California Regional Water Quality Control Board
Los Angeles Region

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Matthew Rodriquez
Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

MEMORANDUM TO FILE

History of Regional Board Resolution No. 98-018

In November 1998, the Regional Board adopted an amendment to the Basin Plan that removed the Municipal and Domestic Supply (MUN) beneficial use designation from two areas of the West Coast Basin and eight channelized surface waters. This amendment also assigned additional beneficial uses to three surface waters, and removed the cold freshwater habitat (COLD) from portions of three surface water bodies. The amendment was approved by the State Water Resources Control Board (State Board Resolution No. 99-020) but subsequently disapproved by the State Office of Administrative Law (OAL) in July 1999 on the grounds that the proposed amendments to beneficial uses of the surface water did not meet OAL standards for approval. However, OAL did find that the two areas of the West Coast groundwater basin met the requirements for dedesignation of the MUN beneficial use.

In December 1999, State Board resubmitted to OAL the ground water portions of the regulatory provisions of the amendment to the Regional Board's Basin Plan. These amendments were approved by OAL in February 2000.

The two areas in the West Coast Groundwater Basin that had their MUN beneficial use removed are described in Regional Board Resolution No. 98-018 as follows:

a. *The West Basin portion of the Los Angeles Coastal Plain underlying the Chevron Refinery in El Segundo and nearby areas, as defined by the Pacific Ocean to the west, Imperial Highway to the north, Sepulveda Boulevard to the east, and Valley Boulevard and 15th Street to the south; and*

b. *The West Basin portion of the Los Angeles Coastal Plain underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors, defined as seaward of the line formed by Shoshonean Road, Via Cabrillo Marina, West 22nd Street, Crescent Avenue, Harbor Boulevard, the Terminal Island Freeway (47), Pacific Avenue, John S, Gibson Avenue, "B" Street, Alameda Street, Anaheim Street, the Long Beach Freeway (710), and Shoreline Drive to the Eastern end of the Downtown Long Beach Marina.*

Supporting Documents for Effective Regulatory Provisions of Regional Board Resolution No. 98-018

1. Regional Board Resolution No. 98-018 (November 2, 1998) [RB AR, pp. 665-668]

2. Proposed Changes (Revised October 22, 1998) Water Quality Control Plan for the Los Angeles Region [RB AR, pp. 568-575]

3. Staff Report "Revised Beneficial Use Designations for Sources of Drinking Water" (August 28, 1998) including Appendix A "Sources of Drinking Water (SB No. 88-63) (RB No. 89-03)" and Appendix B "Waterbody Maps" [RB AR, pp. 545-563]

4. State Board Resolution No. 99-020 (February 18, 1999) [SB AR, pp. 235-236]

5. Submittal of Regulatory Provisions (June 2, 1999) [SB AR, pp. 253-257]

6. Office of Administrative Law Notice of Disapproval of Regulatory Action (July 15, 1999) [SB AR, pp. 258-284]

7. Regional Board Request to Resubmit Regulatory Provisions for Ground Water Portion (November 16, 1999) [SB AR, pp. 286-288]

8. State Board Response to Regional Board Request to Resubmit Regulatory Provisions for Ground Water Portion (December 29, 1999) [SB AR, p. 398]

9. Resubmittal of Regulatory Provisions of Amendments to the Water Quality Control Plan for the Los Angeles Region (December 29, 1999) (3 pp.) including 3 Attachments:

    9.1 Std. 400 (December 24, 1999) (1 p.)
    9.2 Concise Summary of Regulatory Provisions (1 p.)
    9.3 Certification by the Chief Counsel of the State Board (1 p.)

10. Office of Administrative Law Notice of Approval of Regulatory Action (February 9, 2000) (1 p.)

California Regional Water Quality Control Board
Los Angeles Region
November 2, 1998

RESOLUTION NO. 98- 018

Amendment to the Water Quality Control Plan to Incorporate Changes in Beneficial Use Designations for Selected Waters

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

1. In 1989, the Regional Board adopted Resolution No. 89-03, which amended the *Water Quality Control Plan for the Los Angeles Region (Basin Plan)* by designating all previously undesignated inland waters in the Region as Sources of Municipal and Domestic Drinking Water, in accordance with the Sources of Drinking Water Policy (State Board Resolution 88-63).

2. The Regional Board has reconsidered the MUN designation for surface waters meeting all of the following criteria: (1) they have no risk of interaction with underlying ground water resources; (2) they are surface water channels that were paved prior to 1975 for flood control purposes, with a concrete lining that is continuous from a designated upstream point to an estuary outlet; and (3) they meet the exemption criteria in State Board Resolution No. 88-63 for channelized surface waters. Waters that meet these criteria include:

   a. **Ballona Creek** - From Cochran Avenue & Venice Avenue to the estuary at Beethoven Street;

   b. **Sepulveda Channel** - From Military Avenue & Queensland Street to the confluence with Ballona Creek;

   c. **Centinela Creek** - From La Cienega Boulevard & the 405 Freeway to the confluence with Ballona Creek;

   d. **Dominguez Channel** - From Kornblum Avenue & West 116th Street to the estuary at Vermont Avenue;

   e. **Cerritos Channel** - From Clark Avenue & Ashworth Street, Paramount Boulevard & Eckleson Street, Downey Avenue & 54th Street, and the Long Beach Airport to the estuary at East De Leon Street;

   f. **Lower San Gabriel River** - From Firestone Boulevard to the estuary at East De Leon Street;

   g. **Coyote Creek** - From the northernmost crossing of the Los Angeles-Orange County Line to the confluence with the San Gabriel River; and

   h. **Oxnard Industrial Drain** - From East Wooley Avenue to the estuary at Hueneme Road.

3. The Regional Board also reconsidered the MUN designation for ground waters in coastal areas that meet all of the following criteria: (1) they are not existing sources of drinking water; (2) they either lie seaward of well-established, engineered barriers or have a gradient such that the coastal ground waters will not replenish sources of drinking water; and (3) they meet the exception criteria in State Board Resolution No. 88-63 based on either TDS levels or the ability to provide an average sustained yield of 200 gallons per day. Waters that meet these criteria include:

   a. The West Basin portion of the Los Angeles Coastal Plain underlying the Chevron Refinery in El Segundo and nearby areas, as defined by the Pacific Ocean to the west; Imperial Highway to the north; Sepulveda Boulevard to the east; and Valley Boulevard and 15th Street to the south; and

   b. The West Basin portion of the Los Angeles Coastal Plain underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors, defined as seaward of the line formed by Shoshonean Road, Via Cabrillo Marina, West 22nd Street, Crescent Avenue, Harbor Boulevard, the Terminal Island Freeway (47), Pacific Avenue, John S. Gibson Avenue, "B" Street, Alameda Street, Anaheim Street, the Long Beach Freeway (710), and Shoreline Drive to the eastern end of the Downtown Long Beach Marina.

4. The Regional Board is responsible for maintaining the high quality of the Region's water resources. The dedesignation of these areas is not expected to affect remaining beneficial uses designated for the subject waters.

5. Three of the surface waters considered for MUN dedesignation are not specifically identified in the *Basin Plan's* Table of Beneficial Uses (Table 2-1) at this time. Therefore, in dedesignating such waters for MUN, it is appropriate to designate other beneficial uses of these waters, as follows:

   For the Oxnard Industrial Drain:

   Potential Industrial Service Supply (IND);
   Existing Industrial Process Supply (PROC);
   Potential Agriculture Supply (AGR);
   Potential Water Contact Recreation (REC1);
   Existing Non-contact Recreation (REC2);
   Existing Warm Freshwater Habitat (WARM);
   Existing Wildlife Habitat (WILD);
   Existing Rare, Threatened, or Endangered Species (RARE); and
   Existing Wetland Habitat (WET)

   For the Sepulveda Channel and Centinela Creek:

   Potential Water Contact Recreation (REC1);
   Existing Non-contact Recreation (REC2);
   Potential Warm Freshwater Habitat (WARM); and
   Existing Wildlife Habitat (WILD).

6. Due to typographical errors, Table 2-1 in the *Basin Plan* incorrectly designates three surface waters for Cold Freshwater Habitat (COLD), including:

   Calleguas Creek (Hydro Unit No. 403.11);
   Arroyo Las Posas (Hydro Unit No. 403.12); and
   Arroyo Las Posas (Hydro Unit No. 403.62).

7. Changes to designations of beneficial uses are subject to approval by the State Water Resources Control Board, Office of Administrative Law, and the United States Environmental Protection Agency.

THEREFORE, BE IT RESOLVED THAT the *Water Quality Control Plan for the Los Angeles Region (Basin Plan)* is hereby amended as follows:

1. The Municipal and Domestic Supply (MUN) beneficial use will be removed from the following surface and ground waters:

   a. **Ballona Creek** - From Cochran Avenue & Venice Avenue to the estuary at Beethoven Street;

   b. **Sepulveda Channel** - From Military Avenue & Queensland Street to the confluence with Ballona Creek;

   c. **Centinela Creek** - From La Cienega Boulevard & the 405 Freeway to the confluence with Ballona Creek;

   d. **Dominguez Channel** - From Kornblum Avenue & West 116th Street to the estuary at Vermont Avenue;

   e. **Cerritos Channel** - From Clark Avenue & Ashworth Street, Paramount Boulevard & Eckleson Street, Downey Avenue & 54th Street, and the Long Beach Airport to the estuary at East De Leon Street;

   f. **Lower San Gabriel River** - From Firestone Boulevard to the estuary at East De Leon Street;

   g. **Coyote Creek** - From the northernmost crossing of the Los Angeles-Orange County Line to the confluence with the San Gabriel River; and

   h. **Oxnard Industrial Drain** - From East Wooley Avenue to the estuary at Hueneme Road.

   i. The West Basin portion of the Los Angeles Coastal Plain groundwater basin, underlying the Chevron Refinery in El Segundo and nearby areas, as defined by the Pacific Ocean to the west; Imperial Highway to the north; Sepulveda Boulevard to the east; and Valley Boulevard and 15th Street to the south; and

j. The West Basin portion of the Los Angeles Coastal Plain groundwater basin, underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors, defined as seaward of the line formed by Shoshonean Road, Via Cabrillo Marina, West 22nd Street, Crescent Avenue, Harbor Boulevard, the Terminal Island Freeway (47), Pacific Avenue, John S. Gibson Avenue, "B" Street, Alameda Street, Anaheim Street, the Long Beach Freeway (710), and Shoreline Drive to the eastern end of the Downtown Long Beach Marina.

2. The following surface waters will be assigned the specified beneficial uses:

For the Oxnard Industrial Drain:

Potential Industrial Service Supply (IND);
Existing Industrial Process Supply (PROC);
Potential Agriculture Supply (AGR);
Potential Water Contact Recreation (REC1);
Existing Non-contact Recreation (REC2);
Existing Warm Freshwater Habitat (WARM);
Existing Wildlife Habitat (WILD);
Existing Rare, Threatened, or Endangered Species (RARE); and
Existing Wetland Habitat (WET).

For the Sepulveda Channel and Centinela Creek:

Potential Water Contact Recreation (REC1);
Existing Non-contact Recreation (REC2);
Potential Warm Freshwater Habitat (WARM); and
Existing Wildlife Habitat (WILD).

3. The COLD beneficial use will be removed from the following surface waters:

Calleguas Creek (Hydro Unit No. 403.11);
Arroyo Las Posas (Hydro Unit No. 403.12); and
Arroyo Las Posas (Hydro Unit No. 403.62).

4. All remaining waters designated as MUN will continue to be protected as such. Any further changes to designations for MUN or other beneficial uses will require another amendment of the *Basin Plan*.

I, Dennis A. Dickerson, 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, Los Angeles Region, on November 2, 1998.

Dennis A. Dickerson
Executive Officer

Proposed Changes to the *Basin Plan*

Changes to Chapter Two, Pages 2-3 and 2-4

Beneficial Uses for Specific Waterbodies

Tables 2-1 through 2-4 list the major regional waterbodies and their designated beneficial uses. These tables are organized by waterbody type:
(i) inland surface waters (rivers, streams, lakes, and inland wetlands), (ii) ground water, (iii) coastal waters (bays, estuaries, lagoons, harbors, beaches, and ocean waters), and (iv) coastal wetlands. Within Table 2-1 waterbodies are organized by major watersheds. Hydrologic unit, area, and subarea numbers are noted in the surface water tables (2-1, 2-3, and 2-4) as a cross reference to the classification system developed by the California Department of Water Resources. For those surface waterbodies that cross into other hydrologic units, such waterbodies appear more than once in a table. Furthermore, certain coastal waterbodies are duplicated in more than one table for completeness (e.g., many lagoons are listed both in inland surface waters and in coastal features tables). Major groundwater basins are classified in Table 2-2 according to the Department of Water Resources Bulletin No. 118 (1980). A series of maps (Figures 2-1 to 2-22) illustrates regional surface waters, ground waters, and major harbors.

The Regional Board contracted with the California Department of Water Resources for a study of beneficial uses and objectives for the upper Santa Clara River (DWR, 1989) and for another study of the beneficial uses and objectives the Piru, Sespe, and Santa Paula Hydrologic areas of the Santa Clara River (DWR, 1993). In addition, the Regional Board contracted with Dr. Prem Saint of California State University at Fullerton to survey and research beneficial uses of all waterbodies throughout the Region (Saint, et al., 1993a and 1993b). Information from these studies was used to update this Basin Plan.

State Board Resolution No. 88-63 (Sources of Drinking Water) followed by Regional Board Resolution No. 89-03 (Incorporation of Sources of Drinking Water Policy into the Water Quality Control Plans (Basin Plans)) states that " All surface and ground waters of the State are considered to be suitable, or potentially suitable, for municipal or domestic waters supply and should be so designated by the Regional Boards ... [with certain exceptions which must be adopted by the Regional Board]." In adherence with these policies, all inland surface and ground waters were ~~have been~~ designated as MUN in 1989- presuming at that time at least a potential suitability for such a designation, but with the understanding that waters which met the exemption criteria would be identified through a future review process.

These policies allow for Regional Boards to consider the allowance of certain exceptions according to criteria set forth in SB Resolution No. 88-63. ~~While supporting the protection of all waters that may be used as a municipal water supply in the future, the Regional Board realizes that there may be exceptions to this policy.~~

~~In recognition of this fact, the Regional Board will soon implement a detailed review of criteria in the State Sources of Drinking Water policy and identify those waters in the Region that should be excepted from the MUN designation. Such exceptions will be proposed under a special Basin Plan Amendment and will apply exclusively to those waters designated as MUN under SB Res. No. 88-63 and RB Res. No. 89-03.~~

Based on a detailed review of criteria in the State Sources of Drinking Water policy, federal water quality standards regulations, and the requirements of the Porter-Cologne Water Quality Act, the Regional Board

exempted a number of surface and ground waterbodies from the MUN designation in RB Res. No. 98-xx. All of the surface waters met the following criteria: there was no evidence of an actual "existing" MUN use, any potential future use as a source of drinking water was highly improbable, and continuous concrete lining exists in the dedesignated reaches. Through this review, the MUN beneficial use was found to be unattainable for these waterbodies. The criteria used to dedesignate the ground waterbodies included their location seaward of injection barriers which were established to control saltwater intrusion, the lack of evidence of an actual "existing" MUN use, and any potential future use as a source of drinking water was highly improbable.

In the future, further review and/or site specific water quality objectives may result in additional dedesignations for the MUN beneficial use.

~~In the interim, no new effluent limitations will be placed in Waste Discharge Requirements as a results of these designations until the Regional Board adopts this amendment.~~

The following sections summarize general information regarding beneficial uses designated for the various waterbody types.

Changes to Other Chapters

Where Regional Board Resolution No. 89-03 is mentioned in other chapters, it will be replaced a citation of ~~by~~ this resolution.

Table 2-1. Beneficial Uses of Inland Surface Waters.

Watershed[a]	Hydro Unit #	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
VENTURA COUNTY COASTAL STREAMS																									
Los Sauces Creek	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Poverty Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Madrone Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Javon Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Padre Juan Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		E
McGrath Lake c	403.11									Ed	Ed	P					E		E		Ee				E
Big Sycamore Canyon Creek	404.47	P*				I				I	I			I	E				E			P	P		E
Little Sycamore Canyon Creek	404.45	P*								I	I			I					E		E		P		
Oxnard Industrial Drain (abv Hueneme Rd.)	403.11		P	E	P					P	E			E					E		E				E
VENTURA RIVER WATERSHED																									
Ventura River Estuary c	402.10							E		E	E	E		E			E	E	E		Ee	Ef	Ef	E	E
Ventura River	402.10	P*	E		E	E	E			E	E			E	E				E		E	E	E		E
Ventura River	402.20	E	E	E	E	E	E			E	E			E	E				E		Eg	E	E		E
Canada Larga	402.10	P*		I	I	I	I			I	I			I	I				E			I	I		
Lake Casitas	402.20	E	E	E	E	P	P		P	Ph	E			E	E				E		E				
Lake Casitas tributaries	402.20	E*			P	E				E	E			E	E				E		P	E	E		E
Coyote Creek below dam	402.20	P*				E				P				E	E				E			E	E		E
San Antonio Creek	402.20	E	E	E	E	E				E	E			E	E				E			E	E		E
San Antonio Creek	402.32	E	E	E	E	E	E			E	E			E	E				E			E	E		E
Lion Creek	402.31	I*	I	I	I					I	I			I	I				E						
Reeves Creek	402.32	I*	I	I	I	I				I	I			I	I				E			I	I		
Mirror Lake	402.20	P*				E				P	E			E					E						E
Ojai Wetland	402.20	P*								P	E			E					E						E
Matilija Creek	402.20	P*				E				E	E				E				E			E	E		E
Murietta Canyon Creek	402.20	P*				E				E	E				E				E			E	E		E
North Fork Matilija Creek	402.20	E*	E	E	E	E				E	E			E	E				E		E	E	E		E
Matilija Reservoir	402.20	E			E	E	E			E	E			E	E				E			E	E		E
SANTA CLARA RIVER WATERSHED																									
Santa Clara River Estuary c	403.11							E		E	E	E					E	E	E		Ee	Ef	Ef		E
Santa Clara River	403.11	P*	E	E	E	E	E			E	E			E	E				E		E	E			E
Santa Clara River	403.21	P*	E	E	E	E	E			Ed	E			E					E		E	E			E
Santa Clara River	403.31	P*	E	E	E	E	E			Ed	E			E					E		E	E			E
Santa Clara River	403.41	P*	E	E	E	E	E			E	E			E					E		E	E			E
Santa Clara River	403.51	P*	E	E	E	E	E			E	E			E					E		E				E
Santa Clara River (Soledad Cyn)	403.55	E*	E	E	E	E	E			E	E			E					E		Ei				E
Santa Paula Creek	403.21	P	E	E	E	E	E			E	E			E	E				E		E	E	E		

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03 Some designations may still be considered for exemptions at a later date. (See pages 2-3, 4 for details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or sub area boundaries Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
d Limited public access precludes full utilization.
e One or more rare species utilize all ocean, bays, esturaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
g Condor refuge.
h Water contact recreational activities prohibited by Casitas MWD.
i Soledad Canyon is the habitat of the Unarmored Three-Spine Stickleback.

