boards evaluate when establishing compliance schedules and the documentation requirements for compliance schedules. See section 2.11 of this Staff Report.

2.10 Water Quality Enforcement Policy & Supplemental Environmental Projects Policy

On 19 February 2002, the State Water Board adopted the *Water Quality Enforcement Policy*. On 17 November 2009, the State Water Board revised the Enforcement Policy to provide criteria to help Water Board staff and management prioritize enforcement actions and to provide methodology to ensure consistency in determining Administrative Civil Liability penalty amounts.

The State Water Board or Regional Water Board may allow a discharger to satisfy part of the monetary assessment imposed in an administrative civil liability (ACL) order by completing or funding one or more Supplemental Environmental Projects (SEPs.) SEPs are projects that enhance the beneficial uses of the waters of the State, that provide a benefit to the public at large and that, at the time they are included in the resolution of an ACL action, are not otherwise required of the discharger. California Water Code section 13385(i) allows limited use of SEPs associated with mandatory minimum penalties. California Water Code section 13399.35 also allows limited use of SEPs for up to 50 percent of a penalty assessed under section 13399.33. In the absence of other statutory authority in the Water Code regarding the use of SEPs, Government Code section 11415.60 has been interpreted by the Office of Chief Counsel to allow the imposition of SEPs as part of the settlement of an ACL. On 3 February 2009, the State Water Board adopted the SEP Policy to provide direction on the amount of the liability that can be used for SEPs and to provide for increased accountability to ensure that the SEP results in environmental benefits.

Staff proposes to amend the Basin Plan description of the Enforcement Policy found as Item 16 under the “Control Action Considerations of the State Water Board” on Page IV-10.01 as follows:

> *Water Quality Enforcement Policy (Enforcement Policy) <u>and Policy on Supplemental Environmental Projects (SEP Policy)</u>*

The State Water Board adopted the Enforcement Policy ~~on 19 February 2002. The primary goal of this Enforcement Policy is~~ to create a framework for identifying and investigating instances of noncompliance, for taking enforcement actions that are appropriate in relation to the nature and severity of the violation, and for prioritizing enforcement resources to achieve maximum environmental benefits. The State Water Board adopted the SEP Policy as an adjunct to the Water Boards' enforcement program and allows for the inclusion of a supplemental environmental project in administrative civil liability actions as long as certain criteria are met to ensure that such a project has environmental value, furthers the goals of the State Water Board and Regional Water Boards, and are subject to appropriate input and oversight by the Water Boards. Both the Enforcement Policy and the SEP Policy, including future revisions, are incorporated into this Basin Plan and shall be implemented according to the policies' provisions.

The Enforcement Policy provides a methodology concerning how the Board conducts enforcement actions. The goal of the Enforcement Policy is to protect and enhance the quality of the waters of the State by defining an enforcement process that addresses water quality problems in the most efficient, effective, and consistent manner. The SEP Policy provides a methodology concerning how the Board may consider one or more supplemental environmental projects in administrative civil liability actions. When the State Water Board considered the Enforcement Policy, the SEP Policy and the amendment to the Enforcement Policy, the State Water Board found that adoption of these policies were categorically exempt from the California Environmental Quality Act under California Code of Regulations, title 14, section 15321.

2.11 Policy for Compliance Schedules in National Pollutant Discharge Elimination System (NPDES) Permits

On 15 April 2008, the State Water Board adopted a policy standardizing permit compliance schedules (Compliance Schedule Policy). The Basin Plan was amended in 2009 (Resolution No. R5-2009-0069) to include a reference to the State Water Board's Compliance Schedule Policy. However, the Basin Plan was not amended to revise the existing compliance schedule language to conform to the State Water Board's policy. Basin plans must conform to State Water Board policies. (Wat. Code, § 13240.)

The Compliance Schedule Policy applies to the compliance schedules authorized by the Water Boards in NPDES permits modified or reissued after the effective date of the Policy except for compliance schedules that are consistent with waste load allocations and implementation schedules or compliance schedules in a TMDL approved by USEPA under Clean Water Act section 303(c).

The Basin Plan has provisions authorizing the Regional Water Board to establish compliance schedules in NPDES permits. The provisions are consistent with the Compliance Schedule Policy; although, the Compliance Schedule Policy includes additional documentation requirements than currently specified in the Basin Plan. Therefore, staff proposes to amend the Basin Plan to refer to the Compliance Schedule Policy for specific criteria and requirements for how the Regional Water Board will establish compliance schedules as follows:

On Page III-2.00:

> The fourth point is that the Regional Water Board recognizes that immediate compliance with water quality objectives adopted by the Regional Water Board or the State Water Board, or with water quality criteria adopted by the USEPA, may not be feasible in all circumstances. Where the Regional Water Board determines it is infeasible for a discharger to comply immediately with such objectives or criteria, compliance shall be achieved in the shortest practicable period of time (determined by the Regional Water Board), not to exceed ten years after the adoption of applicable objectives or criteria. This policy shall apply to water quality objectives and water quality criteria adopted after the effective date of this amendment to the Basin Plan [25 September 1995]. The Regional Water Board will establish compliance schedules in NPDES permits consistent with the provisions of the State Water Board's Compliance Schedule Policy (Resolution 2008-0025). Time schedules in waste discharge requirements are established consistent with Water Code Section 13263.

