

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

Resolution No. R16-0XX

Amendment to the Water Quality Control Plan for the Los Angeles Region to Incorporate Stakeholder-Developed Groundwater Quality Management Measures for Salts and Nutrients in the Malibu Valley Groundwater Basin

July 14, 2016

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) finds that:

1. The State Water Resources Control Board (State Water Board) adopted the Policy for Water Quality Control for Recycled Water (Recycled Water Policy or Policy) (State Water Board Resolution No. 2009-0011) in February 2009, which was amended in January 2013 (State Water Board Resolution No. 2013-0003). The goal of this Policy is to increase the use of recycled water from municipal wastewater sources that meet the definition in Water Code section 13050, subdivision (n) in a manner that implements State and federal water quality laws.
2. The Recycled Water Policy is intended to support the State Water Board's priorities in the 2008-2012 Strategic Plan to promote sustainable water supplies. Increasing the acceptance and promoting the use of recycled water is a means toward achieving sustainable water supplies and can result in the reduction of greenhouse gases, a significant driver of climate change. The Policy is also intended to encourage beneficial use of recycled water, rather than solely discharging it to receiving waters.
3. In developing the Policy, the State Water Board recognized that increased use of recycled water, in conjunction with other applications/discharges, may result in salt and nutrient loads to groundwater basins that could result in exceedances of groundwater quality objectives. Therefore, the Policy contains a requirement that salts and nutrients from all sources be managed on a basin-wide scale or watershed scale through the development of Salt and Nutrient Management Plans (SNMPs).
4. Per the Recycled Water Policy, SNMPs must be developed for every groundwater basin/sub-basin in California. The plans should identify water quality concerns in each basin/sub-basin and identify management strategies for all sources of salts and nutrients to groundwater basins, including recycled water irrigation projects and groundwater recharge projects that will be implemented.
5. The SNMPs are to be developed by local water and wastewater entities, together with local salt/nutrient contributing stakeholders through a collaborative process open to all interested persons. The SNMPs are to be completed and proposed to the Regional Water Boards no more than seven years of the effective date of the Policy (or by May 14, 2016). The Policy also directs the Regional Water Board to consider incorporating the implementation programs contained in these SNMPs into its water quality control plan within one year of their submission to the Regional Water Board.

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6. The SNMPs are required to contain: (i) water recycling and stormwater recharge goals and objectives, (ii) salt and nutrient source identification, (iii) implementation measures to manage salt and nutrient loading in the basin on a sustainable basis, (iv) an anti-degradation analysis demonstrating that the projects included within the plan will collectively satisfy the requirement of State Water Board Resolution No. 68-16 (“Statement of Policy With Respect to Maintaining the High Quality of Waters in California”, the State’s anti-degradation policy), (v) a basin/sub-basin wide monitoring plan that includes the appropriate network of monitoring locations, and (vi) a provision for annual monitoring of Constituents of Emerging Concern.
7. For purposes of regulation by the Regional Water Board pursuant to its authority under the California Water Code, the groundwater basins in the Los Angeles Region are identified in Chapter 2 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan). Chapter 2 of the Basin Plan also sets forth the beneficial uses of these groundwater basins (primarily municipal and domestic supply (MUN) and agricultural supply (AGR), as well as industrial process supply (PROC) and industrial service supply (IND)). Water quality objectives to protect these uses and to prevent degradation of existing water quality are set forth in Chapter 3 of the Basin Plan. Programs of implementation to attain the water quality objectives are set forth in Chapters 4 and 8 of the Basin Plan.
8. In November 2010, consistent with a State Water Board directive to Regional Water Boards to initiate and facilitate the SNMP development process, Regional Water Board staff conducted the first region-wide stakeholder SNMP workshop. At this workshop, stakeholders were provided with information regarding the SNMP requirements of the Recycled Water Policy, and had the opportunity for discourse with different groundwater basin stakeholder groups. Regional Water Board staff has continued to hold annual region-wide stakeholder SNMP workshops since then.
9. Stakeholders and interested persons collaborated to develop the SNMP for the Malibu Valley Basin. The City of Malibu is the lead agency for the planning effort. Two stakeholder groups were engaged during the development of the Malibu Valley Basin SNMP. The first was a Technical Advisory Committee (TAC) that included representatives from the City of Malibu, Los Angeles County Department of Public Works, Heal the Bay, Santa Monica Bay Restoration Commission, Regional and State Water Board staff, and various consultants. The second was a public stakeholder group that included area residents and businesses, other environmental groups, and representatives of the Planning Commission and local school districts, in addition to the TAC members and other interested entities.
10. The Malibu Valley Basin is a small alluvial groundwater basin located in southwestern Los Angeles County, along the coastline. It covers an area of approximately 613 acres and is bounded by the Pacific Ocean on the south and by the Santa Monica Mountains on all remaining sides. Development overlying the groundwater basin is predominantly urban in nature, and includes a significant amount of residential development and undeveloped land. At present, the groundwater basin is not used for local potable water supplies. Instead imported water is used to meet local demand.