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

Watershed[a]	Hydro Unit #	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
Santa Clara River Watershed (Cont)																									
Mint Canyon Creek	403.51	I	I	I	I	I	I			Im	I			I					E						
Mint Canyon Creek	403.63	I*	I	I	I	I	I			Im	I			I					E						
Agua Dulce Canyon Creek	403.54	I*	I	I	I	I	I			I	I			I					E		E				
Agua Dulce Canyon Creek	403.55	I*			I	I	I			I	I			I					E						
Aliso Canyon Creek	403.55	P*			P	E				E	E			E					E						E
Lake Hughes	403.61	P	P	P	P	P	P			E	E			E					E						
Munz Lake	403.51	P*	P	P	P	E	P			E	E			E					E						
Lake Elizabeth	403.51	P	P	P	P	P	P			E	E			E					E		E				
Calleguas-Conejo Creek Watershed																									
Mugu Lagoon c	403.11							E		Pn	E	Ed					E	E	Eo	E	Ee,p	Ef	Ef	Ed	E
Calleguas Creek Estuary c	403.11							P		Pn	E	E					E		E		Ee,p	Ef	Ef		E
Calleguas Creek	403.12	P*			E	E	E			E	E			E	E				E		Ep				E
Calleguas Creek	403.11	P*	E	E	E	E				Eq	E			E					E						
Revolon Slough	403.11	P*	P		E	E				Eq	E			E					E						E
Beardsley Wash	403.61	P*					E			E	E			E					E						
Conejo Creek	403.12	P*	E	E	E	E				Eq	E			E					E						
Conejo Creek	403.63	P*				I	I			I	I			I					E				E		
Arroyo Conejo	403.64	P*				I	I			I	I			I					E		E				
Arroyo Conejo	403.68	P*				I	I			I	I			I					E						
Arroyo Santa Rosa	403.63	P*				I	I			I	I			I					E						
Arroyo Santa Rosa	403.68	P*				I	I			I	I			I					E						
North Fork Arroyo Conejo	403.64	P*			E	E				E	E			E					E				E		
Arroyo Las Posas	403.12	P*	P	P	P	E				E	E			E	P				E						
Arroyo Las Posas	403.62	P*	P	P	P	E	E			E	E			E	P				E						
Arroyo Simi	403.62	P*	I			I	I			I	I			I					E		E				
Arroyo Simi	403.67	I*	I			I	I			I	I			I					E						
Tapo Canyon Creek	403.66	I*		P	P	I				I	I			I					E						
Tapo Canyon Creek	403.67	I*		P	P	I				I	I			I					E						
Gillibrand Canyon Creek	403.68	P*				I	I			I	I			I					E						
Gillibrand Canyon Creek	403.67	P*				I				I	I			I					E						
Lake Bard (Wood Ranch Reservoir)	403.67	E	E	E	E	P				Pr	Er			E					E						
Los Angeles County Coastal Streams																									
Arroyo Sequit	404.44	P*				I				E	E			E	E				E		E	E	E		E
San Nicholas Canyon Creek	404.43	P*								I	I			I					E						

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03 Some designations may still be considered for exemptions at a later date. (See pages 2-3 for details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or sub area boundaries Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
d Limited public access precludes full utilization.
e One or more rare species utilize all ocean, bays, esturaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
m Access prohibited by Los Angeles County DPW in the concrete-channelized areas.
n Area is currently under control of the Navy: swimming is prohibited.
o Marine habitats of the Channel Islands and Mugu Lagoon serve as pinneped haul-out areas for one or more species (i.e., sea lions).
p Habitat of the Clapper Rail.
q Whenever flow conditions are suitable.

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

Watershed[a]	Hydro Unit #	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
LA COUNTY COASTAL STREAMS (CONT)																									
Los Alisos Canyon Creek	404.42	P*								I	I			I					E		E				
Lachusa Canyon Creek	404.42	P*								I	I			I					E						
Encinal Canyon Creek	404.41	P*								I	I			I					E		E				
Trancas Canyon Creek	404.37	E*								Em	E			E					E		E				
Dume Lagoon c	404.36							E		E	E	E					E		E		Ee	Pf	Pf		E
Dume Creek (Zuma Canyon)	404.36	E*								E	E			E	E				E		E	P	P		
Ramirez Canyon Creek	404.35	I*								I	I			I					E				P		
Escondido Canyon Creek	404.34	I*								I	I			I					E		E				
Latigo Canyon Creek	404.33	I*								I	I			I					E		E				
Solstice Canyon Creek	404.32	E*								E	E			E					E			P	P		
Puerco Canyon Creek	404.31	I*								I	I			I					E						
Corral Canyon Creek	404.31	I*								I	I			I					E						
Carbon Canyon Creek	404.16	P*								I	I			I					E						
Las Flores Canyon Creek	404.15	P*								I	I			I					E						
Piedra Gorda Canyon Creek	404.14	P*								I	I			I					E						
Pena Canyon Creek	404.13	P*								I	I			I	E				E						
Tuna Canyon Creek	404.12	P*								I	I			I					E						
Topanga Lagoon c	404.11							E		E	E	E					E		E		Ee	Ef	Ef		E
Topanga Canyon Creek	404.11	P*								I	I			E	E				E			P	I		
Santa Ynez Canyon	405.13	P*								I	E			I					E		E				
Santa Ynez Lake (Lake Shrine)	405.13	P*								Pk	E			E					E						
Santa Monica Canyon Channel	405.13	P*								Pf	I			P					P						
Rustic Canyon Creek	405.13	P*								I	I			I					E						
Sullivan Canyon Creek	405.13	P*								I	I			I					E						
Mandeville Canyon Creek	405.13	P*								I	I			I					E						
Coastal Streams of Palos Verdes Canyon Streams trib.to Coastal	405.11	P*				I				I	I			I					E		E				
Streams of Palos Verdes	405.12	P*				I				I	I			I					E		Et				
Bixby Slough and Harbor Lake	405.12	P*								E	E			E					E		E				E
Cos Carritos Wetlands c	405.15							E		E	E	E					E		E		Ee	Pf	Pf	E	E
Los Cerritos Channel Estuary c	405.12		E					E		Es	E	E					E	E	E		Ee	Ef	Ef	E	
Sims Pond	405.15	P*								P	E			P					E						E
Los Cerritos Channel ~~to Estuary~~ (abv E. Del Leon St.	405.15	P*								P	I			I					E						
Colorado Lagoon	405.12									E	E	E		P					E					E	
Madrona Marsh	405.12									P	E			P					E						E
Stone Canyon Reservoir	405.13	E*	E	E		P				Pk	E			E					E						
Hollywood Reservoir	405.14	E*	E	E		P				Pk	E			E					E						
Franklin Canyon Reservoir	405.14	E*								Pk u				Pu											
Upper Franklin Canyon Reservoir	405.14	E*	E	E		P				P	E			E					E						E

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03 Some designations may still be considered for exemptions at a later date. (See pages 2-3, 4 for details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or sub area boundaries Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
e One or more rare species utilize all ocean, bays, esturaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
k Public access to reservoir and its surrounding watershed is prohibited by the Los Angeles Department of Water and Power.
m Access prohibited by Los Angeles County DPW in concrete-channelized areas.
s Access prohibited by Los Angeles County DPW.
t RARE applies only to Agua Magna Canyon and Sepulveda Canyon areas.
u These reservoirs are covered and thus inaccessible

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

Watershed[a]	Hydro Unit #	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
MALIBU CREEK WATERSHED																									
Malibu Lagoon c	404.21							E		E	E						E	E	E		Ea	Ef	Ef		E
Malibu Creek	404.21	P*								E	E			E	E				E		E	E	E		E
Cold Creek	404.21	P*								E	E				P				E		E		P		E
Las Virgenes Creek	404.22	P*								Em	E			E	P				E		E	P	P		E
Century Reservoir	404.21	P*								E	E			E					E						E
Malibu Lake	404.24	P*						E		E	E			E					E		E				E
Medea Creek	404.23	P*				I				Im	I			I	P				E		E				E
Medea Creek	404.24	I*				I				Em	E			E					E						E
Lindero Creek	404.23	P*								I	I			I					E						
Triunfo Creek	404.24	P*								Im	I			I					E						
Triunfo Creek	404.25	P*				I				Im	I			I					E		E				
Westlake Lake	404.25	P*						E		E	E			E					E						
Potero Valley Creek	404.25	P*				I				I	I			P					E						
Lake Eleanor Creek	404.25	P*				I				I	I			I					E						
Lake Eleanor	404.26	P*				E				E	E			E					E		E				E
Las Virgenes(Westlake Reservoir)	404.25	E	E	E	E					Pk,v	E			P					E						
Hidden Valley Creek	404.26	I*				I				I	I			I					E						
Lake Sherwood	404.26	P*				E		E		E	E			E					E						E
BALLONA CREEK WATERSHED																									
Ballona Creek Estuary c,w	405.13							E		E	E	E					E	E	E		Ea	Ef	Ef	E	
Ballona Lagoon/Venice Canals c	405.13							E		E	E	E					E	E	E		Ea	Ef	Ef	E	E
Ballona Wetlands c	405.13									E	E						E		E		Ea	Ef	Ef		E
Del Rey Lagoon c	405.13							E		E	E	E					E		E		Ea	Ef	Ef		E
Ballona Creek to Estuary (abv Beethoven St.	405.13	P*								Ps	E			P					P						
Ballona Creek	405.15	P*								Ps	E			P					E						
Sepulveda Channel	405.13									Ps	E			P					E						
Centinela Creek	405.13									Ps	E			P					E						
DOMINGUEZ CHANNEL WATERSHED																									
Dominguez Channel Estuary c,w	405.12							p		Es	E	E					E	E	E		Ea	Ef	Ef		
Dominguez Channel to Estuary	405.12	P*								Ps	E			P					P		E				
LOS ANGELES RIVER WATERSHED																									
Los Angeles River Estuary c,w	405.12		E					E		E	E	E					E	E	E		EA	Ef	Ef	P	E
Los Angeles River to Estuary	405.12	P*	P	P		E				Es	E			E				E	E		E	P	P	Ps	
Los Angeles River	405.15	P*	P			E				Es	E			E					P						
Los Angeles River	405.21	P*	P			E				E	E			E					E						E
Compton Creek	405.15	P*				E				Es	E			E					E						E

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03 Some designations may still be considered for exemptions at a later date. (See pages 2-3,4 for details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or sub area boundaries Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
e One or more rare species utilize all ocean, bays, esturaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
k Public access to reservoir and its surrounding watershed is prohibited by the Los Angeles Department of Water and Power
m Access prohibited by Los Angeles County DPW in concrete-channelized areas.
s Access prohibited by Los Angeles County DPW.
v Public water supply reservoir. Owner prohibits public entry..
w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionally equivalent to estuaries.

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

Watershed[a]	Hydro Unit #	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
LOS ANGELES RIVER WATERSHED (CONT)																									
ISOLATED LAKES AND RESERVOIRS:																									
Eagle Rock Reservoir	405.25	E*								Pk,u				Pu					E						
Echo Lake	405.15	P*								P	E			P					E						
El Dorado Lakes	405.15	P*								E	E			P					E						E
Elysian Reservoir	405.15	E*	E	E						Pk	E			P					E						
Encino Reservoir	405.21	E*	E	E						Pk	E			P					E						
Ivanhoe Reservoir	405.15	E*	E	E						Pk	E			P					E						
Lincoln Park Lake	405.15	P*								P	E			P					E						
Silver Lake Resevoir	405.15	E*	E	E						Pk	E			P					E						
Toluca Lake	405.21	P*								Pk	E			P					E						
SAN GABRIEL RIVER WATERSHED																									
San Gabriel River Estuary c,w	405.15		E					E		E	E	E					E	E	E		Ee	Ef	Ef	P	
San Gabriel River (Dp Leon St. to Firestone Blvd Estuary)	405.15	P*								Em	E			P					P						
San Gabriel River Whittier N-Firestone	405.15	P*	P	P		I				Em	E			I					E		E				
San Gabriel River	405.41	P*				I				Im	I			I					E						
San Gabriel River	405.42	E	E	E	E	E				E	E			E	E				E		E				
San Gabriel River, Main Stem z	405.43	E	E	E	E	E				E	E			E	E				E				E		
North Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below.																							
West Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below.																							
East Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below.																							
Coyote Creek to Estuary	405.15	P*	P	P						Pm	I			P					P		E				
Whittier Narrows Flood Control Basin	405.41	P*				E				E	E			E					E		P				
Legg Lake	405.41	P*				E				E	E			E	E				E						E
San Jose Creek	405.41	P*				I				Pm	I			I					E						
San Jose Creek	405.51	P*				I				Pm	I			I					E						
Puente Creek	405.41	P*				I				P	I			P					P						
Thompson Wash	405.52	P*				I				Im	I			I					E						
Thompson Creek	405.53	P*				I				I	I			I					E		E				
Thompson Creek Dam & Reservoir	405.53	P*				I				Px	I			I					E		E				
Walnut Creek Wash	405.41	P*				I				Im	I			I					E						E
Big Dalton Wash	405.41	P*				I				Pm	I			P					P						
Big Dalton Canyon Creek	405.41	P*				I				I	I			I					E						E
Mystic Canyon	405.41	P*				I				I	I			I					E						
Big Dalton Dam & Reservoir	405.41	P*				E				Px	E			E					E						

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03 Some designations may still be considered for exemptions at a later date. (See pages 2-3, 4 for details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or sub area boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
e One or more rare species utilize all ocean, bays, esturaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
k Public access to reservoir and its surrounding watershed is prohibited by the Los Angeles Department of Water and Power
m Access prohibited by Los Angeles County DPW in concrete-channelized areas.
u This reservoir is covered and thus inaccessible.
x Owner prohibits public entry.
z Listed twice in this table (see next page).

Table 2-2. Beneficial Uses of Ground Waters (Continued).[ac]

DWR Basin No.[ad]	BASIN	MUN	IND	PROC	AGR	AQUA
4-11	LOS ANGELES COASTAL PLAIN					
	Central Basin	E	E	E	E	
	West Coast Basin	E	E	E	E	
	Underlying Ports of Los Angeles and Long Beach		E	E	E	
	Underlying El Segundo, Seaward of barrier		E	E	E	
	Remainder of Basin	E	E	E	E	
	Hollywood Basin	E	E	E	E	
	Santa Monica Basin	E	E	E	E	
4-12	SAN FERNANDO VALLEY					
	Sylmar Basin	E	E	E	E	
	Verdugo Basin	E	E	E	E	
	San Fernando Basin					
	West of Highway 405	E	E	E	E	
	East of Highway 405 (overall)	E	E	E	E	
	Sunland-Tujunga area[ag]	E[ah]	E	E	E	
	Foothill area[ag]	E	E	E	E	
	Area encompassing RT-Tujunga-Erwin-N. Hollywood-Whithall-LA/Verdugo-Crystal Springs-Headworks-Glendale/Burbank Well Fields Narrow area (below confluence of the Verdugo Wash and the Los Angeles River	E	E	E	E	
	Eagle Rock Basin	E	E	E	E	
4-13	SAN GABRIEL VALLEY	E	E	E	E	
	Raymond Basin					
	Monk Hill sub-basin	E	E	E	E	
	Santa Anita area	E	E	E	E	
	Pasadena area	E	E	E	E	
	Main San Gabriel Basin					
	Western area[ai]	E	E	E	E	
	Eastern area[ai]	E	E	E	E	
	Puente Basin	E	E	E	E	

DWR Basin No.[ad]	BASIN	MUN	IND	PROC	AGR	AQUA
4-14	UPPER SANTA ANA VALLEY					
8-2[aj]	Live Oak area	E	E	E	E	—
	Claremont Heights area	E	E	E	E	
	Pomona area	E	E	E	E	
	Chino area	E	E	E	E	
	Spadra area	E	E	E	E	
4-15	TIERRA REJADA	E	P	P	E	
4-16	HIDDEN VALLEY	E	P		E	
4-17	LOCKWOOD VALLEY	E	E		E	
4-18	HUNGRY VALLEY AND PEACE VALLEY	E	P	E	E	
4-19	THOUSAND OAKS AREA	E	E	E	E	
4-20	RUSSELL VALLEY					
	Russell Valley	E	P		E	
	Triunfo Canyon area	P	P		E	
	Lindero Canyon area	P	P		E	
	Las Virgenes Canyon area	P	P		E	
4-21	CONEJO-TIERRA REJADA VOLCANIC AREA[ak]	E			E	
4-22	SANTA MONICA MOUNTAINS SOUTHERN SLOPES[al]					
	Camarillo area	E	P		E	
	Point Dume area	E	P		E	
	Malibu Valley	P	P		E	
	Topanga Canyon area	P	P		E	
	SAN PEDRO CHANNEL ISLANDS[am]					
	Anacapa Island	P	P			
	San Nicolas Island	E	P			
	Santa Catalina Island	E	P		E	
	San Clemente Island	P	P			
	Santa Barbara Island	P	P			

E: Existing beneficial use
P: Potential beneficial use
See Pages 2-1 to 2-3 for descriptions of beneficial uses.