On Page IV-16.00:

> Where the Regional Water Board determines it is infeasible to achieve immediate compliance with water quality objectives adopted by the Regional Water Board or the State Water Board, or with water quality criteria adopted by the USEPA, or with an effluent limitation based on these objectives or criteria, the Regional Water Board may establish in NPDES permits a schedule of compliance. The schedule of compliance shall include a time schedule for completing specific actions that demonstrate reasonable progress toward the attainment of the objectives or criteria and shall contain a final compliance date, based on the shortest practicable time (determined by the Regional Water Board) required to achieve compliance. In no event shall an NPDES permit include a schedule of compliance that allows more than ten years (from the date of adoption of the objective or criteria) for compliance with water quality objectives, criteria or effluent limitations based on the objectives or criteria. Schedules of compliance are authorized by this provision only for those water quality objectives or criteria adopted after the effective date of this provision [25 September 1995]. The Regional Water Board will establish compliance schedules in NPDES permits consistent with the provisions of the State Water Board's Compliance Schedule Policy (Resolution 2008-0025). Time schedules in waste discharge requirements are established consistent with Water Code Section 13263.

The proposed amendment will make the Central Valley Water Board compliance provisions consistent with the Compliance Schedule Policy and clarify the documentation requirements associated with the application and implementation of compliance schedules. The proposed amendment does not change when the Central Valley Water Board establishes compliance schedules. When the State Water Board adopted the Compliance Schedule Policy, the State Water Board

found that adoption of the policy would not have significant or potentially significant effects on the environment so the State Water Board did not propose any alternatives or mitigation measures.

2.12 Policy for Water Quality Control for Recycled Water

On 3 February 2009, the State Water Board adopted a Recycled Water Policy with Resolution 2009-0011. The Recycled Water Policy has the goal of increasing the use of recycled water and stormwater and provides direction on the appropriate criteria to be used in issuing permits for recycled water projects. The Recycled Water Policy specifically establishes requirements for regulating incidental runoff from landscape irrigation with recycled water groundwater recharge projects and includes provisions to address constituents of emerging concern. The Recycled Water Policy also recognizes the need for salt and nutrient management plans and specifies what must be included in these plans.

Staff proposes to add this policy to the Basin Plan as item 20 of the "Control Action Considerations of the State Water Board" on Page IV-10.01 with the following description:

> *Policy for Water Quality Control for Recycled Water (Recycled Water Policy)*
>
> The Recycled Water Policy establishes requirements to increase the use of recycled water in California. These requirements include the development and adoption of salt/nutrient management plans, regulation of incidental runoff from landscape irrigation with recycled water, criteria and procedures for streamlined permitting of recycled water landscape irrigation projects, procedures for permitting groundwater recharge projects including procedures for demonstrating compliance with the Resolution No, 68-16 (the State Antidegradation Policy), and provisions for addressing constituents of emerging concern. The Recycled Water Policy, including future revisions, is incorporated into this Basin Plan and shall be implemented according to the policy's provisions.

The Recycled Water Policy is consistent with Central Valley Water Board policies and Resolution No. R5-2009-0028 in which the Central Valley Water Board identifies federal, state and regional laws and regulations that support the need for regionalization and recycling. The Central Valley Water Board also previously participated in establishing the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) initiative to develop salinity and nitrate management plans for the Central Valley that are to be implemented through amendments to the Basin Plans. In Resolution No. R5-2010-0024, the Central Valley Water Board noted that the CV-SALTS initiative is consistent with the provisions in the Recycled Water Policy to develop salt and nutrient management plans.

When the State Water Board adopted the Recycled Water Policy, the State Water Board found that potential site-specific recycled water project impacts may need to be considered in subsequent environmental analyses performed by lead agencies, pursuant to Public Resources Code section 21159.1, and incorporated mitigation measures that reduced impacts to less than significant levels.

3 OTHER CONSIDERATIONS

3.1 Environmental Considerations

The proposed amendments include correcting the description of the boundary between the San Joaquin River Basin and the Tulare Lake Basin; removing, correcting and updating footnotes in several tables; correcting typographical errors; and updating references to the California Department of Public Health and the California Department of Fish and Wildlife. In addition the amendments will incorporate the State Water Board policies for supplemental environmental projects, compliance schedules and recycled water and update the incorporation of the implementation policy for toxics and the enforcement policy.

When the State Water Board adopted the revisions to the SIP and the Compliance Schedule Policy, the State Water Board found that these policies would not have significant or potentially significant effects on the environment. When the State Water Board adopted the revisions to the Enforcement Policy, including adoption of the Policy on Supplemental Environmental Projects, the State Water Board found that adoption of these policies were categorically exempt from CEQA under California Code of Regulations, title 14, section 15321.

When the State Water Board adopted the Recycled Water Policy, the State Water Board found that potential site-specific recycled water project impacts may need to be considered in subsequent environmental analysis performed by lead agencies, pursuant to Public Resources Code section 21159.1, and incorporated mitigation measures that reduced impacts to less than significant levels.

Incorporating these policies by reference into the Basin Plan will not have any additional potentially significant effects on the environment that need to be analyzed.

These proposed edits and updates to the Basin Plan do not constitute an activity which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, the proposed amendments are not a “project” for purposes of CEQA compliance.

3.2 Necessity

As noted above, the Basin Plan is the basis for regulatory actions of the Central Valley Water Board. Errors in the text should be corrected and the language should be updated to assure that all stakeholders are aware of the appropriate and applicable regulations.

3.3 Consistency with Federal and other State laws and regulations

The proposed amendments will update the Basin Plan language to be consistent with other State laws and regulations currently in effect.

4 RECOMMENDATION

Staff recommends that the Central Valley Water Board approve the proposed Basin Plan amendments.