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11. The Malibu Valley Basin is actively managed by the City of Malibu, as the approving agency for all Coastal Development Permits required by their certified Local Coastal Program, and the Los Angeles County Department of Public Health (LACDPH) Environmental Health Division, Drinking Water Program, as the entity primarily responsible for well construction and destruction permits and the regulation of small community onsite wastewater treatment systems. Recycled water use for irrigation is anticipated following construction and operation of a planned centralized wastewater treatment facility.
12. Sources of water and salts and nutrients to the basin include percolation of stream flows, imported water, onsite wastewater treatment system discharges, and mountain front recharge. Water quality data for the Malibu Valley Basin area are limited. Existing data indicate levels of Total Dissolved Solids above the water quality objective, particularly near the coast, and nitrate nitrogen levels well below water quality objectives for the basin.
13. A number of water quality control measures implemented in the planning area contribute to the management of salts and nutrients in groundwater. Such measures include actions/programs that manage groundwater quality, protect and enhance groundwater recharge, and promote onsite stormwater capture and retention.
14. Malibu Valley Basin stakeholders have prepared a detailed technical planning document containing all the elements outlined by the Recycled Water Policy. The document titled "Salt and Nutrient Management Plan - Malibu Valley Groundwater Basin" is an integral part of this Regional Water Board action and was reviewed, considered and accepted by the Regional Water Board before acting. Further, this technical document provides the detailed factual basis and analysis supporting the assessment of current water quality conditions, the identification of salt and nutrient management measures, and the projected water quality impacts from these salt and nutrient management measures.
15. The public has had reasonable opportunity to participate in the review of the amendments to the Basin Plan. Updates on the progress and status of the SNMP were provided at stakeholder meetings conducted by the City of Malibu. Regional Water Board staff has participated in these meetings and other related meetings with the lead agency and TAC. A Notice of Hearing was published in the Los Angeles Times on May 10, 2016, and circulated for 45 days preceding the Regional Water Board's proposed action. Drafts of the Salt and Nutrient Management Plan, Substitute Environmental Document, proposed Basin Plan amendment language, and staff memorandum were released for public comment on May 10, 2016, to allow a 45-day public comment period in advance of the public hearing. The Regional Water Board responded to written and oral comments received from the public on the proposed action. On July 14, 2016, prior to the Regional Water Board's action on this resolution, a public hearing was held to consider incorporation of salt and nutrient management measures for the Malibu Valley Groundwater Basin into the Basin Plan. The public had an opportunity to provide oral comments and testimony during the hearing.
16. The salt and nutrient management strategies developed by the Malibu Valley Basin stakeholders are measures designed to maintain water quality that is protective of beneficial uses, preserve capacity for stormwater recharge, address elevated salt concentrations and curtail impacts from seawater intrusion. Based on the initial analysis of the planned centralized wastewater treatment facility that will produce recycled water

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for non-potable use and groundwater recharge, TDS concentrations are expected to fall below water quality objectives in areas currently impacted by seawater. Also, while nitrate-N levels are expected to increase, this increase is estimated to be less than what would occur in the absence of the treatment facility, and will result in concentrations maintained below water quality objectives. The planned treatment facility will also provide the added benefit of addressing other water quality concerns (such as bacterial contamination), as well as reducing reliance on imported water by providing recycled water to offset the potable water currently used for irrigation. Given these considerations, the amendment is consistent with State Water Board Resolution No. 68-16, and is also consistent with the policy of the State established in California Water Code section 106.3 that everyone has the right to safe, clean, affordable, and accessible water.

17. This Basin Plan amendment meets the “necessity” standard of the California Administrative Procedures Act, Government Code section 11353, subdivision (b), because the Recycled Water Policy requires that Regional Water Boards incorporate salt and nutrient management measures for groundwater basins into their respective basin plans within one year of the receipt of stakeholder developed salt and nutrient management plans. Also, Water Code section 13240 requires each regional water board’s basin plan to conform with State policy for water quality control.
18. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Boards’ basin planning process as a “certified regulatory program” that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) requirements for preparing environmental documents (Cal. Code Regs., tit. 14, § 15251, subd. (g); Cal. Code Regs., tit. 23, § 3782). A “substitute environmental document” (SED) was prepared for this project. The SED contains the required environmental documentation under the State Water Board’s CEQA regulations. (Cal. Code Regs., tit. 23, § 3777.) The substitute environmental documents include the Salt and Nutrient Management Plan, a staff memorandum entitled “Groundwater Quality Management Measures for Salt and Nutrients in the Los Angeles Region’s Malibu Valley Groundwater Basin”, the environmental checklist, the comments and responses to comments, the basin plan amendment language, and this resolution. The project itself is the development of salt and nutrient management measures for the Malibu Valley Groundwater Basin. The CEQA checklist and other portions of the substitute environmental documents contain significant analysis and numerous findings related to impacts and mitigation measures.
19. A CEQA Scoping meeting was conducted on July 28, 2015, in the City of Malibu (Los Angeles County) to solicit input from the public and interested stakeholders in determining the appropriate scope and content and management options of the proposed Salt and Nutrient Management Plan. This meeting fulfilled the requirements under CEQA. (Pub. Resources Code, § 21083.9.) A notice of the CEQA Scoping meeting was sent to interested parties on June 29, 2015.
20. The analysis considered the potential impacts of salt and nutrient management measures in the Malibu Valley Groundwater Basin. Foreseeable methods including both nonstructural and structural management measures would not cause significant impacts that cannot be mitigated through commonly used construction, design and operational practices. The SED identifies mitigation methods for impacts with potentially significant effects and finds that these methods can mitigate potentially significant impacts to levels that are less than significant. To the extent that there are significant adverse effects on