Footnotes are consistent on all beneficial use tables.

ac Beneficial uses for ground waters outside of the major basins listed on this table and outlined in Figure 1-9 have not been specifically listed. However, ground waters outside of the major basins are, in many cases, significant sources of water. Furthermore, ground waters outside of the major basins are either potential or existing sources of water for downgradient basins, and as such, beneficial uses in the downgradient basins shall apply to these areas.

ad Basins are numbered according to DWR Bulletin No. 118-80 (DWR, 1980).

ag The category for the Foothill Wells area in the old Basin Plan incorrectly grouped ground water in the Foothill area with ground water in the Sunland-Tujunga area. Accordingly, the new categories, Foothill area and Sunland-Tunjunga area, replace the Foothill Wells area.

ah Nitrite pollution in the ground water of the Sunland-Tujunga area currently precludes direct MUN uses. Since the ground water in this area can be treated or blended for both, it retains the MUN designation.

ai All of the ground water in the Main San Gabriel Basin is covered by the beneficial uses listed under Main San Gabriel Basin-eastern area dna western area. Walnut Creek, Big Dalton Wash and Little Dalson Wash separate the eastern area form the western area (see dashed line on Fig. 2-17). Any ground water upgradient of these areas is subject to downgradient beneficial uses and objectives, as explained in Footnote ac.

aj The border between Regions 4 and 8 crosses the Upper Santa Ana Valley Ground Water Basin.

ak Ground water in the Conejo-Tierra Rejada Volcanic Area occurs primarily in fractured volcanic rocks in the western Santa Monica Mountains and Conejo Mountain areas. These areas have not been delineated on Fig. 1-9.

al With the exception of ground water in Malibu Valley (DWR Basin No. 4-22), ground waters along the southern slopes of the Santa Monica Mountains are not considered to comprise a major basin and accordingly have not been designated a basin number by DWR or outlined on Fig. 1-9.

am DWR has not designated basins for ground waters on the San Pedro Channel Islands.

Staff Report

Revised Beneficial Use Designations for Sources of Drinking Water

I. INTRODUCTION

In 1989, the Los Angeles Regional Water Quality Control Board (RWQCB) adopted Resolution 89-03, the Sources of Drinking Water Policy. This policy stated that all ground waters and inland surface waters previously undesignated as Municipal and Domestic Water Supply (MUN) in the Region would be designated for protection as existing or potential sources of drinking water.

Review of the Region's surface and ground waters has shown that there are several which, because of modifications or existing contaminant levels (i.e., salt water intrusion), could not be reasonably used as drinking water sources. Therefore, it is proposed that a limited number of these waterbodies be dedesignated for MUN beneficial use.

II. PURPOSE OF DOCUMENT

The purpose of this document is to present the RWQCB's analysis of the need for, and the effects of, the proposed dedesignations. The RWQCB must comply with the requirements of the California Environmental Quality Act (CEQA) when adopting Basin Plan Amendments for water quality control. CEQA authorizes the Secretary of the Resources Agency to certify a regulatory program of a State agency as exempt from the requirements for preparing Environmental Impact Reports, Negative Declarations, and Initial Studies if certain conditions are met. The process that the RWQCB is using to adopt the proposed policy has received certification from the Resources Agency to be "functionally equivalent" to the CEQA process (Title 22, California Code of Regulations, Section 15251(g)). Therefore, this report is called a Functional Equivalent Document and fulfills the requirements of CEQA for preparation of an environmental document. The environmental impacts that could occur as a result of the proposed action are discussed in the Environmental Checklist Form attached to the Notice of Filing.

III. BACKGROUND

In 1986, California voters passed Proposition 65, the Safe Drinking Water and Toxic Enforcement Act, which required public notification when specified toxic chemicals were discharged into "sources of drinking water." When the State Water Resources Control Board (SWRCB) analyzed the definitions for "Sources of Drinking Water" found in the nine (9) Regional Board Water Quality Control Plans, it was determined that the plans did "not provide sufficient detail in the description of waterbodies designated MUN to judge clearly what is, or is not, a source of drinking water for various purposes."[1]

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[1] See SWRCB Resolution No. 88-63 (see Appendix A)

Therefore in 1988, the SWRCB adopted Resolution No. 88-63 (SB 88-63), the Sources of Drinking Water Policy, which stated that "All surface and ground waters of the state are considered to be suitable, or potentially suitable, for municipal or domestic water supply and should be so designated by the Regional Boards." SB 88-63 also included some criteria which could be used by the Regional Boards to exempt waterbodies from this designation through the Basin Plan amendment process. These criteria included waters higher than 3,000 mg/L total dissolved solids (TDS); waters which cannot be reasonably treated for domestic use; sources with yields below 200 gallons per day; surface waters in systems designed or modified to convey wastewaters and/or runoff; and, specific ground waters regulated as geothermal sources.

In 1989, the Los Angeles RWQCB adopted the Sources of Drinking Water Policy as Resolution No. 89-03 (RB 89-03), incorporating the State provisions of SB 88-63 into the Region's *Basin Plan*. At the time of adoption, Southern California was experiencing drought conditions and due to the high value of local water supplies given the Region's dependence on imported water, no waterbodies were exempted from the municipal and domestic water supply designation. The result of RB 89-03 was that the *Basin Plan* was amended to designate all previously undesignated inland surface waterbodies as at least potential sources of municipal or domestic drinking water. It should be noted that this was unnecessary for ground waters as all regional ground waterbodies have always been so designated.

During the 1994 update of the *Basin Plan* and the 1995 Triennial Review, several groups of dischargers questioned the Sources of Drinking Water Policy and the resulting designations. Specifically, they felt that there were some waterbodies designated as potential sources of drinking water that would never be used as drinking water. As a result of these concerns the Los Angeles RWQCB made review of the Sources of Drinking Water Policy a high priority item in the Triennial Review.

To initiate this review, three planning sessions were held in both Monterey Park and Ventura in June and October of 1997. Over 50 parties including dischargers, water suppliers, agencies, and environmental groups attended these open meetings. During these sessions a tentative consensus was reached on the appropriate criteria for dedesignation and a list of waterbodies proposed for dedesignation. The primary criterion was that the dedesignated surface waterbodies must have been paved for flood control. The rationale for this decision was that the function of flood control modifications are to move runoff to the ocean as quickly as possible which results in no current, reasonable potential for water conservation. The second criterion was that the concrete lining must be contiguous from the upstream point of dedesignation to the estuary outlet so that there is no potential for interaction with ground water resources. The outcome of these planning sessions along with a tentative list of waterbodies proposed for dedesignation were presented to the Regional Board members at the December 1997 Regional Board meeting.

IV. PROJECT DESCRIPTION

A. PROJECT DEFINITION

The project is a RWQCB Policy that includes provisions to:

(1) Dedesignate the Municipal and Domestic Water Supply (MUN) beneficial use from the following waterbodies[2]:

(a) Ballona Creek - From Cochran Avenue & Venice Avenue to the Estuary;

(b) Sepulveda Channel - From Military Avenue & Queensland Street to the confluence with Ballona Creek;

(c) Centinela Creek - From La Cienega Boulevard & the 405 Freeway to the confluence with Ballona Creek;

(d) Dominguez Channel - From Kornblum Avenue & West 116th Street to the Long Beach Harbor;

(e) Cerritos Channel - From Clark Avenue & Ashworth Street, Paramount Boulevard & Eckleson Street, Downey Avenue & 54th Street, and the Long Beach Airport to Alamitos Bay;

(f) Lower San Gabriel River - From Firestone Boulevard to the Estuary;

(g) Coyote Creek - From the northernmost crossing of the Los Angeles County-Orange County Line to the confluence with the San Gabriel River;

(h) Oxnard Industrial Drain - From East Wooley Avenue to the Estuary at Hueneme Road;

(i) The portion of the West Basin of the Los Angeles Coastal Plain ground water basin underlying the Chevron facility in El Segundo and nearby areas; and,

(j) The portion of the West Basin of the Los Angeles Coastal Plain ground water basin underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors which have been filled with marine dredge sediments during the past 100 years.

(2) The Oxnard Industrial Drain is not specifically listed in the *Basin Plan* Table of Beneficial Uses (Table 2-1). Therefore, in adding this waterbody to the *Basin Plan* Table of Beneficial Uses, the following beneficial uses will be formally designated for the Oxnard Industrial Drain, based on field observation:

(a) Potential Industrial Service Supply, (IND);

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[2] Maps of these waterbodies are included in Appendix B.

(b) Existing Industrial Process Supply, (PROC);
(c) Potential Agriculture Supply, (AGR);
(d) Potential Water Contact Recreation, (REC1);
(e) Existing Non-contact Recreation, (REC2);
(f) Existing Warm Freshwater Habitat, (WARM); and,
(g) Existing Wildlife Habitat, (WILD).

(3) The Sepulveda Channel and Centinela Creek are not specifically listed in the *Basin Plan* Table of Beneficial Uses (Table 2-1). Therefore, in adding these waterbodies to the *Basin Plan* Table of Beneficial Uses, the following beneficial uses will be formally designated for these waterbodies, based on required support of downstream beneficial uses (Ballona Creek) and field observation:

(a) Potential Water Contact Recreation, (REC1);
(b) Existing Non-contact Recreation, (REC2);
(c) Potential Warm Freshwater Habitat, (WARM); and,
(d) Potential Wildlife Habitat, (WILD).

(4) Correct the following typographical errors from the 1994 *Basin Plan* Update Table 2-1 Beneficial Uses of Inland Surface Waters by removing the Cold Freshwater Habitat (COLD) designation from:

(a) Calleguas Creek (Hydro Unit No. 403.11);
(b) Arroyo Las Posas (Hydro Unit No. 403.12); and,
(c) Arroyo Las Posas (Hydro Unit No. 403.62).

B. STATEMENT OF GOALS

(1) Provide a reasonable response to concerns expressed by dischargers;

(2) Achieve a balance between water quality goals and the costs borne by the Public to achieve those goals without jeopardizing water conservation efforts or impacting the quality of ground waters; and,

(3) Correct typographical errors in the 1994 update of the *Basin Plan.*

C. PROPOSED ACTION

The proposed action is RWQCB adoption of the proposed Policy outlined in the Project Description in A above. Adoption of this proposed Policy will constitute a Basin Plan Amendment removing the Municipal and Domestic Supply (MUN) beneficial use from the waterbodies listed in the Project Definition, adding the beneficial uses listed in the Project Definition to the Oxnard Industrial Drain, Sepulveda Channel, and Centinela Creek, and correcting typographical errors in Table 2-1 (Beneficial Uses of Inland Surface Waters) of the 1994 *Basin Plan* update.

V. ANALYSIS OF ISSUES AND ALTERNATIVES

A. ISSUES

1. De-designation Through Basin Plan Amendment

It should be noted that beneficial uses, including Municipal and Domestic Supply (MUN), are documented in the Water Quality Control Plan (*Basin Plan*). Therefore, a Basin Plan amendment is required to de-designate beneficial uses.

When the Regional Boards adopted the State Board Resolution No. 88-63, Sources of Drinking Water, the Regional Board could have applied the State Board criteria and limited additions to the *Basin Plan* per the State Policy. Due to previously stated reasons, the Regional Board did not limit additions per the State Policy and, in 1989, designated the MUN beneficial use for all previously undesignated inland surface waters. Any dedesignation of a use in a Basin Plan must follow the criteria set forth in the Federal Clean Water Act, as described in the next section.

2. Compliance with Federal Clean Water Act Regulations

Water quality objectives are based, in part, on the designated use or uses to be made of the water. States adopt water quality objectives to protect beneficial uses, including human health or welfare, to enhance the quality of water, and to meet the requirements of the Federal Clean Water Act. The Federal requirements for removal of designated uses, or dedesignation, are described in 40 CFR 131.10 (g) and (h). These requirements are as follows:

a. If the designated use is an existing use (as defined in 40 CFR 131.3), it cannot be removed unless a related use requiring more stringent criteria is added.

Regional Board Analysis:

In the case of the proposed waterbodies listed in Section IV.A, none are currently being used as either municipal or domestic supply waters. Furthermore, none have been used as sources of drinking water since November 1975, which is the defining time period for an "existing use".

b. If the designated use is specified in Section 101(a)(2) of the Clean Water Act, which includes the protection and propagation of fish, shellfish, and wildlife, and provides for recreation in and on the water ("fishable/ swimmable"), the designated use cannot be removed unless a use attainability study shows that the use cannot be attained, or that the pollution control requirements needed for attainment would result in substantial and widespread economic and social impact.

Regional Board Analysis:

Section 101(a)(2) does not apply to the Municipal and Domestic Supply (MUN) beneficial use.

c. If the designated use is attainable using cost-effective and reasonable best management practices, it cannot be removed.

Regional Board Analysis:

The surface waterbodies proposed for dedesignation have all been paved for flood control purposes. Since the function of such flood control modifications is to move runoff to the ocean as quickly as possible, this results in no current reasonable potential for direct use as a municipal or domestic water supply without major modifications.

The ground waterbodies proposed for dedesignation are seaward of injection barriers established to prevent further sea water intrusion. As a result of these barriers, production of groundwater seaward of the barrier is not encouraged, as it would interfere with hydraulic gradients needed to maintain the barrier. Furthermore, in the case of the West Basin Barrier (where reclaimed water is injected into aquifers), the California Department of Health Services prohibits drinking water supply wells within 2,000 feet of the barrier. This prohibition would limit much of the inland groundwater area proposed for dedesignation.

d. In order to remove a designated beneficial use, at least one of the conditions given in 40 CFR 131.10(g) must be met.

Regional Board Analysis:

The surface waterbodies proposed for dedesignation, as mentioned before, all have been paved for flood control purposes. Condition 4 given in 40 CFR 131.10(g) recognizes that attainment may not be feasible because hydrologic modifications preclude attainment, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the use.

As indicated in the Regional Board Analysis for c, above, the ground waterbodies proposed for dedesignation lie seaward of injection barriers. Condition 3 given in 40 CFR 131.10(g) allows that attainment is not feasible because removal of the human caused condition (injection barrier) would result in greater environmental damage than to leave it in place.

e. Finally, States must provide notice and opportunity for public hearing in accordance with 40 CFR 131.20(b).

3. State Board Peer Review Requirements

Finally, it is staff's understanding that the State Board requirement that Basin Plan amendments require peer review prior to submittal for adoption, is limited to those amendments with findings that are based on data-producing studies. Since this amendment applies existing regulations to the question of dedesignation and has not been dependent on a significant level of technical data, the State Board Peer Review requirement does not apply.

B. ALTERNATIVES

1. No Action - Keep the existing MUN designations. These designations provide the most aggressive protection of regional waters since all inland surface and ground waterbodies are currently designated as suitable or potentially suitable for use as municipal and domestic drinking water supplies. However, the current designations may not accurately reflect the true potential for use of these waterbodies as sources of drinking water. In addition, requiring excessive treatment of a discharge entering a waterbody which has no potential of use as a source of drinking water results in unnecessary costs to dischargers, which are ultimately passed on to the public.

2. Tiered MUN Designations - A tiered MUN beneficial use designation would assign discharge limits and cleanup criteria based on the probability that these waterbodies would be used as a source of drinking water in the foreseeable future (20-50 years). With this scenario, the 'probability of use' would necessarily be based more on opinion than data. This would lead to contentious debate on these probabilities between dischargers paying for higher treatment costs and water supply interests which would financially benefit from higher levels of protection of the water resource.

Finally, relaxation of limits and cleanup criteria would imply that natural processes are being depended upon to eventually bio-remediate or attenuate contaminants. As mentioned above, these processes are still being studied and are highly dependent on local conditions. Consequently, such waters would require extensive studies and regulatory approvals to set site specific objectives which, as discussed earlier, are impractical for all the waters under consideration.

3. Reliance on GWR Designation - One of the criteria used to select the waterbodies dedesignated in this amendment was the lack of potential for recharge to ground water resources. During public participation in the development of this amendment, it was suggested that the Municipal and Domestic Supply (MUN) beneficial use be dedesignated for surface waterbodies for which the only probable drinking water use would be through recharge to ground water. The reasoning presented was that removal of the MUN beneficial use would still leave in place the Ground Water Recharge (GWR) beneficial use to set recharge objectives.

The current *Basin Plan* for this Region has narrative, not numerical, objectives for the GWR beneficial use, consequently in setting GWR objectives, one must look to the MUN objectives of the ground water that is being recharged. The difference between objectives for the MUN and GWR beneficial uses results from the transport and residence time for the surface water to recharge a drinking water aquifer. During transport through the vadose zone, there is potential for a reduction in contaminant concentration through bio-remediation and other attenuation process.

As noted above, the factors which determine the remediation/attenuation potential are extremely site dependent. Consequently, without extensive studies to determine the allowable transport "credit", numerical objectives for the GWR beneficial use would simply revert to the existing MUN beneficial use objectives.

VI. ECONOMIC CONSIDERATIONS

There will be no economic costs to dischargers arising from this Basin Plan amendment. While dedesignated surface waters will be losing the MUN beneficial use, remaining beneficial uses such as freshwater aquatic habitat will still be protected. In other words, while the water quality objectives associated with the MUN beneficial use will be removed, the remaining beneficial uses, such as freshwater aquatic habitat, have water quality objectives which will have to be met by dischargers. For many chemical constituents, these objectives are as stringent or more stringent than the objectives to protect MUN.

If at a later date, it is judged prudent to redesignate one of these surface waters as MUN, there should be no significant economic costs resulting from discharges during the time period the water was dedesignated. The remaining beneficial uses will have been protected during that time and the discharge will not have otherwise affected the waterbody.

