



# San Joaquin River Group

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## Diuron Basin Plan Amendment – CEQA Scoping Comments

On October 30, 2012, the Central Valley Regional Water Quality Control Board (Regional Water Board) staff held an announced CEQA Scoping Meeting for the preparation of a Basin Plan Amendment (BPA) and a TMDL for diuron in water bodies of the Central Valley. The San Joaquin River Group Authority (SJRGA) offers the following comments.

### Summary of SJRGA Comments

The SJRGA comments can be summarized as follows:

1. There is a need to clarify the staff intent as some of the statements in the supporting documents are unclear and should be corrected as described below. Without clarification, it is difficult to determine where the amendment will apply;
2. The proposed BPA should focus on the described issue of diuron control and not on making changes to beneficial uses as this is a much broader basin planning issue;
3. Using the existing narrative water quality objective seems most cost effective unless it can be demonstrated why the proposed action is needed given that the use of diuron is diminishing;
4. The BPA and CEQA documentation must explain why the use of the Department of Pesticide Regulation (DPR) and the County Ag Commissioner regulations are not sufficient to achieve implementation, particularly in light of the diminishing use of diuron. The SJRGA urges the Regional Board to utilize these established mechanisms; and
5. The environmental documentation must evaluate the potentially significant environmental impacts from this BPA if it is applied to constructed canals and drains on the valley floor of the San Joaquin River Basin because it is likely to change district operations and/or maintenance practices as well as cause increase weed control activity by agricultural farming operations in the basin.

Below is a more detailed explanation of each of these five points.

### Need to Clarify Intent

The intent of the project needs to be clearly stated as to where the proposed action would be applied. In defining where the proposed objectives would be applied, the CEQA Scoping informational document in section 3.0 states that “*the intent of the proposed project is to develop a Basin Plan Amendment that would establish 1) diuron water quality objectives for the protection of aquatic life beneficial uses in the Sacramento River and San Joaquin River Basins*”. In section 3.1, the

geographic scope is further defined as *“The project area where the water quality objectives may apply is all of the water bodies with an aquatic life beneficial use in the Sacramento and San Joaquin River Basins (Figure 1), or a subset of water bodies from those basins”*. Both of these statements imply that the proposed objectives would be applied in all water bodies, which could include constructed canals and drains. This same approach was used in designating MUN uses in all water bodies decades ago and now has unintended consequences. The Regional Water Board is now trying to correct this at tremendous cost to dischargers, the Regional Board and others.

In describing the beneficial uses in section 3.2 of the informational document, it states that *“The Basin Plan designates one or more aquatic life beneficial uses to nearly all of the surface water bodies in the basin, with the exception of the California Aqueduct, which has no existing aquatic life beneficial uses. Aquatic life beneficial uses include freshwater habitat (WARM or COLD), migration (MIGR), and spawning (SPWN)*. This statement is factual and should be carried throughout the entire document to ensure that it is clearly understood that the proposed project is to adopt water quality objectives for only those water bodies listed for aquatic life beneficial uses in Table II-1 of the Basin Plan and their tributaries. It should also be made clear in the BPA that the tributary rule does not apply to constructed canals and drains.

### **Beneficial Use Alternatives**

In section 3.2.1 of the Informational Document accompanying the CEQA Notice, the Regional Water Board staff show three alternatives for modifying beneficial uses. These include *“1) no change to the beneficial uses, 2) modification of the beneficial uses, and 3) the addition of beneficial uses”*. The SJRGA sees no need for changes to the beneficial uses already designated in Table II-1 of the Basin Plan. This is supported by the Regional Water Board staff statement in section 3.2.1 of the Informational Document accompanying the CEQA Notice that states *“It should be noted that the beneficial uses (WARM and COLD) that are the most sensitive to diuron are widely designated and there is no indication that the current designations are infeasible.”* This finding alone should lead to the conclusion that no changes in beneficial uses designations should be undertaken for this proposed BPA.

### **Alternatives for Consideration**

The CEQA scoping documents and presentation at the CEQA scoping meeting in Sacramento identified four water quality objective alternatives being considered by the Regional Water Board staff.

