

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

RESOLUTION R2-2006-0079

AMENDING THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY  
REGION TO ESTABLISH A TOTAL MAXIMUM DAILY LOAD AND IMPLEMENTATION  
PLAN FOR PATHOGENS IN THE NAPA RIVER WATERSHED

WHEREAS an updated Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) was adopted by the San Francisco Bay Regional Water Quality Control Board (Water Board) on June 21, 1995, approved by the State Water Resources Control Board on July 20, 1995, and approved by the Office of Administrative Law (OAL) on November 13, 1995, and has since been revised; and

WHEREAS the Basin Plan may be amended in accordance with California Water Code § 13240, et seq.; and

WHEREAS the Napa River has been identified under federal Clean Water Act § 303(d) as an impaired waterbody due to pathogens; and

WHEREAS the Napa River is not meeting the Basin Plan's numeric bacteriological water quality objectives; and

WHEREAS the Water Board finds that elevated water quality coliform bacteria levels in the Napa River and tributary waters indicate the presence of human and animal waste and associated pathogens. The discharge of human and animal waste poses a threat to humans who recreate in the Napa River and tributary waters.

WHEREAS under Clean Water Act § 303(d), the Water Board is required and authorized to establish the total maximum daily load (TMDL) for those pollutants identified as causing impairment of waters on the § 303(d) list. Additionally, the Water Board is authorized to develop a implementation program for achieving water quality objectives, such as the numeric bacteriological water quality objectives; and

WHEREAS a Basin Plan Amendment has been prepared in accordance with California Water Code § 13240 that will establish the TMDL and Implementation Plan to reduce pathogen related risks to humans and restore and protect water quality beneficial uses; and

WHEREAS nonpoint source runoff containing coliform bacteria of animal and wildlife origin, at levels that do not result in exceedances of water objectives, does not constitute wastewater with particular characteristics of concern to beneficial uses. Therefore, animal- and wildlife-associated discharges, in compliance with the conditions of the

TMDL and implementation plan do not constitute a violation of discharge prohibitions; and

WHEREAS the Basin Plan Amendment, including specifications on its physical placement in the Basin Plan, is set forth in Exhibit A hereto; and

WHEREAS the scientific basis of regulatory elements of the Basin Plan Amendment were reviewed by external peer reviewer Professor Saeid Mostaghimi of Virginia Tech. The Water Board staff revised the proposed Basin Plan amendment in response to the comments provided by the reviewer, or provided a written response which explained the basis for not incorporating his comments; and

WHEREAS a draft Basin Plan Amendment, Staff Report, and Environmental Checklist were prepared and distributed for public review and comment on February 10, 2006, in accordance with applicable state and federal laws and regulations; and

WHEREAS the Water Board held public hearings on April 12, 2006, and June 14, 2006, to consider the Basin Plan Amendment and supporting documents, and the changes made thereto in response to public comments; and

WHEREAS at the June 14, 2006, public hearing, the Water Board took action to adopt the Basin Plan Amendment through Resolution No. R2-2006-0043; and

WHEREAS such action did not fully comply with Water Code section 13244 as the notice of public hearing did not get published in any newspaper; and

WHEREAS the Basin Plan Amendment, Staff Report, and Environmental Checklist were therefore re-noticed, including the required newspaper publication, for public review and comment on August 31, 2006, for Water Board action at its November 2006 meeting after compliance with all procedural requirements, including Water Code section 13244; and

WHEREAS the process of basin planning has been certified by the Secretary for Resources as exempt from the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.) to prepare an Environmental Impact Report or Negative Declaration, and the Water Board has complied with the procedures of its certified regulatory program at Cal. Code of Regs., tit. 23, sec. 3775 et seq.; and

WHEREAS the Water Board has duly considered the Environmental Checklist, Staff Report, and supporting documentation with respect to environmental impacts and finds that the Basin Plan Amendment will not have a significant impact on the environment. Therefore, no alternatives or mitigation measures are required or proposed. The Basin Plan Amendment will result in no potential for adverse effects on wildlife. The Water Board has also considered the environmental analysis contained in the Staff Report of the reasonably foreseeable methods of compliance with the Basin Plan Amendment, including economics; and

WHEREAS the Water Board has carefully considered all comments and testimony received, including responses thereto, on the Basin Plan Amendment, as well as all of the evidence in the administrative record; and

WHEREAS the Basin Plan Amendment must be submitted for review and approval by the State Water Resources Control Board, OAL, and the United States Environmental Protection Agency (USEPA). Once approved by the State Water Resources Control Board, the amendment will be submitted to OAL and USEPA. The Basin Plan Amendment will become effective upon approval by OAL and USEPA; and

NOW, THEREFORE BE IT RESOLVED that the Water Board adopts the Basin Plan Amendment, as set forth in Exhibit A hereto, that establishes the TMDL and Implementation Plan for pathogens in the Napa River Watershed; and

BE IT FURTHER RESOLVED that Resolution No. R2-2006-0043 is rescinded; and

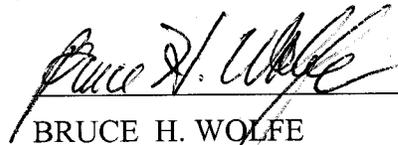
BE IT FURTHER RESOLVED that the Executive Officer is directed to forward copies of the Basin Plan Amendment to the State Water Resources Control Board in accordance with the requirement of California Water Code § 13245; and

BE IT FURTHER RESOLVED that the Water Board requests that the State Water Resources Control Board approve the Basin Plan Amendment in accordance with the requirements of California Water Code § 13245 and § 13246 and forward it to the OAL and USEPA for approval; and

BE IT FURTHER RESOLVED that if, during the approval process, Water Board staff, the State Water Resources Control Board or OAL determines that minor, non-substantive corrections to the language of the amendment and supporting documentation are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Water Board of any such changes; and

BE IT FURTHER RESOLVED that since the Basin Plan Amendment will involve no potential for adverse effect, either individually or cumulatively, on wildlife, the Executive Officer is directed to sign a Certificate of Fee Exemption for a "De Minimis" Impact Finding and to submit the exemption in lieu of payment of the Department of Fish and Game CEQA filing fee.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on November 13, 2006.

  
\_\_\_\_\_  
BRUCE H. WOLFE  
Executive Officer

Attachment

Exhibit A - Basin Plan Amendment to Establish a Total Maximum Daily Load and Implementation Plan for pathogens in the Napa River Watershed