For the two ground water areas addressed in this amendment, the removal of the MUN beneficial use will result in economic benefit for those entities conducting ground water cleanup projects in these areas and will facilitate the use of (non-potable) reclaimed water for ground water injection projects such as the Chevron Refinery in El Segundo.

If at a later date, it is judged prudent to redesignate one of the ground water areas as MUN, there may be considerable economic costs resulting from waters discharged to or injected into the ground water area during the dedesignation period resulting from higher eventual cleanup costs. Therefore, only special cases, such as groundwater seaward of injection barriers, have been proposed for dedesignation.

VII. CONCLUSION

The Federal Antidegradation Policy (40 CFR Section 131.12) requires that, for those waters of a quality that exceeds levels necessary to protect fish, wildlife, and recreation, higher levels of quality shall be maintained and protected unless degradation is necessary to accommodate important economic or social development.

While it is unlikely, revision of beneficial uses for the aforementioned waterbodies may lower water quality in those waterbodies. However, in the case of the surface waterbodies, none have been utilized as drinking water sources in recent history, and certainly not since 1975, which is the defining time period for an "existing use" and all are concrete-lined, thereby eliminating the possibility of ground water recharge. Further, for most chemical constituents, water quality objectives for the remaining beneficial uses, such as warm water aquatic habitat, are either as stringent or more stringent than those for the drinking water beneficial use. In the case of ground waterbodies, the areas proposed for dedesignation are underlying former sloughs which have been filled with mixed marine dredge materials and/or are seaward of injection barriers, established to address sea water intrusion. These injection barriers and the resulting ground water

gradients prevent movement of ground water from these areas to the rest of the West Coast ground water basin. Pumping in these areas could further jeopardize the integrity of these barriers. Finally, there is no use of these ground waterbodies as sources of drinking water since 1975, the defining time period for an "existing use;" furthermore due to the use reclaimed water in the West Basin injection barrier, the California Department of Health Services prohibits drinking water supply wells in much of the inland area proposed for dedesignation.

In conclusion, the proposed amendment to the *Basin Plan* is justified because: (i) water quality will continue to be protected by the remaining beneficial uses; and (ii) economic benefits will be realized since: (a) costs needed for excessive treatment of a discharge entering these surface waterbodies will be avoided; (b) there is the potential for use of reclaimed water for injection projects associated with site cleanups; and (c) ground water clean up projects in these areas will not have to meet drinking water standards when the area ground water has no potential of use as a source of drinking water. Accordingly, Regional Board staff recommend public support and Regional Board adoption of the proposed amendment to the *Basin Plan*.

Pending public review and Regional Board adoption, this proposed amendment to the *Basin Plan* will be subject to approval by the State Board, State Office of Administrative Law, and, for the surface waterbodies, the US EPA.

Appendix A

Sources of Drinking Water

(SB No. 88-63) (RB No. 89-03)

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 88-63

ADOPTION OF POLICY ENTITLED "SOURCES OF DRINKING WATER"

WHEREAS:

1. California Water Code Section 13140 provides that the State Board shall formulate and adopt State Policy for Water Quality Control; and,

2. California Water Code Section 13240 provides that Water Quality Control Plans "shall conform" to any State Policy for Water Quality Control; and,

3. The Regional Boards can conform the Water Quality Control Plans to this policy by amending the plans to incorporate the policy; and,

4. The State Board must approve any conforming amendments pursuant to Water Code Section 13245; and,

5. "Sources of drinking water" shall be defined in Water Quality Control Plans as those water bodies with beneficial uses designated as suitable, or potentially suitable, for municipal or domestic water supply (MUN); and,

6. The Water Quality Control Plans do not provide sufficient detail in the description of water bodies designated MUN to judge clearly what is, or is not, a source of drinking water for various purposes.

THEREFORE BE IT RESOLVED:

All surface and ground waters of the state are considered to be suitable, or potentially suitable, for municipal or domestic water supply and should be so designated by the Regional Boards [1] with the exception of:

1. Surface and ground waters where:

   a. The total dissolved solids (TDS) exceed 3,000 mg/L (5,000 uS/cm, electrical conductivity) and it is not reasonably expected by Regional Boards to supply a public water system, or

   b. There is contamination, either by natural processes or by human activity (unrelated to a specific pollution incident), that cannot reasonably be treated for domestic use using either Best Management Practices or best economically achievable treatment practices, or

   c. The water source does not provide sufficient water to supply a single well capable of producing an average sustained yield of 200 gallons per day.

2. Surface waters where:

   a. The water is in systems designed or modified to collect or treat municipal or industrial wastewaters, process waters, mining wastewaters, or storm water runoff, provided that the discharge from such systems is monitored to assure compliance with all relevant water quality objectives as required by the Regional Boards; or,

   b. The water is in systems designed or modified for the primary purpose of conveying or holding agricultural drainage waters, provided that the discharge from such systems is monitored to assure compliance with all relevant water quality objectives as required by the Regional Boards.

3. Ground water where:

   The aquifer is regulated as a geothermal energy producing source or has been exempted administratively pursuant to 40 Code of Federal Regulations, Section 146.4 for the purpose of underground injection of fluids associated with the production of hydrocarbon or geothermal energy, provided that these fluids do not constitute a hazardous waste under 40 CFR, Section 261.3.

4. Regional Board Authority to Amend Use Designations:

Any body of water which has a current specific designation previously assigned to it by a Regional Board in Water Quality Control Plans may retain that designation at the Regional Board's discretion. Where a body of water is not currently designated as MUN but, in the opinion of a Regional Board, is presently or potentially suitable for MUN, the Regional Board shall include MUN in the beneficial use designation.

The Regional Boards shall also assure that the beneficial uses of municipal and domestic supply are designated for protection wherever those uses are presently being attained, and assure that any changes in beneficial use designations for waters of the State are consistent with all applicable regulations adopted by the Environmental Protection Agency.

The Regional Boards shall review and revise the Water Quality Control Plans to incorporate this policy.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a policy duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 19, 1988.

Original signed by
Maureen Marche
Administrative Assistant to the Board

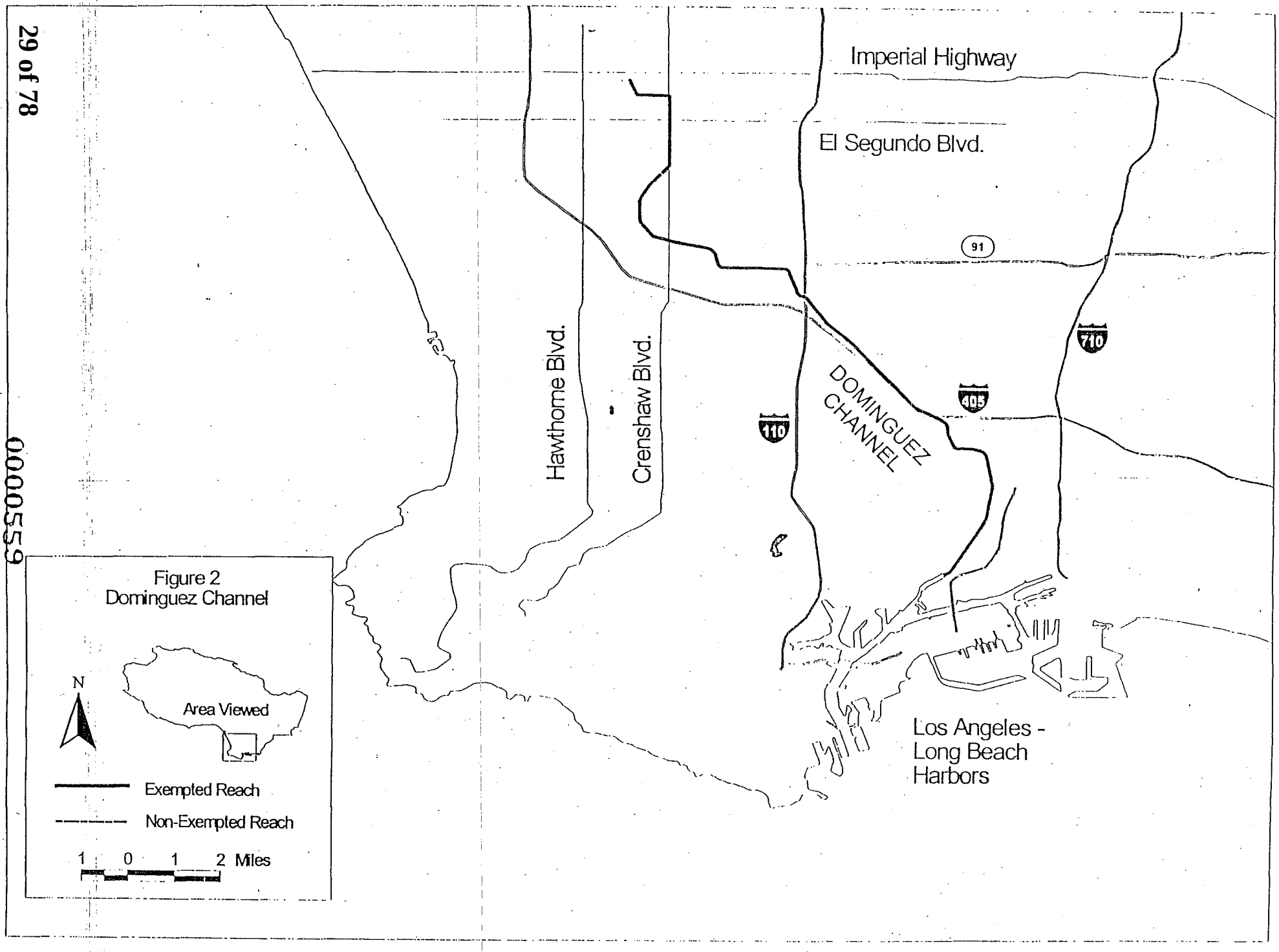
---

[1] This policy does not affect any determination of what is a potential source of drinking water for the limited purposes of maintaining a surface impoundment after June 30, 1988, pursuant to Section 25208.4 of the Health and Safety Code.

Appendix B

Waterbody Maps

Figure 1
Ballona Creek, Sepulveda
Channel, and Centinela Creek
Area Viewed
N
Exempted Reach
Non-Exempted Reach
0.5 0 0.5 1 1.5 Miles
La Brea Ave.
Fairfax Ave.
La Cienega Blvd.
Pico Blvd.
Sunset Blvd.
Westwood Blvd.
BALLONA CREEK
SEPULVEDA CHANNEL
Washington Blvd.
CENTINELA CREEK CHANNEL
10
405
90
Marina Del Rey


Imperial Highway
El Segundo Blvd.
91
Hawthorne Blvd.
Crenshaw Blvd.
DOMINGUEZ CHANNEL
110
405
710
Los Angeles -
Long Beach
Harbors
Figure 2
Dominguez Channel
N
Area Viewed
Exempted Reach
Non-Exempted Reach
1 0 1 2 Miles