Alternative #1: No Change to the Current Water Quality Objectives. The SJRGA feels this is the most logical alternative for the San Joaquin River Basin due to the cost of preparing and administering this BPA. The present effort appears to be directed at a herbicide that is being phased out or whose use has diminished (slide #12 of the CEQA scoping session). In addition, the presentation (slide #13 of the CEQA scoping session) showed that it was primarily associated with rainfall runoff not irrigation practices. Thus our recommendation is to utilize the existing narrative objective in those water bodies listed for aquatic life beneficial uses in Table II-1 of the basin plan and work with DPR and the agricultural industry to find ways to keep diuron on-site.

Alternative #2: Establish a “no detectable diuron” water quality objective. This alternative would be a no discharge alternative as the presentation at the CEQA scoping session indicated that the mechanism for off-site movement was primarily rainfall runoff. With improving analytical techniques, it is unlikely that compliance can be achieved in a reasonable way. If this alternative

were utilized, this would increase the difficulty of managing storm water from both agricultural and urban areas. These increased costs would need to be assessed and considered as a likely significant impact if this alternative is chosen.

If such an objective were applied to constructed canals and drains, irrigation and drainage districts would need to assess whether they could participate in local storm water management plans, including those being considered under the Irrigated Lands Program. In addition, if this alternative were applied to constructed canal and drains, it may limit or eliminate the ability to reuse storm water and agricultural return flows. The increased cost of storm water management and water reuse would need to be assessed along with an analysis as to whether such an approach would be consistent with the State Water Board Water Reuse Policy and statewide effort to increase water reuse and efficiency.

Those districts that occasionally utilize diuron for weed control in canals and drains would also need to eliminate this management practice. Part of the reason the districts utilize weed control in their canals and drains is to minimize the spread of weed seeds with the water supply and drain water reuse as this would spread weed seeds and result in a more widespread use of herbicide materials on individual farm fields to control the spread of weeds caused by weed seeds in the water supply. The costs and impacts of more widespread use of diuron or other herbicides to control a larger weed population on individual farms would need to be assessed if this alternative is chosen.

If this alternative is chosen and applied to canals and drains, the SJRGA cannot support this alternative.

Alternative #3 and #4: Adopt water quality objectives based either on the UC Davis or US EPA aquatic life benchmarks. It appears that different methodologies lead to different results. In addition it appears that studies are continuing to refine the methodologies and criteria. Thus the results become a moving target and an unnecessary expense to modify the basin plan every time a new result comes out. Use of alternative # 1 would allow the Regional Board to utilize the latest information and criteria without having to prepare an expensive amendment to the basin plan.

### **Consistency with Other State Regulatory Actions**

Considering the cost of developing and adopting a water quality objective and a TMDL, it seems more prudent to attempt to utilize existing regulatory mechanisms, including those of the DPR to ensure protection of aquatic life beneficial uses. The present narrative objective in the basin plan seems sufficient to conduct a regulatory program along with DPR. The SJRGA urges the Regional Water Board to consider the present regulations of DPR and those of the County Agricultural Commissioner in developing the implementation plan for control of diuron.

### **Potential Environmental Impacts**

The application of diuron water quality objectives to constructed water ways, including canals and drains in the San Joaquin River Basin could have a significant impact on water supply availability and district operations which would have a ripple effect on the farming industry and the local communities and their economies that depend upon this farming. Many of these communities have the highest unemployment rates in the country. For any potential actions or any alternative under consideration that will result in changes to district operations or management of constructed water supply and drainage facilities, the CEQA process should consider and fully evaluate as to whether that alternative would impact:

- Water supply deliveries for agricultural, municipal and wetland uses and the consequences if either the amount delivered, the timing of the deliveries or the quality of that water supply is changed;
- Water rights and the subsequent water delivery capability of the various water right holders;
- Repayment capacity or increased maintenance costs for district infrastructure and how these would change downstream operations and water supply delivery capabilities;
- Loss of agricultural crop production and/or fallowing of agricultural lands during various water-year types;
- Changes in crop production costs and weed control costs resulting from increased completion from weeds that result from weed seeds delivered by the water supply; and
- Changes in cropping patterns that would result from changes in weed control practices of the individual water users; and

We appreciate the opportunity to comment on the proposed CEQA Scoping. If you have any questions, please do not hesitate to contact us.

A handwritten signature in dark ink that reads "Dennis Westcot". The signature is written in a cursive style with a long horizontal stroke extending to the right from the end of the name.

Dennis Westcot  
Project Administrator

cc: SJRGA Managers