

ITEM:

SUBJECT: Amendment to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins to Determine that Certain Beneficial Uses are not Applicable and Establish Water Quality Objectives in Sulphur Creek, Colusa County

BOARD ACTION: Consideration of adoption of proposed amendment and filing of draft environmental documents

BACKGROUND: Staff is proposing amendments to the Basin Plan to determine that certain beneficial uses are not applicable and establish water quality objectives for mercury in Sulphur Creek in Colusa County. Natural sources of mercury and salts make Sulphur Creek unsuitable for drinking and for habitat for aquatic life that is consumable by humans. The proposed amendment would recognize that the municipal and domestic supply (MUN) beneficial use and the human consumption of aquatic organisms do not exist and are not attainable in Sulphur Creek.

Because these uses do not exist and are not attainable, none of the promulgated water quality criteria for mercury apply, so staff proposes a site-specific water quality objective for mercury in Sulphur Creek based on natural background conditions. The site-specific objective will protect the beneficial uses of Sulphur Creek that existed prior to anthropogenic disturbance in the watershed.

Sulphur Creek has been identified under the federal Clean Water Act section 303(d) as impaired due to elevated concentrations of mercury in water. The implementation actions required to meet the proposed objective are described in the Basin Plan amendment for the control of mercury in Cache Creek, Bear Creek, Sulphur Creek and Harley Gulch adopted by the Central Valley Water Board in Resolution No. R5-2005-0146. This amendment, along with the amendment adopted in Resolution No. R5-2005-0146, fulfills the US EPA requirements for a total maximum daily load (TMDL).

Staff developed a Basin Plan staff report, which summarizes background information, scientific justification for the amendment, and alternatives to the amendment.

This agenda item contains the resolution with the draft amendment, staff report with errata sheet and alternatives analysis, and the environmental checklist. The environmental checklist concludes that the proposed amendment has no potential for adverse effects on wildlife or the environment.

Staff will make a presentation at the Board meeting to discuss proposed amendments and responses to public comments. The

formal public comment period was still open at the time the agenda was prepared, therefore, there may be additional public comments to consider and late revisions to the Basin Plan amendment and staff report. At this meeting, the Board may close the public comment period and may consider either adoption of a resolution or continue the item at a later meeting.

The resolution includes:

- Adoption of the amendments to the Basin Plan,
- Certification of the environmental documents and direction to the Executive Officer to file a Notice of Completion with the Secretary for Resources, and
- Direction for the Executive Officer to sign a Certificate of Fee Exemption and submit this Certificate in lieu of payment of the Department of Fish and Game filing fee to the Secretary for Resources.

The Basin Plan staff report and supporting documents also are available on the Board's internet site at <http://www.waterboards.ca.gov/centralvalley/programs/tmdl/sulphur-creek/index.html>. Comments received by 22 November 2006 will be responded to in writing. Written responses to the public comments will be provided to the Board prior to the hearing.

ISSUES:

The issues to be considered include:

- Applicability of beneficial uses of Sulphur Creek – The staff report presents information that supports the conclusion that MUN uses and the human consumption of aquatic organisms do not exist and are not attainable because of natural conditions in the creek.
- Appropriateness of proposed water quality objectives - Proposed water quality objectives are based on natural background for mercury to protect aquatic organisms and wildlife that existed prior to anthropogenic disturbance in the watershed.

RECOMMENDATION: Adopt the proposed Basin Plan amendment.

Mgmt. Review _____
Legal Review _____

7 December 2006
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