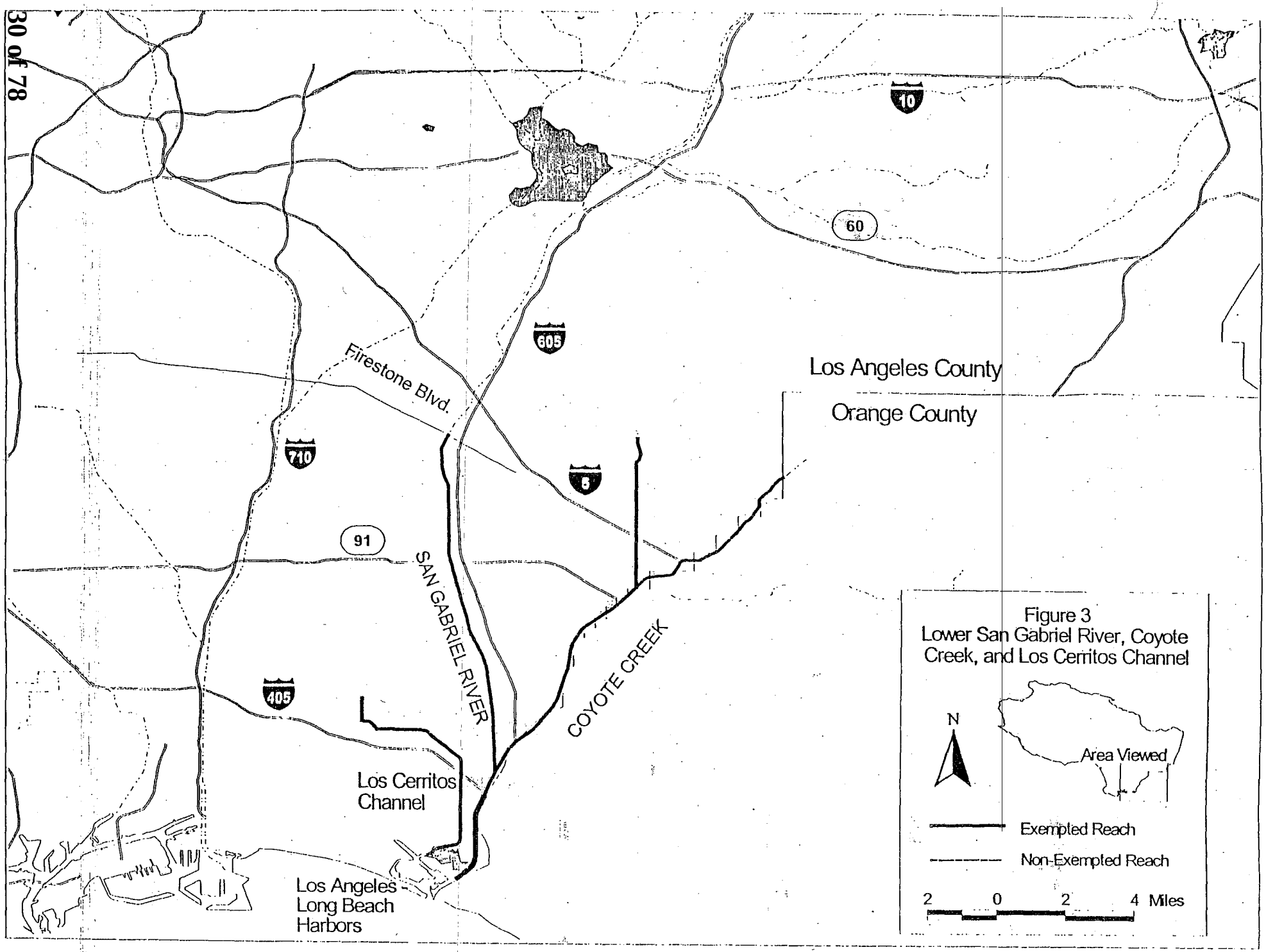
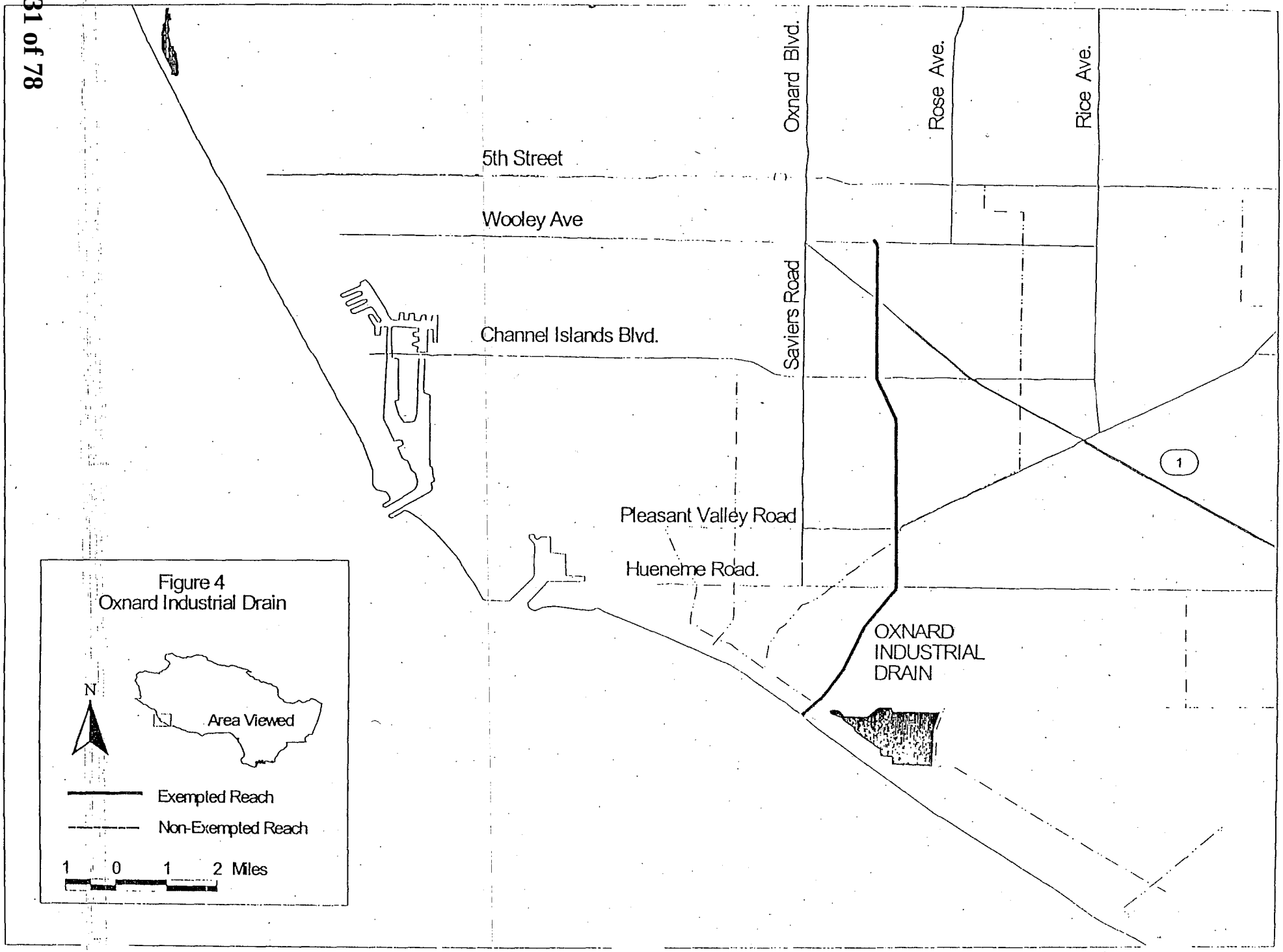
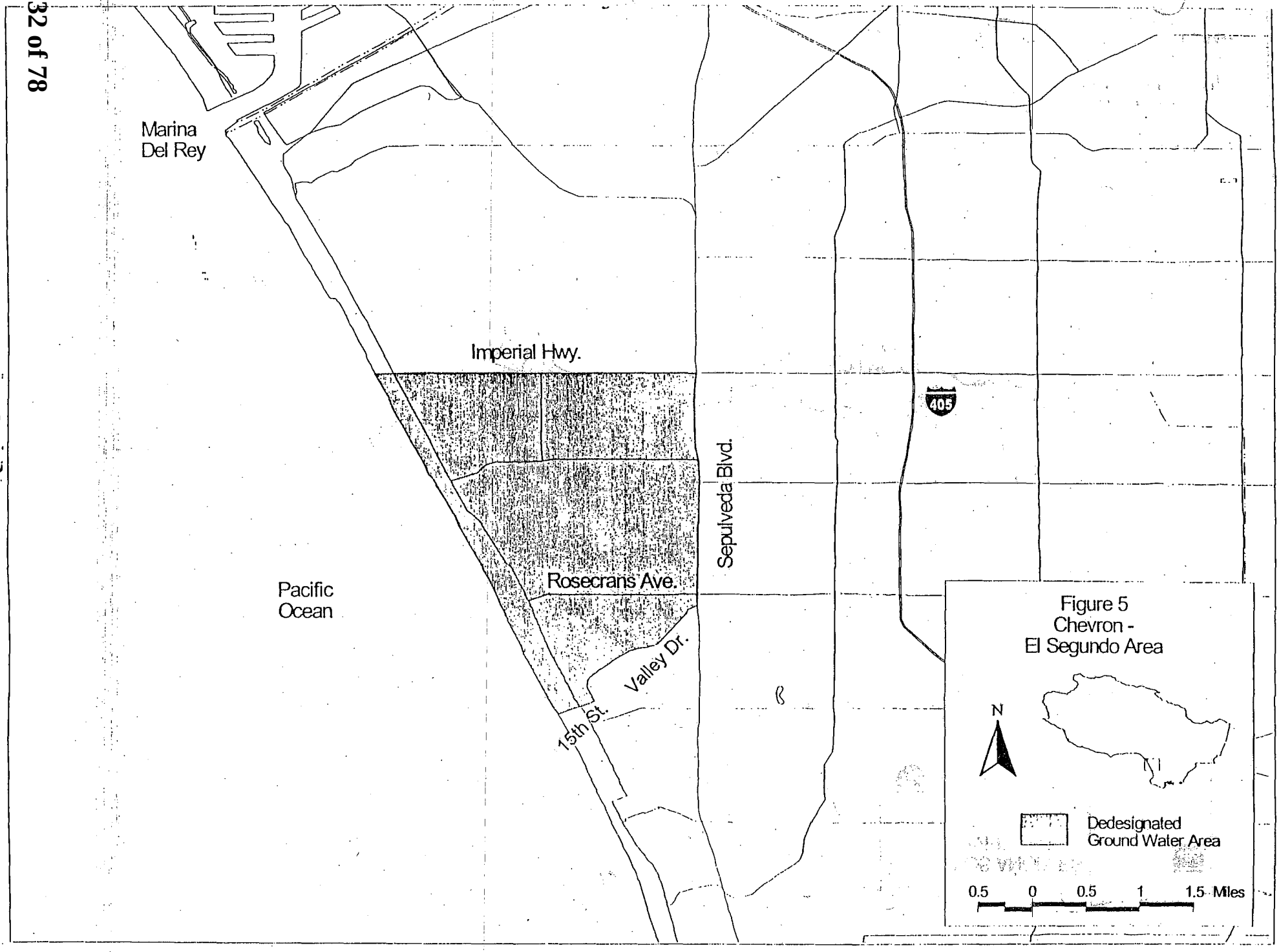
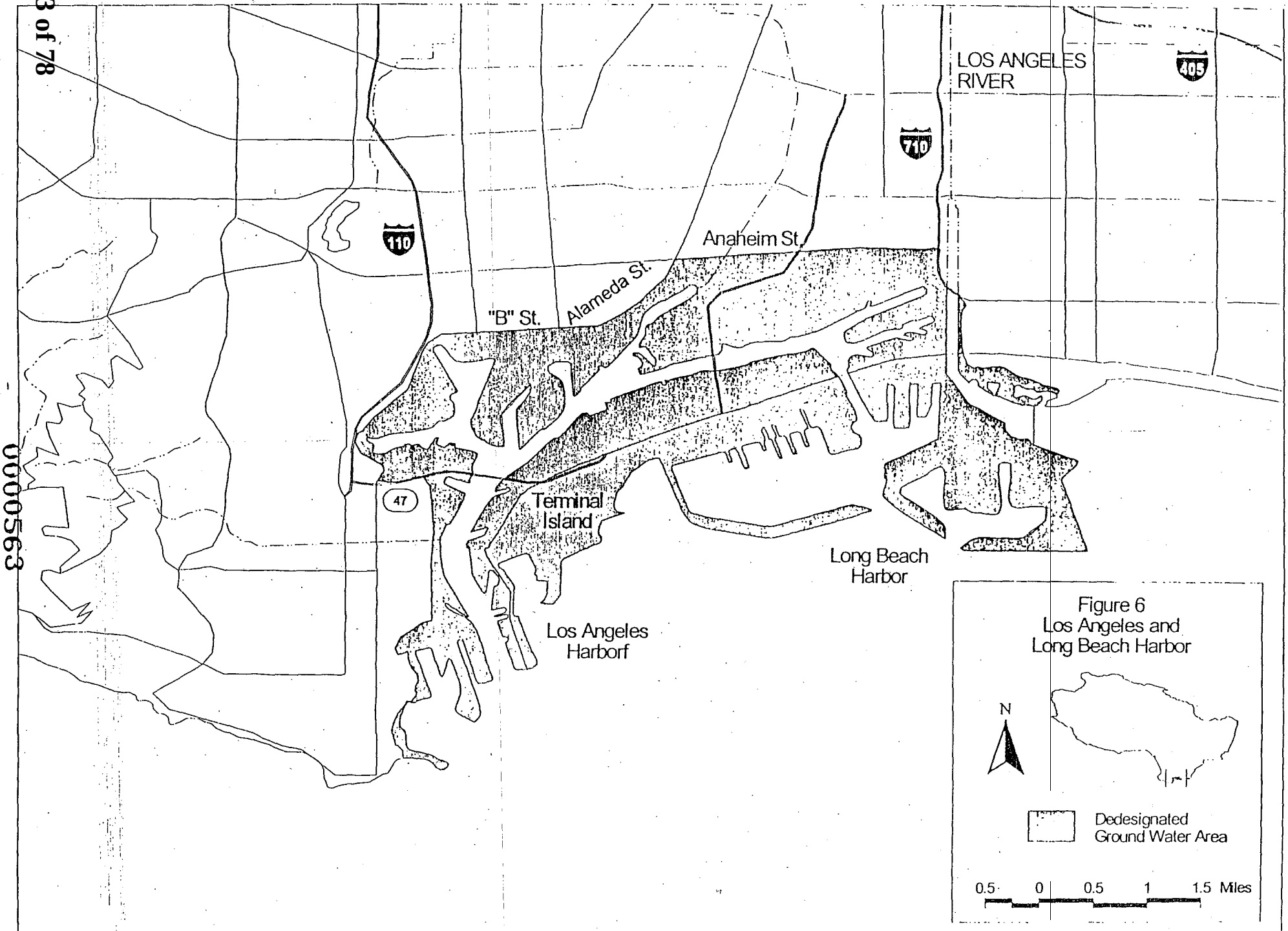


Figure 3
Lower San Gabriel River, Coyote Creek, and Los Cerritos Channel


Oxnard Blvd.
Rose Ave.
Rice Ave.
5th Street
Wooley Ave
Channel Islands Blvd.
Saviers Road
Pleasant Valley Road
Hueneme Road.
1
OXNARD
INDUSTRIAL
DRAIN
Figure 4
Oxnard Industrial Drain
N
Area Viewed
Exempted Reach
Non-Exempted Reach
1 0 1 2 Miles


Marina
Del Rey
Imperial Hwy.
405
Sepulveda Blvd.
Rosecrans Ave.
Pacific
Ocean
Valley Dr.
15th St.
Figure 5
Chevron -
El Segundo Area
N
Dedesignated
Ground Water Area
0.5 0 0.5 1 1.5 Miles


LOS ANGELES
RIVER
405
710
110
Anaheim St.
Alameda St.
"B" St.
47
Terminal
Island
Long Beach
Harbor
Los Angeles
Harborf
Figure 6
Los Angeles and
Long Beach Harbor
N
Dedesignated
Ground Water Area
0.5 0 0.5 1 1.5 Miles

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 99 - 020

APPROVAL OF AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION REVISING BENEFICIAL USE DESIGNATIONS FOR SELECTED SURFACE AND GROUND WATER BODIES

WHEREAS:

1. In 1989, the California Regional Water Quality Control Board, Los Angeles Region (LARWQCB), adopted Resolution No. 89-03 (RB 89-03) which amended the Water Quality Control Plan for the Los Angeles Region (Basin Plan) by designating all previously undesignated inland surface waters in the Los Angeles Region as existing or potential sources of municipal or domestic water supply (MUN) in accordance with State Water Resources Control Board (SWRCB) Resolution No. 88-63 (SB 88-63).

2. On November 2, 1998, the LARWQCB adopted Resolution No. 98-18 (Attachment 1) amending the Basin Plan by: (a) removing the municipal and domestic supply (MUN) beneficial use designation from eight [8] surface water bodies and two [2] specifically defined areas of one [1] ground water basin, (b) assigning additional beneficial use designations to three [3] surface water bodies, and (c) removing the cold water freshwater habitat (COLD) beneficial use designation from portions of three [3] surface water bodies.

3. Dedesignation of the MUN beneficial use for a surface water body requires compliance with the exemption criteria specified in SB 88-63 and 40 Code of Federal Regulations (CFR) Section 131, while dedesignation of the MUN beneficial use from a ground water body requires compliance only with the exemption criteria specified in SB 88-63.

4. The LARWQCB developed and applied criteria for the dedesignation of the MUN beneficial use for surface water bodies. These criteria were that the surface water body must: (a) be a surface water channel paved before 1975 for flood control purposes with a concrete lining that is continuous from a designated upstream point to an estuary outlet; (b) have no risk of interaction with underlying ground water resources, and (c) meet the exemption criteria in SB 88-63 for channelized surface waters.

5. The SWRCB finds that the development and application of the criteria for dedesignation of the MUN beneficial use for surface waters are in compliance with the requirements specified in 40 CFR Section 131, and SB 88-63.

6. The SWRCB finds that the dedesignation of the MUN beneficial use for two specified areas of the of the Los Angeles Coastal Plain (West Coast Basin) is in compliance with exemption criteria specified in SB 88-63.

7. The LARWQCB staff prepared documents and followed procedures satisfying environmental documentation requirements in accordance with the California Environmental Quality Act and other State laws and regulations.

8. The SWRCB will work with the California Department of Fish and Game to ensure that threatened or endangered species are protected, pursuant to Fish and Game Code Section 2055.

9. A Basin Plan amendment does not become effective until approved by the SWRCB and until the regulatory provisions are approved by the Office of Administrative Law (OAL).

THEREFORE BE IT RESOLVED THAT:

The SWRCB:

1. Approves LARWQCB Resolution No. 98-18 amending the Water Quality Control Plan for the Los Angeles Region.

2. Authorizes staff to submit the regulatory provisions of LARWQCB Resolution No. 98-18 to OAL for approval.

3. Authorizes staff to submit the surface water portions of LARWQCB Resolution No. 98-18 to USEPA for approval.

CERTIFICATION

The undersigned, Administrative Assistant 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 February 18, 1999.

Maureen Marché

Maureen Marché
Administrative Assistant to the Board

Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

Executive Office
901 P Street • Sacramento, California 95814 • (916) 657-0941
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
FAX (916) 657-0932 • Web Site Address: http://www.swrcb.ca.gov

Gray Davis
Governor

TO: Charlene Mathias
Deputy Director
Office of Administrative Law
555 Capitol Mall, Suite 1290
Sacramento, CA 95814-4602

FROM: Walt Pettit
Executive Director
EXECUTIVE OFFICE

DATE: JUN 0 2 1999

SUBJECT: SUBMITTAL OF REGULATORY PROVISIONS OF AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION

On November 2, 1998, the Los Angeles Regional Water Quality Control Board (LARWQCB), adopted Resolution No. 98-18 amending the Water Quality Control Plan for the Los Angeles Basin (Basin Plan). The amendment revised the Basin Plan by: (1) removing the municipal and domestic beneficial use designation from eight surface water bodies and two specifically defined areas of one ground water basin, (2) assigning additional beneficial use designations to three surface water bodies, and (3) removing the cold water freshwater habitat beneficial use from portions of three surface water bodies. On February 18, 1999, the State Water Resources Control Board (SWRCB) adopted Resolution No. 99-20 approving the amendment.

Pursuant to Government Code Section 11353, the regulatory provisions of the amendment are being submitted to Office of Administrative Law (OAL) for approval. As required by that section, this submittal includes:

1. Seven copies of OAL Form 400 with the Clear and Concise Summary of Regulatory Provisions attached;

2. A summary of the necessity for the regulatory provisions in the staff reports of the LARWQCB proceedings;

3. A certification by the Chief Counsel of the SWRCB that the action was taken in compliance with all applicable procedural requirements of the Porter-Cologne Water Quality Control Act, Water Code Section 13000 et seq., and

4. The Administrative Record for the LARWQCB and SWRCB proceedings on this matter.

The LARWQCB's authority to adopt amendments to its Basin Plan is contained in Water Code Section 13240. In adopting the amendments, the LARWQCB was implementing Water Code Sections 13240 through 13242.

We recommend that the regulatory summary be added to Title 23, Division 4, Chapter 1, titled "Water Quality Control Plans", Article 4, titled "Los Angeles Region", as new Section 3932: "Revision of Beneficial Use Designations for Selected Surface and Ground Water Bodies".

If you have any questions regarding this submittal, please contact Joanna Jensen of the Water Quality Planning Unit at (916) 657-1036.

Attachments (3)

cc: Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality
Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION — REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 1-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		99-0602-01S		

For use by Office of Administrative Law (OAL) only

99 JUN -2 PM 12:10

OFFICE OF ADMINISTRATIVE LAW

NOTICE | REGULATIONS

AGENCY: STATE WATER RESOURCES CONTROL BOARD | AGENCY FILE NUMBER *(If any)*:

A. PUBLICATION OF NOTICE *(Complete for publication in Notice Register)*

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
WATER QUALITY CONTROL PLAN: LOS ANGELES REGION	23		

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER
☐ Notice re Proposed Regulatory Action ☐ Other		

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn		

B. SUBMISSION OF REGULATIONS *(Complete when submitting regulations)*

1. SUBJECT OF REGULATION(S): WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) *(Including title 26, if toxics-related)*

SECTIONS AFFECTED	
	ADOPT
	AMEND: PUBLISH NEW SECTION 3932
TITLE(S): 23	REPEAL

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Emergency (Gov. Code, § 11346.1(b)) ☐ Resubmittal of disapproved or withdrawn emergency filing

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☑ Other (specify) ADOPTION OF WATER QUALITY CONTROL PLAN AMENDMENTS: SUMMARY OF REGULATORY PROVISIONS

4. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE *(Cal. Code Regs. title 1, §§ 44 and 45)*

5. EFFECTIVE DATE OF REGULATORY CHANGES *(Gov. Code § 11346.2)*

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☑ Effective other *(Specify)* UPON APPROVAL (GOV'T. CODE SECTION 11353)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

7 CONTACT PERSON	TELEPHONE NUMBER
JOANNA JENSEN	(916) 657-1036

8. *I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.*

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
Walt Pettit	5/20/99

TYPED NAME AND TITLE OF SIGNATORY: WALT PETTIT, EXECUTIVE DIRECTOR

38 of 78

CONCISE SUMMARY OF REGULATORY PROVISIONS

Article 4 -- "Los Angeles Region", Section 3932, " Revision of Beneficial Use Designations for Selected Surface and Ground Water Bodies".

Regional Board Resolution No. 98-18 , adopted on November 2, 1998, by the Los Angeles Regional Water Quality Control Board (LARWQCB), modified the regulatory provisions of the Water Quality Control Plan for the Los Angeles Region by (1) removing the municipal and domestic (MUN) beneficial use designation from eight surface water bodies [Ballona Creek, Sepulveda Channel, Centinela Creek, Dominguez Channel, Los Cerritos Channel, Lower San Gabriel River, Coyote Creek, and the Oxnard Industrial Drain] and two specifically defined areas of one ground water basin [the portion of West Basin underlying Chevron Facility in El Segundo and the aquifers underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors], (2) assigning additional beneficial use designations to three surface water bodies [Ballona Creek, Sepulveda Channel, and the Oxnard Industrial Drain], and (3) removing the cold freshwater habitat (COLD) beneficial use from portions of three surface water bodies [Calleguas Creek and two reaches of Arroyo Las Posas].