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the environment due to the implementation of this Salt and Nutrient Management Plan, there are feasible alternatives and/or feasible mitigation measures that would substantially lessen significant adverse impacts in most cases. The foreseeable salt and nutrient management methods under consideration include recycled water production and use, which is considered a significant environmental benefit.

21. Consistent with the Regional Water Board's substantive obligations under CEQA, the substitute environmental documents do not engage in speculation or conjecture, and only consider the reasonably foreseeable environmental impacts, including those relating to the methods of compliance, reasonably foreseeable feasible mitigation measures to reduce those impacts, and the reasonably foreseeable alternative means of compliance, which would avoid or reduce the identified impacts.
22. The draft SED incorporates mitigation that reduces to a level that is insignificant any adverse effects on the environment. From a program level perspective, incorporation of the mitigation measures described in the SED will foreseeably reduce impacts to less than significant levels.
23. While the proposed Basin Plan amendment incorporates management measures into the Basin Plan that are designed to attain and/or maintain compliance with already existing water quality objectives, it does not establish or seek to modify any regulatory level, standard, or other requirement for the protection of public health or the environment. As such, it is not "a policy...that has the effect of a regulation and that is adopted in order to implement or make effective a statute"; and is therefore not subject to the requirements of Health and Safety Code section 57004 regarding external scientific peer review.
24. The Basin Plan amendment incorporating groundwater quality management measures for salts and nutrients in the Malibu Valley Groundwater Basin will be submitted for review and approval by the State Water Board and thence to the State Office of Administrative Law (OAL) for review of the regulatory portions.
25. If during the State Water Board's approval process Regional Water Board staff, the State Water Board or State Water Board staff, or OAL determine that minor, non-substantive modifications to the language of the amendment are needed for clarity or consistency, the Executive Officer should make such changes consistent with the Regional Water Board's intent in adopting these groundwater quality control measures, and should inform the Board of any such changes.

THEREFORE, BE IT RESOLVED THAT:

1. The Regional Water Board approves and adopts the CEQA substitute environmental documentation, which includes the Salt and Nutrient Management Plan, staff memorandum entitled "Groundwater Quality Management Measures for Salt and Nutrients in the Los Angeles Region's Malibu Valley Groundwater Basin", the environmental checklist, the comments and responses to comments, the basin plan amendment language, and this resolution, which was prepared in accordance with the requirements of the State Water Board's certified regulatory CEQA process (as set forth in California Code of Regulations, title 23, section 3775, et seq.), Public Resources Code section 21159, and California Code of Regulations, title 14, section 15187, and directs the Executive Officer or designee to sign the environmental checklist.

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2. After considering the entire record, including oral testimony at the hearing, pursuant to Water Code sections 13240 and 13242, the Regional Water Board hereby approves and adopts the groundwater quality management measures for salts and nutrients in the Malibu Valley Groundwater Basin, as developed by stakeholders, reviewed by Regional Water Board staff and outlined in the proposed Basin Plan amendment. These strategies are designed to maintain water quality that is protective of beneficial uses by managing salt and nutrient loading to the basin, preserving capacity for stormwater recharge, addressing elevated salt concentrations and curtailing impacts from seawater intrusion.
3. The salt and nutrient management strategies developed by the Malibu Valley Basin stakeholders are measures designed to maintain water quality that is protective of beneficial uses, preserve capacity for stormwater recharge, address elevated salt concentrations and curtail impacts from seawater intrusion. These strategies will be applied in conjunction with already existing water quality protection measures in the planning area (e.g. TMDLs and prohibition on onsite wastewater treatment system discharges).
4. The Regional Water Board is taking this action pursuant to the State Water Board's Recycled Water Policy (Resolution No. 2009-0011 as amended by Resolution No. 2013-0003) in which the State Water Board directs the regional water boards to amend their basin plans to incorporate salt and nutrient management measures for each basin within 12 months of receipt of a Salt and Nutrient Management Plan.
5. The Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of California Water Code section 13245.
6. The Regional Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of California Water Code sections 13245 and 13246, and forward them to OAL for approval.
7. If during the approval process, Regional Water Board staff, the State Water Board or State Water Board staff, or OAL determines that minor, non-substantive modifications to the language of the amendments are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Regional Water Board of any such changes.

I, Samuel Unger, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of the resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on July 14, 2016.

Samuel Unger, P.E.
Executive Officer

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