

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF WATER QUALITY  
DECEMBER 3, 2013**

**ITEM #5**

**SUBJECT**

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE COLORADO RIVER BASIN REGION (BASIN PLAN) REGARDING THE ONSITE WASTEWATER TREATMENT SYSTEM IMPLEMENTATION PROGRAM

**DISCUSSION**

On June 19, 2012, the State Water Resources Control Board (State Water Board) adopted the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy). The OWTS Policy was approved by the California Office of Administrative Law (OAL) on November 13, 2012, and became effective on May 13, 2013. Applicable statewide, the OWTS Policy designates the regional water boards with principal responsibility for overseeing its implementation and calls for incorporation of the OWTS Policy's requirements into the regional water boards' basin plans within a year of the policy's effective date of May 13, 2013. Implementation of the OWTS Policy will provide more effective and efficient regulation of onsite systems due to clear (single source) criteria, a streamlined regulatory tool (conditional waiver), broader coverage (up to 10,000 gpd systems), and flexibility for local alternatives where Local Agency Management Programs are implemented.

This action is to approve the amendment to the Water Quality Control Plan for the Colorado River Basin Region (Basin Plan) that the Colorado River Basin Water Board adopted on September 19, 2013, pursuant to Resolution R7-2013-0049. The amendment incorporates by reference the State Water Board's OWTS Policy's requirements.

RB Adoption Date: September 19, 2013

Resolution #: R7-2013-0049

Impaired Beneficial Uses: Municipal Supply

Location: Colorado River Basin Region

Implementation: According to the OWTS Policy Timeline

Monitoring: As specified in the OWTS Policy and as agreed to under approved Local Area Management Plans.

**POLICY ISSUE**

Should the State Water Board approve the Colorado River Basin Water Board’s Basin Plan amendment that incorporates by reference the OWTS Policy’s requirements?

**FISCAL IMPACT**

Colorado River Basin Water Board and State Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

**REGIONAL BOARD IMPACT**

Yes, adoption of this resolution will approve the Colorado River Basin Water Board’s Basin Plan amendment that incorporates the OWTS Policy’s requirements.

**STAFF RECOMMENDATION**

That the State Water Board:

1. Approve the amendment to the Basin Plan adopted under Colorado River Basin Water Board Resolution R7-2013-0049.
2. Authorize the Executive Director or designee to submit the amendment adopted under Colorado River Basin Water Board Resolution R7-2013-0049, as approved, and the administrative record for this action to the Office of Administrative Law for approval of the regulatory provisions.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update: 2008-2012 to enhance consistency across the Water Boards. In particular, approval of this item will assist in fulfilling Objective/Action 6.1 to target consistency improvements in process and policy for Water Board enforcement activities to promote compliance.

Policy Review \_\_\_\_\_

Fiscal Review \_\_\_\_\_

Legal Review \_\_\_\_\_

Exec Review \_\_\_\_\_

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## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-XXXX

### APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE COLORADO RIVER BASIN REGION REGARDING THE ONSITE WASTEWATER TREATMENT SYSTEM IMPLEMENTATION PROGRAM

#### WHEREAS:

1. On September 19, 2013, the Colorado River Basin Water Quality Control Board (Colorado River Basin Water Board) adopted [Resolution R7-2013-0049](#) amending the Water Quality Control Plan (Basin Plan) regarding the Onsite Wastewater Treatment System implementation program.
2. On June 19, 2012, the State Water Resources Control Board (State Water Board) adopted the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy). The OWTS Policy includes a conditional waiver of the requirements to submit a report of waste discharge, to obtain waste discharge requirements, and to pay fees for discharges from onsite wastewater treatment systems covered by the OWTS Policy. The OWTS Policy was approved by the California Office of Administrative Law (OAL) on November 13, 2012, and became effective on May 13, 2013.
3. Resolution R7-2013-0049 amended sections of the Basin Plan that discuss septic systems by incorporating by reference the OWTS Policy into the Basin Plan and deleting those sections that are superseded by the OWTS Policy.
4. The Colorado River Basin Water Board found that its regulatory action to adopt this Basin Plan amendment met the “Necessity” standard of the California Administrative Procedure Act, specified in Government Code section 11353, subdivision (b)(2)(C), because the OWTS Policy requires all regional water boards to incorporate the policy into their respective basin plans within one year of the effective date of the policy, Water Code section 13291(e) imposes the same incorporation requirement, and Water Code section 13240 requires each regional water board’s water quality control plan to conform with any state policy for water quality control.
5. The State Water Board also finds that this regulatory action meets the “Necessity” standard set forth in Government Code section 11353, subdivision (b)(2)(C).
6. CEQA: The Regional Water Board’s discretionary decisions are typically subject to the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Secretary for the California Natural Resources Agency has certified the basin planning process as a regulatory

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program that is exempt from CEQA. Therefore, the State Water Board and Regional Water Boards (Water Boards) are exempt from the specific CEQA requirement to prepare an environmental impact report or negative declaration when the Water Boards are complying with the procedures identified in the State Water Board's certified regulatory program (Pub. Resources Code, § 21080.5; Cal. Code Regs., tit. 14, § 15251(g), and tit. 23, §§ 3720-3781).

7. Substitute Environmental Documentation (SED) was prepared by the State Water Board for the OWTS Policy in accordance with the Water Boards' certified regulatory program (Cal. Code Regs., tit. 23, §§ 3777-3781). On June 19, 2012, the State Water Board approved the OWTS Policy and the SED. This Basin Plan amendment removed existing Basin Plan provisions regulating onsite septic systems and incorporated the OWTS Policy. No substantive changes or modifications to the previously approved OWTS Policy were made, no substantial changes with respect to circumstances under which the project will be undertaken occurred, and no new information triggered the need for supplemental or subsequent CEQA analysis.
8. This Basin Plan amendment was completely within the scope of the OWTS Policy, as analyzed by the State Water Board in the SED. As such, the recommended actions did not require further environmental review pursuant to the certified regulatory program or CEQA (Pub. Resources Code, § 21166; Cal. Code Regs., tit. 14, §§ 15161 & 15163).
9. The State Water Board paid the Department of Fish & Wildlife (DFW) CEQA document filing fee, required by California Fish and Game Code section 711.4, for its review of the SED and related certified regulatory program documents when it adopted the OWTS Policy. In addition, because the Colorado River Basin Water Board relied on the comprehensive SED prepared by the State Water Board, the Colorado River Basin Water Board did not need to prepare any additional environmental documents that would require DFW review. Therefore, this Basin Plan amendment was exempt from any additional CEQA document filing fee payments to DFW under the California Fish and Game Code.
10. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan, as adopted under Colorado River Basin Water Board Resolution R7-2013-0049.

## **D R A F T**

2. Authorizes the Executive Officer or designee to submit the amendment adopted under the Colorado River Basin Water Board Resolution R7-2013-0049, as approved, and the administrative record for this action to OAL for approval of the regulatory provisions.

### **CERTIFICATION**

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 3, 2013.

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Jeanine Townsend  
Clerk to the Board