STATE WATER RESOURCES CONTROL BOARD

ACTION TAKEN: Adopting amendments to the Water Quality Control Plan for the Los Angeles Region.

DOCUMENT NUMBER: Los Angeles Regional Water Quality Control Board Resolution No. 99-020.

I certify that adoption of the amendments to the Water Quality Control Plan for the Los Angeles Region was carried out in compliance with all applicable procedural requirements of Division 7 (commencing with Section 13000) of the Water Code.

Date: 5/5/99

William R. Attwater
Chief Counsel

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

In re:	
WATER RESOURCES CONTROL BOARD	NOTICE OF DISAPPROVAL OF REGULATORY ACTION
REGULATORY ACTION: Title 23 California Code of Regulations Amend 3932	(Gov. Code, Sec. 11349.3)
	OAL File No. 99-0602-01 S

SUMMARY OF REGULATORY ACTION

Regional Board Resolution No. 98-18, adopted November 2, 1998, by the Los Angeles Regional Water Quality Control Board, amended the Water Quality Control Plan for the Los Angeles Region by (1) removing the municipal and domestic (MUN) beneficial use designation from eight surface water bodies (Ballona Creek, Sepulveda Channel, Centinela Creek, Dominguez Channel, Los Cerritos Channel, Lower San Gabriel River, Coyote Creek, and the Oxnard Industrial Drain) and two areas of one ground water basin (the portion of West Basin underlying Chevron Facility in El Segundo and the aquifers underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors), (2) assigning additional beneficial use designations to three surface water bodies (Ballona Creek, Sepulveda Channel, and the Oxnard Industrial Drain), and (3) removing the cold freshwater habitat (COLD) beneficial use from portions of three surface water bodies (Calleguas Creek and two reaches of Arroyo Las Posas).

OFFICE OF ADMINISTRATIVE LAW DECISION

OAL disapproves this regulatory action.

OAL File No. 99-0602-01

REASONS FOR DECISION

The regulation(s) fail(s) to comply with the necessity standard of Government Code section 11349.1.

The regulation(s) fail(s) to comply with the consistency standard of Government Code section 11349.1.

The agency failed to summarize and/or respond to each comment made regarding the proposed action.

A detailed decision explaining the reasons for the disapproval of this regulatory filing will be sent to you within seven (7) calendar days of the date of this letter. (Gov. Code, Sec. 11349.3(b).)

Enclosed is the agency's copy of the regulations.

DATE: 07/15/99

MICHAEL MCNAMER
SENIOR COUNSEL

for: CHARLENE G. MATHIAS
DEPUTY DIRECTOR

Original: Walt Petit, Executive Director
cc: Joanna Jensen
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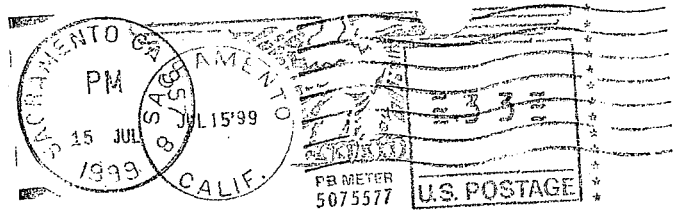

Joanna Jensen
WATER RESOURCES BOARD
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STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

In re:	)	**DECISION RE DISAPPROVAL OF A RULEMAKING ACTION (Gov. Code Sec. 11349.3)**
AGENCY: LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD	)	
REGULATORY ACTION: Adoption of Regional Board Resolution 98-18 on November 2, 1998, to amend the Water Quality Control Plan for the Los Angeles Region to revise beneficial use designations for certain water bodies.	)	**OAL File No. 99-0602-01**

SUMMARY OF RULEMAKING ACTION

This rulemaking action by the Los Angeles Regional Water Quality Control Board (Regional Board) amends the Water Quality Control Plan for the Los Angeles Region by (1) removing the municipal and domestic (MUN) beneficial use designation from parts of eight surface water bodies (Ballona Creek, Sepulveda Channel, Centinela Creek, Dominquez Channel, Cerritos Channel, Lower San Gabriel River, Coyote Creek, and the Oxnard Industrial Drain) and removing the cold freshwater habitat (COLD) beneficial use from portions of three surface water bodies (Caleguas Creek and two reaches of Arroyo Las Posas). This rulemaking action was approved by the State Water Resources Control Board (State Board) on February 18, 1999, State Board Resolution 99-20, and transmitted to the Office of Administrative Law (OAL) for review on June 2, 1999.

SUMMARY OF REASONS FOR DISAPPROVAL

The reasons for disapproval are summarized here and explained in detail below.

A. **The administrative record does not contain substantial evidence to demonstrate that the removal of the municipal and domestic (MUN) beneficial use designation from the specified parts of the eight surface water bodies is allowed under 40 CFR 131.10(g)(4).**

B. **The Regional Board's position that physical preclusion of use attainment resulting from the concrete lining renders the issue of attainment of drinking water quality moot appears to be facially inconsistent with the prohibition on removal in 40 CFR 131.10(h).**

C. **The Regional Board's response to public comments does not comply with the public participation requirements of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).**

D. **The administrative record does not demonstrate that removing the cold freshwater habitat (COLD) beneficial use from portions of three surface water bodies is a change without regulatory effect.**

DISCUSSION

Any revision of a water quality control plan adopted or approved by the State Water Resources Control Board after June 1, 1992, must be submitted to the Office of Administrative Law (OAL) for review. The submittal must include a clear and concise summary of each regulatory provision adopted or approved as part of the action, the complete administrative record of the proceeding, a summary of the necessity for each regulation, and a certification by the chief legal officer of the State Board that the procedural requirements of Division 7 (commencing with Section 13000) of the Water Code have been satisfied.

Pursuant to Government Code Section 11353, OAL reviews the adopted or approved regulatory provisions for compliance with the Administrative Procedure Act standards of Authority, Reference, Consistency, Clarity, Nonduplication and Necessity, as defined by Government Code Section 11349. OAL also reviews the

responses to public comments to determine compliance with the public participation requirements of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 *et seq.*) OAL must restrict its review to the regulatory provisions and the administrative record of the proceeding. In conducting this review OAL is mindful that it is not to substitute its judgment for that of the Regional Board with regard to substantive content of the regulatory provisions. This review serves as an executive branch check on the exercise of quasi-legislative powers by the California Regional Water Quality Control Boards and the State Board.

A.

The administrative record does not contain substantial evidence to demonstrate that the removal of the municipal and domestic (MUN) beneficial use designation from the specified parts of the eight surface water bodies is allowed under 40 CFR 131.10(g)(4).

The Regional Board must comply with the requirements of 40 CFR 131.10 to de-designate any designated use of a water body and must comply with State Board resolution 88-63, the Sources of Drinking Water Policy, to de-designate a water body that has been designated as suitable, or potentially suitable, for municipal or domestic water supply. Such compliance must be documented in the administrative record that was before the Regional Board when it made its decision. (Unless otherwise specified all references to the "administrative record" in this decision opinion are to the record that was before the Regional Board when it made its decision.) The Necessity standard of Government Code Section 11349.1 requires that the administrative record demonstrate by "substantial evidence" the basis for a regulatory provision "taking into account the totality of the record." See Government Code Section 11349.

The administrative record demonstrates compliance with these requirements for the dedesignation of the two areas of one ground water basin (the portion of West Basin underlying the Chevron facility in El Segundo and the aquifers underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors). The record also demonstrates compliance with State Board resolution 88-63, the Sources of Drinking Water Policy, to remove the municipal and domestic (MUN) beneficial use designation from the specified parts of the eight surface water bodies. But, as

explained below, the administrative record before the Regional Board does not demonstrate by substantial evidence that the requirements of 40 CFR 131.10(g)(4), which apply to the removal of a designated use, have been satisfied.

Subsection (a) of 40 CFR 131.10 provides in part that "[e]ach state must specify appropriate water uses to be achieved and protected." Among the uses that a state must take into consideration in classifying the waters is "the use and value of water for public water supplies." The administrative record shows that the eight surface water bodies de-designated by this amendment were designated MUN in 1989 or earlier.

> In 1989, the Los Angeles RWQCB adopted The Sources of Drinking Water Policy as Resolution No. 89-03 (RB 89-03), incorporating the State Provisions of SB 88-63 into the Region's *Basin Plan*. At the Time of the adoption, Southern California was experiencing drought conditions and due to the high value of local water supplies given the Regions dependence on imported water, no waterbodies were exempted from the municipal and domestic water supply designation. The result of RB 89-03 was that the Basin Plan was amended to designate all previously undesignated inland surface waterbodies as at least potential sources of municipal or domestic drinking water. It should be noted that this was unnecessary for ground waters as all regional ground waterbodies have always been so designated. [Administrative record, p. 7]

The transcript of the public hearing contains the following testimony from Mr. Miele, who is with the Los Angeles County Sanitation District, in response to a question from a board member asking how long the MUN designation of the San Gabriel River has been in effect: "Probably since the early '70s." Administrative record, p. 627.

The administrative record also demonstrates by substantial evidence that MUN is not an existing use of the eight dedesignated surface water bodies, that they are paved for flood control, and that the concrete lining is continuous from the upstream point of dedesignation to the estuary outlet at the ocean. These facts are uncontroverted in the administrative record.

With regard to dedesignation of a designated use, 40 CFR 131.10 provides as relevant:

> (g) States may remove a designated use which is *not* an existing use, as defined in section 131.3, or establish sub-categories of a use if the State can demonstrate that attaining the designated use is not feasible because:
>
> ****
>
> (4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; ....[1]

These provisions place the burden on the Regional Board to make three nonfeasibility demonstrations. First the Regional Board must demonstrate that "[d]ams, diversions or other types of hydrologic modifications preclude the attainment of the use. This burden has been satisfied. The administrative record contains substantial evidence to demonstrate that a hydrologic modification, continuous concrete lining of the eight de-designated surface water bodies from the upstream point of dedesignation to the estuary outlet at the ocean, presently preclude attainment of the MUN use in each of the water bodies. Second, the Regional Board

---

[1] 40 CFR 131.10(g)(4) is concerned with the flowage effects of hydrologic modifications. "[T]here is a recognition in the Clean Water Act itself that reduced stream flow, *i.e.*, diminishment of water quality, can constitute water pollution. First, the Act's definition of pollution as "the man-made or man induced alteration of the chemical, physical, biological, and radiological integrity of water" encompasses the effects of reduced water quantity. 33 U.S.C. Sec. 1362(19). This broad conception of pollution--one which expressly evidences Congress' concern with the physical and biological integrity of water--refutes petitioners' assertion that the Act draws a sharp distinction between the regulation of water "quantity" and water "quality." Moreover, Sec. 304 of the Act expressly recognizes that water "pollution" may result from "changes in the movement, flow, or circulation of any navigable waters . . . , including changes caused by the construction of dams." 33 U.S.C. Sec. 1314(f). This concern with the flowage effects of dams and other diversions is also embodied in the EPA regulations, which expressly require existing dams to be operated to attain designated uses. 40 CFR Sec. 131.10(g)(4) (1992)." PUD No. 1 v. Washington Dept. Of Ecology (1994) 511 U.S. 700, 719-720, 114 S.Ct. 1900.

must demonstrate that "it is not feasible to restore the water body to its original condition." The administrative record does not contain substantial evidence to make this demonstration. Third, the Regional Board must demonstrate that it is not feasible "to operate such modification in a way that would result in the attainment of the use." As shown by the following review of relevant evidence in the administrative record before the Regional Board when it adopted Resolution No. 98-18, the administrative record does not demonstrate by substantial evidence that "it is not feasible to restore the water body to its original condition" and it is not feasible "to operate such modification in a way that would result in the attainment of the use." Consequently the dedesignations are inconsistent with the requirements of subsection (g)(4) of 40 CFR 131.10 and fail to satisfy the Consistency standard of Government Code Section 11349.1. "'Consistency' means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law." Government Code Section 11349, subsection (a).

The United States Environmental Protection Agency has explained the demonstration required by 40 CFR 131.10(g)(1)-(6) as follows:

> The provisions included in section 131.10(h)(1)-(6) of the proposed Regulations, which dealt with circumstances under which uses could be changed, received substantial comment. Many commenters objected that the changes in the phrase "States must demonstrate" to "States must determine" that certain conditions exist would mean that EPA would require less rigorous analysis for changing a use. They indicated that "determine" merely connotates a "political process" whereas "demonstrate" implies substantial proof supported by exacting analysis. EPA believes that structured scientific and technical analyses should be required to justify removing or modifying designated uses that are included in Section 101(a)(2) of the Act or to justify continuation of standards which do not include these uses. EPA agrees that the word "demonstrate" better reflects Agency policy and has made that change (see sec. 131.10(g)). [Federal Register, Vol. 48, No. 217, Tuesday November 8, 1983, p. 51400.]

The United States Environmental Protection Agency further explained:

> In keeping with the purposes of the Act, the wording of sec. 131.10(h)(4) of the proposed Rule (now sec. 131.10(g)(4)) was modified so that changes in uses could only occur if dams, diversions or other types of hydrologic modifications *preclude* rather than just interfere with the attainment of the designated uses. [*Id.*, at p. 51401.]

Turning to the administrative record, we first consider the Staff Report. The Staff Report does not contain "structured scientific and technical analysis," nor does it identify any data or other factual information, technical, theoretical, or empirical studies or reports that the Regional Board is relying on in proposing the dedesignation of the eight surface water bodies. With regard to compliance with the requirements of 40 CFR 131.10(g) the Staff Report says only the following:

> The surface waterbodies proposed for dedesignation, as mentioned before, all have been paved for flood control purposes. Condition 4 given in 40 CFR 131.10(g) recognizes that attainment may not be feasible because hydrologic modifications preclude attainment, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the use.

This restatement of what is required provides *no evidence* that it is not feasible "to operate such modification in a way that would result in the attainment of the use."

In "taking into account the totality of the record," we turn to the public comments submitted to the Regional Board. As relevant, Mark Gold, on behalf of Heal the Bay, and David Beckman, on behalf of the Natural Resources Defense Council, commented jointly:

> In this case, things that preclude the attainment of the use include time, a lack of TMDLS, and the failure to implement the municipal storm water permit. If the water were clean the water would be useable as a drinking water source, ***regardless of whether the lining was in place or not.*** It could be used for recharge or for storage. This is especially true for the Lower San Gabriel River, Coyote Creek and the Oxnard Industrial Drain, where there is likely land surface to allow for ground water storage. Without getting to the merits of whether such future

> action is the most appropriate use of these waterways, this Board must at least recognize that this would be the case. [Emphasis in original. Administrative record, p. 301.]

As relevant, Sharon N. Green, on behalf of the County Sanitation Districts of Los Angeles County, commented:

> Overall, we strongly support the proposed de-designation of MUN as a potential use for Coyote Creek and Reach 1 of the San Gabriel River. These surface waters are completely concrete-lined and flow directly into the saline waters of the San Gabriel River estuary. Due to the hydrologic modifications made to the channels in the 1960s to facilitate flood control in the region by conveying stormwater quickly to the ocean, these streambeds are impervious and do not allow recharge of groundwater basins. Furthermore, the lack of surface storage (or appropriate spreading) facilities in these reaches precludes use of surface waters for drinking water purposes.... [Administrative record, p. 439.]

The testimony with regard to Coyote Creek and Reach 1 of the San Gabriel River that these reaches lack surface storage (or appropriate spreading) facilities goes to the question of the feasibility of operating the hydrologic modification in a way that would result in the attainment of the use. However, the testimony does not itself constitute substantial evidence because it does not address the possible feasibility of *establishing* surface storage (or appropriate spreading) facilities with regard to the water in those reaches.

We turn to the transcript of the Regional Board's public hearing on the adoption of Resolution No. 98-018 and consider the parts relevant to compliance with the requirements of 40 CFR 131.10(g)(4). In the staff presentation, Mark Smythe explained to the board the requirements of 40 CFR 131.10(g)(4) and the basis of compliance with these requirements as follows:

> Step 4 of the flowchart (attached as exhibit 1 to this decision) states that de-designation can only take place if one of six conditions are met.
>
> In order to de-designate a beneficial use from a surface water, one of

> these six conditions must be met. These conditions include such things as untreatable water quality conditions, low flow or physical characteristics of a water, or as is the case here No. 4.
>
> That hydrologic modifications, in this case, channel straightening and concrete linings physically preclude attainment of the use. [Administrative record, pp. 613-614.]

Staff summarized for the board the written comments received from Heal the Bay and the NRDC regarding compliance with 40 CFR 131.10(g)(4) as follows:

> They disagree that the hydrologic modifications preclude the MUN use. And believe that implementation of sufficient effluent limitations and imposition of non-point source BMPS would result in attainment of the MUN beneficial use.
>
> Staff have applied 40 CFR 131.10 (g) and have concluded that paving meets the criteria for preclusion of use attainment based on the physical hydrologic modifications. [Administrative record, pp. 614-615.]

Regional Board Chairman Slezak questioned staff about compliance with 40 CFR 131.10(g)(4) as follows:

> I have some questions as to whether there has been compliance with the de-designation requirements.
>
> Specifically, how have the hydro modifications that we're talking about here — first of all, what is showing there is they precluded (inaudible) use.
>
> Secondly, what is showing is that it is not feasible either to restore the waterbody to its original condition, or alternatively to operate the modification, in this case the storm water structure in a way that would result in attainment in the use such as by a spreading of waters, say, in the lower San Gabriel River, which is one of the designated areas.
>
> I think I have an understanding of why it may not be practical, *but it*

certainly isn't in the record to demonstrate why not. [Emphasis added.]

MR. SMYTHE: Okay. I kind of assumed it was beyond this, but essentially the modifications to those waters have resulted in paving so that there is no groundwater recharge; they have been modified to speed the flow of water to the ocean so that there is no potential for collection and direct reuse. For the issue of spreading, it isn't an MUN issue. That's a groundwater recharge issue.

CHAIRMAN SLEZAK: Yep, that would be the purpose of it, to use it for drinking water. The MUN beneficial use would be appropriate if there would be spreading....

MS. PHILLIPS: I would like to add to Mark's answer there.

In ... the case of all the proposed MUN de-designations, development on the coastal plain has really precluded additional artificial recharge projects — or recharge projects that could — that could be located in the Forebay area and directly recharge aquifers.

In other words, the streams that we're de-designating are on the edge of the coastal plains, there are clay caps which preclude artificial recharge operation via spreading.

CHAIRMAN SLEZAK: All right. I'm glad you made that point. It's both development and that I think in areas of these surface waters, they are not in locations where there is natural recharge soil that's currently able and sufficient that there could be recharge.

Is that the Staff's observation in reviewing the --

MS. PHILLIPS: That was very well put, yes.

CHAIRMAN SLEZAK: — the areas that we've proposed for de-designation?

MS. PHILLIPS: Yes, that is correct. There is very limited, if any

opportunity for artificial recharge via spreading.

CHAIRMAN SLEZAK: Okay.

Any further Staff presentation?

MR. SMYTHE: No, that's it. [Administrative record, pp. 622-624.]

The Administrative Record contains testimony from the public on compliance with 40 CFR 131.10(g)(4).

Bob Miele with the Los Angeles County Sanitation District. And I'm here to support the Staff recommendation for de-designation, specifically as it relates to the San Gabriel River and the Coyote Creek.

You know, usually I'm up here talking about issues in which we get into the statutory and regulatory stuff that you all have been talking about here. And I don't have to do that today. This is a very practical issue. The San Gabriel River is lined with concrete; there are a number of discharges into it, effluent from our treatment plants, some storm water, some runoff that's maybe not figured out where it came from.

Never, ever, ever will anyone try to use that water for drinking water. And if they did, never, ever, ever would you let them.

If someone wanted to use that water, they would probably come to our agency because most of the water most of the year is our effluent. I think all of you know that we have a very active program. Effluent from several of our plants are used to recharge the groundwater in a very planned way.

If anybody ever wanted to use the water in that area, they would come to us and say, we want to use that water before it gets into the river and gets polluted, if you will, with this storm water and all this other stuff. So quite aside — not quite aside, that's not fair — you've got to deal with the regulatory statutory parts of this.

But the fact of the matter, from a very practical standpoint, what your Staff is suggesting makes sense. And therefore, I think you need to go ahead and do what they're recommending that you do. [Administrative record, 625-626.]

Mr. Miele continues:

And so — I mean, you mentioned before — you asked the Staff, what is the impact of this? And what I'm telling you, the impact is that if those numbers are put in our permits, we will have to meet those numbers, it will result in us having to put in treatment above and beyond what we now have. Certainly beyond secondary treatment that's required in the Clean Water Act as Heal the Bay talks about, way beyond that.

MR. MILAM: That was my question about — because Heal the Bay has indicated that Staff has failed to prove that it's not feasible to restore these waterbodies.

And I'm sure that San Gabriel would be in that area as well. To the extent that those waterbodies are restored as drinking water conditions, then I suppose that would change it. But at this point, you're saying that's highly unlikely that's ever going to happen.

MR. MIELE: Think about what goes into that river; think about somebody coming to you — first of all, no water agency for all these years has talked about doing this. The replenishment district, which is in charge of groundwater recharge in that area, has never suggested this would happen.

I don't think anybody ever would suggest that you would take water out of the concrete channel. But if they did, you wouldn't let them. Trust me on this. You are not going to be able to control all the inputs to that.

And so it's just a practical thing. It just wouldn't happen. And even if were [sic] made to meet these drinking water limits, that doesn't mean

that the water in the river would meet the drinking water limits, it just means our discharge would.

BMP's, whatever that means, on storm water may or may not do it. All the other sort of trash water that you folks try to chase down and found out where it's coming from, will continue to come in there. It's just not real practical. [Administrative record, pp. 629-631.]

And if at some point in time somebody decides it's appropriate to take all that concrete out of the San Gabriel River and to move the millions of people who would get flooded out if you did that, then you can go ahead and redesignate it as MUN and then we got to meet the standards. But that's not what is happening and it's not going to happen for a long time. [Administrative record, p. 633.]

Testimony of Mr Andres Cano:

I would like to correct geological interpretation by Regional Board that no geologically suitable areas for recharged grounds are present. Anyone that's ever been or seen pictures of what L.A Airport used to look like, it's dune sands. It's very permeable. It's very suitable for recharge.

The Venice area as well, I've built many wells there myself and the same applies. Those are former dune sand areas.... [Administrative record, p. 636.]

CHAIRMAN SLEZAK: Mr. Cano, I have a question.

It's my understanding that the Central and West Basins are confined (inaudible) and persistence, and there are overlying clay lenses, which except in certain recharge areas would preclude direct recharge.

Do you have different evidence of that with regard to the surface waters that are being proposed for de-designation here?

MR. CANO: The aquifer separating the confined zones of the Central

and West Basin are not continuous. And that's shown in DWR 104 and other studies of the area. There are areas in the Gardena area where the upper and lower aquifers are merged. And there are several other areas where they're merged where such recharge would be practical.

Another approach to recharge with the technology that's used at the Head Works Spreading Grounds is the use of galleries. And reverse wells or upside wells, which are also used for recharge, would eliminate the problems of having overlying aquifers through the use of these galleries.

So it's not true to state that these water resources couldn't be used for recharge in these ocean areas — I mean coastal areas. I guess that's it. [Administrative record, p. 638-639.]

Testimony of Alex Halperin, on behalf of the Natural Resources Defense Council:

I would like to comment on the legal standard that is the basis for taking the action that's proposed before the Board today.

As Mr. Smythe correctly noted, the Staff is relying on paragraph G4 [sic] of Section 131.10. Section G4 [sic] requires that for a designated use to be de-designated that it be infeasible to obtain that use, and that it also be infeasible to restore the water to its natural condition.

Neither of those requirements is satisfied here. There has been no demonstration that it's infeasible to meet — to attain water quality standards. In fact, we've been working for many years — the Board has been working for many years to achieve those water quality standards and we're making progress. Progress continues to be made.

Mr. Smythe said that all of the requirements are already in place and that the water has not met their standards. That's simply not true. NRDC sued the County of Los Angeles in 1994 because of the lack of implementation of storm water regulations that were imposed by this Board, and continue to work with the county to impose those requirements.

County Sanitation Division seems to think we should just give up; that waters aren't clean enough and they are never going to be clean enough. But that's not the point of this Board. This Board is here in order to make sure that those waters do meet those requirements.

And, again, we're making progress towards that and there is absolutely no demonstration that we're not going to be successful.

In addition, the second factor that I wanted to highlight was the infeasibility of restoring waters to their natural condition.

Again, there has been no demonstration before this Board whatsoever that it's infeasible to restore the waters to their natural condition. There is talk about removing the lining from the L.A. River; there is talk about that kind of restoration on a lot of other waterbodies; and it's simply not true that there has been any showing that infeasibility.

Without those two showing, the recommendation before this Board simply fails to meet the Federal requirements. And this Board can't go forward with that. [Administrative record, pp. 642-644.]

Chairman Slezak question to Mr. Halperin:

And my question to you is: do you believe that there is any practical way in which the current flood-lined channels downgrading [sic] of recharge areas can be modified so that water can be used for municipal use?

MR. HALPERIN: Well, they have the attachments to the letter that NRDC submitted to Heal the Bay. There are some exciting new ideas going on. The County has done a study about creating a reservoir where the channels reach the ocean to collect water [if] it could be made clean enough. And that's not even considering removing the lining.

But removing the lining, even if there isn't the possibility of recharge, also provides the opportunity to siphon waters off at any point along the

channel.

But beyond those practical considerations which are important considerations, I'm glad you brought them up. And I do believe there is a possibility they could be satisfied. But even beyond those practical considerations the fact simply is that if there is any possibility of restoring the water to its natural condition; or if there is any possibility of meeting the standards, whether or not we actually then would be using the water, its simply illegal under Federal law to de-designate such a waterbody. [Administrative record, pp. 645-646.]

Chairman Slezak questions Steve Fleischli, who testified on behalf of Heal the Bay:

[I]n terms of the practicality of the surface water designation where they're fully lined and where they're not overlying any recharge area, do you see any practical manner in which, given that unfortunate set of conditions, that these waters can be used for municipal use as opposed to being a vehicle to obtain some now lost cold water (inaudible).

MR. FLEISCHLE: .... [I]n my mind the best way to get there is to remove the concrete, either in its entirety on these streams or within the center of the stream for recharge along those rivers.

We've also heard testimony today about gaps in some of these areas where there are — where it's been stated that there are clay lenses. We've also heard about technology such as this galleries technology, where it may be able to inject beneath those clay layers and restore — excuse me — and to restore the water — groundwater right there.

I don't know any of any specific examples. I don't have that type of data other than what has been stated here today. [Administrative record, pp. 655-656.]

The information and testimony cited above is all of the evidence in the administrative record before the Regional Board that is relevant to the demonstration required under 40 CFR 131.10(g)(4). As indicated above, the Regional Board has the burden of demonstrating that the requirements of 40 CFR 131.10(g)(4) have

been satisfied. This record does not contain a structured scientific and technical analyses of the feasibility of restoring parts or all of each of the eight surface water bodies to its original condition and of the feasibility of operating parts or all of each of the eight surface water bodies in a way that would result in the attainment of the MUN use. This feasibility analysis is simply not included in the administrative record. In a fair process, the information and analysis of the Regional Board would be included in the Staff Report. Inclusion of information relied upon in the Staff Report as made available along with the initial proposal is essential to providing a meaningful opportunity for public participation in the rulemaking process.

The administrative record must contain substantial evidence that it is not feasible to restore part or all of each of the eight surface water bodies to its original condition and substantial evidence that it is not feasible to operate parts or all of each of the eight surface water bodies in a way that would result in the attainment of the MUN use. "For purposes of [the Necessity] standard, evidence includes, but is not limited to, facts, studies, and expert opinion." Government Code Section 11349(a). Policies, conclusions, speculation, or conjecture alone does not constitute substantial evidence.

> When the explanation is based upon policies, conclusions, speculation, or conjecture, the rulemaking record must include, in addition, supporting facts, studies, expert opinion, or other information. An "expert" within the meaning of this section is a person who possesses special skill or knowledge by reason of study or experience which is relevant to the regulation in question. [California Code of Regulations, Title 1, Section 10(b).]

The Necessity standard requires the Regional Board to provide a careful explanation of the reasons why the de-designation satisfies the requirements of 40 CFR 110.10(g)(4). Where that explanation is based upon the existence of certain determinable facts, one must be able to find those facts from evidence in the record. Where the Regional Board must make policy judgments where no factual certainties exist or where facts alone do not provide the answer, the Regional Board may state that and identify the considerations it finds persuasive. That careful explanation is missing here. In this administrative record, as detailed above, not enough evidence is included to allow a reasonable person to conclude that it is not feasible to restore part or all of each of the eight surface water bodies to its original condition *and* that

it is not feasible to operate parts or all of each of the eight surface water bodies in a way that would result in the attainment of the MUN use. To rely on the fact that the eight surface water bodies are paved for flood control, and that the concrete lining is continuous from the upstream point of dedesignation to the estuary outlet at the ocean is simply not enough. Consequently the de-designation of the eight surface water bodies fails to satisfy the Necessity and Consistency standards of Government Code Section 11349.1.

B.

The Regional Board's position that physical preclusion of use attainment resulting from the concrete lining renders the issue of attainment of drinking water quality moot appears to be facially inconsistent with the prohibition on removal in 40 CFR 131.10(h).

40 CFR 131.10(h)(2) provides:

> [States may not remove designated uses if:] Such uses will be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices for nonpoint source control.

The Regional Board's analysis of compliance with 40 CFR 131.10(h)(2) in the Staff Report completely fails to address attainability of the use through implementing effluent limits and best management practices. The "analysis" in its entirety consists of the following:

> The surface waterbodies proposed for dedesignation have all been paved for flood control purposes. Since the function of such flood control modifications is to move runoff to the ocean as quickly as possible, this results in no current reasonable potential for direct use as a municipal or domestic water supply without major modifications. [Administrative record, p. 11.]

At the public hearing the staff presentation on compliance with 40 CFR 131.10(h)(2) was also based upon the channel straightening and paving.

> Step 3 [of the flowchart attached as exhibit 1 to this decision] is the determination of whether the use is reasonably attainable. (When technology effluents are applied to point sources and when cost-effective and reasonable best management practices are applied to point-sources.)
>
> It is Staff's conclusion that the nature of the modifications to the proposed surface waters have physically precluded reasonable use as a source of drinking water. Even if water quality was improved to the point of public consumption, the channel straightening and paving are implemented to move storm water runoff to the ocean as quickly as possible, thus the conservation of these flows for an MUN use is not reasonable.
>
> In addition, it should be noted that "technology based effluent limitations" and "cost-effective and reasonable best management practices" as defined by sections 301 and 306 of the Clean Water Act have already been met or surpassed for the surface waters proposed for de-designation.
>
> Therefore, Staff contends that attainment of a drinking water beneficial use is not reasonable. [Administrative record, pp. 611-612.]

The staff presentation summarized written comments received.

> In particular, Staff received comments from Heal the Bay and NRDC. They disagree that the hydrologic modifications preclude the MUN use. And believe that implementation of sufficient effluent limitations and imposition of non-point source BMPS would result in attainment of the MUN beneficial use.
>
> Staff have applied 40 CFR 131.10 (g) and have concluded that paving meets the criteria for preclusion of use attainment based on he physical hydrologic modifications. And while *Staff maintain that the physical preclusion of use attainment renders the issue of attainment of drinking water quality moot*, it is Staff's understanding that the requirements of those sections 301(b) and 306 of the Clean Water Act are currently

> being met or surpassed on these waters. With the result that they have not attained the water quality required for drinking water use. [Italic added. Administrative record, pp. 614-615.]

The position that "the physical preclusion of use attainment renders the issue of attainment of drinking water quality moot" has the apparent effect of rendering 40 CFR 131.10(h) superfluous. Correspondingly, the administrative record does not contain substantial evidence to demonstrate that MUN uses will not be attained by implementing effluent limits required under sections 301(b) and 306 of the Act and by implementing cost-effective and reasonable best management practices for nonpoint source control.

No legal analysis of the relationship between 40 CFR 131.10(g)(4) and (h) has been provided among the materials submitted to OAL. OAL asks that upon resubmittal that the Regional Board include a briefing of its legal analysis of the proposition that a demonstration of non-feasibility under 131.10(g)(4) makes 131.10(h) moot. At this time, with regard to 40 CFR 131.10(h), OAL reserves jurisdiction to determine whether the de-designation of the eight surface water bodies satisfies the Consistency and Necessity standards of Government Code Section 11349.1.

C.

The Regional Board's response to public comments does not comply with the public participation requirements of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

OAL reviews the Regional Board's responses to public comments to determine compliance with the public participation requirements of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.). Government Code Section 11353(b)(4). Pursuant to 40 CFR 25.8 the Regional Board must "summarize the public's views, significant comments, criticisms and suggestions; and set forth the agency's specific responses in terms of modifications of the proposed action or an explanation for rejection of proposals made by the public." In our view, this summary and response requirement applies to all comments received by the Regional Board prior to the adoption of a rulemaking action. 40 CFR 25.10(a) provides as relevant: "A Responsiveness Summary shall be published as part of the preamble to ... final

regulations." 40 CFR 25.10(b) makes 25.10(a) applicable to state rulemaking.

The Regional Board has failed to summarize and respond to comments, criticisms and suggestions made at the public hearing. This failure violates the public participation requirements of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) as made specific by 40 CFR 25.8 and CFR 25.10(a).

In addition the Regional Board has failed to adequately respond to two significant public comments received in writing prior to the public hearing.

Mark Gold, on behalf of Heal the Bay, and David Beckman, on behalf of the Natural Resources Defense Council, commented jointly that if the waters were clean they could be used for recharge or storage:

> In this case, things that preclude the attainment of the use include time, a lack of TMDLS, and the failure to implement the municipal storm water permit. If the water were clean the water would be useable as a drinking water source, ***regardless of whether the lining was in place or not.*** It could be used for recharge or for storage. This is especially true for the Lower San Gabriel River, Coyote Creek and the Oxnard Industrial Drain, where there is likely land surface to allow for ground water storage. Without getting to the merits of whether such future action is the most appropriate use of these waterways, this Board must at least recognize that this would be the case. [Emphasis in original. Administrative record, p. 301.]

The Regional Board's response:

> Staff disagrees with the commenters contention that if the proposed surface waters were clean, they would be useable as drinking water sources, regardless of whether the lining was in place or not. The commenter further states that if the surface water flows met MUN water quality objectives, they could then be used for groundwater recharge. This statement supports staff's contention that the hydrologic modifications preclude the use of these proposed surface waters as sources of drinking water. If, at some future, time it is proposed that the flows be diverted from these surface waters to recharge basins,

> then, at that time the Groundwater (GWR) beneficial use would have to be designated for those waters through a Basin Plan Amendment along with the appropriate water quality objectives. [Administrative record, p. 420.]

This response totally ignores the comment that the water could be used for *storage*. Consequently, the response does not set forth the agency's specific responses in terms of modifications of the proposed action or an explanation for rejection of proposals as required by 40 CFR 25.8 and demonstrate that the Regional Board has considered the comment, as required by 40 CFR 25.3(b).

Mark Gold, on behalf of Heal the Bay, and David Beckman, on behalf of the Natural Resources Defense Council, also commented that staff has failed to meet the criteria of 131.10(h).

> 40 C.F.R. 131.10(h) prohibits dedesignation of any uses where "[s]uch uses will be attained by implementing effluent limits required under 301(b) and 306 of the Act and by implementing cost effective and reasonable best management practices for nonpoint source control."
>
> Section 301 of the Act is the general section relating to effluent limitations. Thus, under 40 CFR 131.10(h), if compliance with water quality standards will lead to attainment of a use, that use cannot be removed. Again, without numerical limits in point source permits (including municipal stormwater permits under 40 C.F.R. 122.26), implementation of Best Management Practices in stormwater permits and TMDLs for these waterbodies, it is absurd for staff to claim that the requirements of 131.10(h) have been met. [Administrative record, p. 437.]

The response fails to address the assertion that if numerical limits in point source permits (including municipal stormwater permits under 40 C.F.R. 122.26), implementation of Best Management Practices in stormwater permits and TMDLs for these waterbodies will lead to attainment of a use that the de-designation of that use is prohibited by 40 CFR 131.10(h). Consequently, the response does not set forth the agency's specific responses in terms of modifications of the proposed action or an explanation for rejection of proposals as required by 40 CFR 25.8 and

demonstrate that the Regional Board has considered the comment, as required by 40 CFR 25.3(b).

D.

The administrative record does not demonstrate that removing the cold freshwater habitat (COLD) beneficial use from portions of three surface water bodies is a change without regulatory effect.

In the rulemaking record, the regional board states that the removal of the Cold Freshwater Habitat from Calleguas Creek (Hydro Unit No. 403.11), Arroyo Las Posas (Hydro Unit No. 403.12); and , Arroyo Las Posas (Hydro Unit No. 403.62) is to "[c]orrect typographical errors in the 1994 update of the Basin Plan." The record, however contains no documentation to support this conclusion. OAL cannot approve these changes as non-regulatory without adequate documentation in the administrative record to support the conclusion. Consequently, the removal of the the cold freshwater habitat (COLD) beneficial use from portions of the three surface water bodies is disapproved.

FOR THESE REASONS OAL disapproves the regulatory provisions in Regional Board Resolution 98-18.

DATE: July 22, 1999

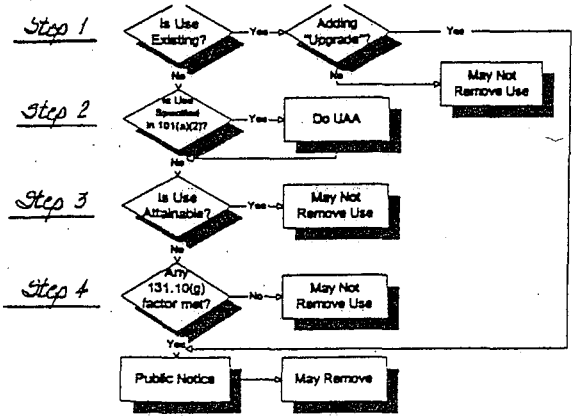
MICHAEL McNAMER
Senior Counsel

for: Charlene Mathias
Deputy Director

Original: Walt Pettit, Executive Director
cc: Joanna Jensen
Denis A. Dickerson, Executive Officer (Los Angeles)

EXHIBIT 1

40CFR 131.10 FLOWCHART



40 CFR 131.10(g)

A designated use may be removed if attainment is not feasible because of:

(1) Naturally occurring pollutant concentrations

(2) Intermittent or low flow conditions;

(3) Human-caused conditions or sources of pollution;

(4) **Dams, diversions or other types of hydrologic modifications;**

(5) Natural physical characteristics of the water body, such as lack of proper substrate; or,

(6) Substantial and widespread economic & social impact.

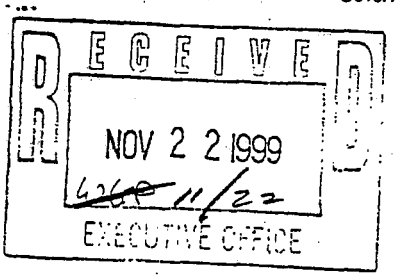
California Regional Water Quality Control Board

Los Angeles Region

Winston H. Hickox
Secretary for Environmental Protection

320 W. 4th Street, Suite 200, Los Angeles, CA 90013
Phone (213) 576-6600 FAX (213) 576-6640

Gray Davis
Governor



TO: Mr. Walt Pettit, Executive Director
State Water Resources Control Board

FROM: Dennis A. Dickerson
Executive Officer
LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

DATE: November 16, 1999

SUBJECT: REMOVAL OF MUNICIPAL AND DOMESTIC (MUN) BENEGICIAL USE DESIGNATIONS FROM TWO AREAS OF ONE GROUND WATER BASIN: OAL FILE NO. 99-0602-01S

On July 22, 1999 the Office of Administrative Law disapproved the regulatory provisions adopted by our Regional Board as Regional Board Resolution 98-18. This Basin Plan amendment dedesignated certain surface waters and two areas of groundwater per the State and Regional Board sources of drinking water policies. In the written discussion of the disapproval, it is clearly stated the Regional Board must comply with the requirements of 40 CFR 131.10 and State Board resolution 88-63 (page 3, second paragraph). The discussion goes on to say "The administrative record demonstrates compliance with these requirements for dedesignation of the two areas of one ground water basin (the portion of West Basin underlying the Chevron facility in El Segundo and the aquifers underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors)".

Given that the decision stated that the groundwater portion of the action meets the requirements, we request that the State Board resubmit the administrative record to the Office of Administrative Law along with a request to bifurcate the action and provide approval for the ground water portion. It is believed by our legal counsel to be more procedurally correct for the resubmittal to come from the State Board. To assist in your review of the matter, I have included copies of all portions of the administrative record that discuss the ground water issue.

If you have any questions please do not hesitate to call me at (213) 576-6605 of our legal counsel Jorge Leon at (916) 657-2428 or Jonathan Bishop of my staff (213) 576-6622

Attachment

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 88-63

ADOPTION OF POLICY ENTITLED "SOURCES OF DRINKING WATER"

WHEREAS:

1. California Water Code Section 13140 provides that the State Board shall formulate and adopt State Policy for Water Quality Control; and,

2. California Water Code Section 13240 provides that Water Quality Control Plans "shall conform" to any State Policy for Water Quality Control; and,

3. The Regional Boards can conform the Water Quality Control Plans to this policy by amending the plans to incorporate the policy; and,

4. The State Board must approve any conforming amendments pursuant to Water Code Section 13245; and,

5. "Sources of drinking water" shall be defined in Water Quality Control Plans as those water bodies with beneficial uses designated as suitable, or potentially suitable, for municipal or domestic water supply (MUN); and,

6. The Water Quality Control Plans do not provide sufficient detail in the description of water bodies designated MUN to judge clearly what is, or is not, a source of drinking water for various purposes.

THEREFORE BE IT RESOLVED:

All surface and ground waters of the state are considered to be suitable, or potentially suitable, for municipal or domestic water supply and should be so designated by the Regional Boards with the exception of:

1. Surface and ground waters where:

   a. The total dissolved solids (TDS) exceed 3,000 mg/L (5,000 uS/cm, electrical conductivity) and it is not reasonably expected by Regional Boards to supply a public water system, or

   b. There is contamination, either by natural processes or by human activity (unrelated to a specific pollution incident), that cannot reasonably be treated for domestic use using either Best Management Practices or best economically achievable treatment practices, or

   c. The water source does not provide sufficient water to supply a single well capable of producing an average sustained yield of 200 gallons per day.

2. Surface waters where:

   a. The water is in systems designed or modified to collect or treat municipal or industrial wastewaters, process waters, mining wastewaters, or storm water runoff, provided that the discharge from such systems is monitored to assure compliance with all relevant water quality objectives as required by the Regional Boards; or,

   b. The water is in systems designed or modified for the primary purpose of conveying or holding agricultural drainage waters, provided that the discharge from such systems is monitored to assure compliance with all relevant water quality objectives as required by the Regional Boards.

3. Ground water where:

   The aquifer is regulated as a geothermal energy producing source or has been exempted administratively pursuant to 40 Code of Federal Regulations, Section 146.4 for the purpose of underground injection of fluids associated with the production of hydrocarbon or geothermal energy, provided that these fluids do not constitute a hazardous waste under 40 CFR, Section 261.3.

4. Regional Board Authority to Amend Use Designations:

Any body of water which has a current specific designation previously assigned to it by a Regional Board in Water Quality Control Plans may retain that designation at the Regional Board's discretion. Where a body of water is not currently designated as MUN but, in the opinion of a Regional Board, is presently or potentially suitable for MUN, the Regional Board shall include MUN in the beneficial use designation.

The Regional Boards shall also assure that the beneficial uses of municipal and domestic supply are designated for protection wherever those uses are presently being attained, and assure that any changes in beneficial use designations for waters of the State are consistent with all applicable regulations adopted by the Environmental Protection Agency.

The Regional Boards shall review and revise the Water Quality Control Plans to incorporate this policy.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a policy duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 19, 1988.

Original signed by
Maureen Marche
Administrative Assistant to the Board

---

[1] This policy does not affect any determination of what is a potential source of drinking water for the limited purposes of maintaining a surface impoundment after June 30, 1988, pursuant to Section 25208.4 of the Health and Safety Code.

0000017

Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

Executive Office
901 P Street • Sacramento, California 95814 • (916) 657-0941
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
FAX (916) 657-0932 • Web Site Address: http://www.swrcb.ca.gov

Gray Davis
Governor

TO: Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality
Control Board

FROM: Walt Pettit
Executive Director
EXECUTIVE OFFICE

DATE: DEC 2 9 1999

SUBJECT: REQUEST FOR RESUBMITTAL TO THE OFFICE OF ADMINISTRATIVE LAW (OAL) OF THE GROUND WATER PORTION OF AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION

On November 2, 1998, the Los Angeles Regional Water Quality Control Board (Regional Board) adopted Resolution 98-18, an amendment to the Water Quality Control Plan for the Los Angeles Region revising beneficial use designations for eleven surface water bodies and two areas of a ground water basin. Subsequently, the State Water Resources Control Board (State Board) approved the amendment under Resolution 99-20. OAL disapproved the amendment on July 22, 1999 because the surface water portions of the amendment did not meet OAL standards for approval. However, in the written discussion of the disapproval, OAL indicated that the ground water portion met the requirements.

Your memorandum dated November 16, 1999 requests that the State Board resubmit the administrative record for the amendment to OAL with a request that OAL approve the ground water portion of the amendment.

The OAL staff has agreed to reconsider the ground water portion of the amendment. The State Board will attempt to resubmit the administrative record to OAL by December 31, 1999.

The staff member preparing the resubmittal is Joanna Jensen of the Division of Water Quality and she can be reached at (916) 657-1036. You may also contact Paul Lillebo, Chief of the Water Quality Planning Unit, at (916) 657-1031.

Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

Executive Office
901 P Street • Sacramento, California 95814 • (916) 657-0941
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
FAX (916) 657-0932 • Web Site Address: http://www.swrcb.ca.gov

Gray Davis
Governor

1999 DEC 30 PM 12:30
OFFICE OF
ADMINISTRATIVE LAW

TO: Charlene Mathias
Deputy Director
Office of Administrative Law
555 Capitol Mall, Suite 1290
Sacramento, CA 95814-4602

FROM: Walt Pettit
Executive Director
EXECUTIVE OFFICE

DATE: DEC 2 0 1999

SUBJECT: RESUBMITTAL OF REGULATORY PROVISIONS OF AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION

On November 2, 1998, the Los Angeles Regional Water Quality Control Board (Regional Board) adopted Resolution No. 98-18 amending the Water Quality Control Plan for the Los Angeles Basin (Basin Plan). The amendment revised the Basin Plan by: (1) removing the municipal and domestic (MUN) beneficial use designation from eight surface water bodies and two specifically defined areas of one ground water basin, (2) assigning additional beneficial use designations to three surface water bodies, and (3) removing the cold water freshwater habitat (COLD) beneficial use from portions of three surface water bodies. On February 18, 1999, the State Water Resources Control Board (State Board) adopted Resolution No. 99-20 approving the amendment.

The Office of Administrative Law (OAL) disapproved the amendment on July 22, 1999. In the written discussion of the disapproval, OAL stated that the surface water portions of the amendment did not meet OAL standards for approval but indicated that the ground water portion met the requirements. (The discussion states: "The administrative record demonstrates compliance with these requirements for dedesignation of the two areas of one ground water basin [the portion of West Basin underlying the Chevron facility in El Segundo and the aquifers underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors].")

The State Board is therefore resubmitting the regulatory provisions of this amendment to OAL for consideration with a request to review and consider for approval only the portions of the amendment pertaining to removing the MUN beneficial use designation from the two areas of

one ground water basin. As agreed, the administrative record for the amendment is submitted in its entirety, and the index to the administrative records is marked to indicate which documents the State Board is requesting the OAL to review.

As required by Government Code Section 11353, this submittal includes:

1. Seven copies of OAL Form 400 with the Clear and Concise Summary of Regulatory Provisions attached;

2. A summary of the necessity for the regulatory provisions in the staff reports of the Regional Board proceedings;

3. A certification by the Chief Counsel of the State Board that the action was taken in compliance with all applicable procedural requirements of the Porter-Cologne Water Quality Control Act, Water Code section 13000 et seq., and

4. The Administrative Record for the Regional Board and State Board proceedings on this matter.

The Regional Board's authority to adopt amendments to its Basin Plan is contained in Water Code section 13240. In adopting the amendments, the Regional Board was implementing Water Code sections 13240 through 13242.

We recommend that the regulatory summary be added as new Section 3932: "Removal of the Municipal and Domestic (MUN) Beneficial Use Designation from Two Areas of One Ground Water Basin" under Article 4 (Los Angeles Region) of Chapter 1 (Water Quality Control Plans) in Division 4 of Title 23.

If you have any questions regarding this submittal, please contact Joanna Jensen of the Water Quality Planning Unit at (916) 657-1036. You may also call Paul Lillebo, Chief of the Water Quality Planning Unit at (916) 657-1031.

Attachments (3)

cc: Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality
Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Charlene Mathias
Deputy Director

bc: Sheila Vassey, OCC
Paul Lillebo, DWQ
John Ladd, DWQ

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 1-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

NOTICE | REGULATIONS

AGENCY: STATE WATER RESOURCES CONTROL BOARD | AGENCY FILE NUMBER *(If any)*:

A. PUBLICATION OF NOTICE *(Complete for publication in Notice Register)*

1. SUBJECT OF NOTICE: WATER QUALITY CONTROL PLAN: LOS ANGELES REGION | TITLE(S): 23 | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE: ☐ Notice re Proposed Regulatory Action ☐ Other | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER

OAL USE ONLY | ACTION ON PROPOSED NOTICE: ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn | NOTICE REGISTER NUMBER | PUBLICATION DATE

B. SUBMISSION OF REGULATIONS *(Complete when submitting regulations)*

1. SUBJECT OF REGULATION(S): WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) *(Including title 26, if toxics-related)*

SECTIONS AFFECTED | ADOPT | AMEND: PUBLISH NEW SECTION 3932 | REPEAL

TITLE(S): 23

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Emergency (Gov. Code, § 11346.1(b)) ☐ Resubmittal of disapproved or withdrawn emergency filing

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☑ Other (specify) ADOPTION OF WATER QUALITY CONTROL PLAN AMENDMENTS: SUMMARY OF REGULATORY PROVISIONS

4. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE *(Cal. Code Regs. title 1, §§ 44 and 45)*

5. EFFECTIVE DATE OF REGULATORY CHANGES *(Gov. Code § 11346.2)*

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☑ Effective other *(Specify)* UPON APPROVAL (GOV'T. CODE SECTION 11353)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

7 CONTACT PERSON: JOANNA JENSEN | TELEPHONE NUMBER: (916) 657-1036

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE: Walt Pettit | DATE: 24 Dec 99

TYPED NAME AND TITLE OF SIGNATORY: WALT PETTIT, EXECUTIVE DIRECTOR

CONCISE SUMMARY OF REGULATORY PROVISIONS

Article 4 -- "Los Angeles Region", Section 3932, "Removal of the Municipal and Domestic (MUN) Beneficial Use Designation from Two Areas of One Ground Water Basin".

Regional Board Resolution No. 98-18 adopted on November 2, 1998 by the Los Angeles Regional Water Quality Control Board modified the regulatory provisions of the Water Quality Control Plan for the Los Angeles Region by removing the MUN beneficial use designation from two specifically defined areas of one ground water basin [the portion of West Basin underlying Chevron Facility in El Segundo and the aquifers underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors].

STATE WATER RESOURCES CONTROL BOARD

ACTION TAKEN: Adopting amendments to the Water Quality Control Plan for the Los Angeles Region.

DOCUMENT NUMBER: Los Angeles Regional Water Quality Control Board Resolution No. 99-020.

I certify that adoption of the amendments to the Water Quality Control Plan for the Los Angeles Region was carried out in compliance with all applicable procedural requirements of Division 7 (commencing with Section 13000) of the Water Code.

Date: 12/30/99

William R. Attwater
Chief Counsel

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

In re:	
WATER RESOURCES CONTROL BOARD	NOTICE OF APPROVAL OF REGULATORY ACTION
REGULATORY ACTION: Title 23 California Code of Regulations Amend 3932	(Gov. Code, Sec. 11349.3)
	OAL File No. 99-1230-02 S

SUMMARY OF REGULATORY ACTION

Regional Board Resolution No. 98-18 adopted on November 2, 1998 by the Los Angeles Regional Water Quality Control Board modified the regulatory provisions of the Water Quality Control Plan for the Los Angeles Region by removing the MUN beneficial use designation from two specifically defined areas of one ground water basin (the portion of West Basin underlying the Chevron facility in El Segundo and the aquifers underlying Terminal Island and portions of the Los Angeles and Long Beach Harbors).

OFFICE OF ADMINISTRATIVE LAW DECISION

OAL approves this regulatory action.

REASON FOR DECISION

This regulatory action meets all applicable legal requirements.

Comments:

DATE: 02/09/00

MICHAEL McNAMER
Senior Counsel

for: DAVID B. JUDSON
CHIEF COUNSEL/DEPUTY DIRECTOR

Original: Walt Pettit, Executive Director
cc: Joanna Jensen

OAL approval letter