

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

RESOLUTION R2-2007-0010

AMENDING THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY
REGION TO ESTABLISH NEW WATER QUALITY OBJECTIVES AND A TOTAL
MAXIMUM DAILY LOAD AND IMPLEMENTATION PLAN FOR MERCURY IN THE
WALKER CREEK WATERSHED

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board), finds that:

1. An updated Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) was adopted by the Water Board on January 21, 2004, approved by the State Water Resources Control Board (State Board) on July 22, 2004, and approved by the Office of Administrative Law (OAL) on October 4, 2005.
2. The Basin Plan amendment, including specifications on its physical placement in the Basin Plan, is set forth in Exhibit A hereto. The Basin Plan amendment: (a) establishes new mercury water quality objectives in Walker Creek and Soulajule Reservoir and their tributaries (Walker Creek watershed) of 0.05 and 0.1 milligrams mercury per kilogram of fish tissue to protect aquatic organisms and wildlife; (b) vacates the existing 4-day average water quality objective for mercury in the Basin Plan for the Walker Creek watershed; (c) establishes a mercury TMDL for Walker Creek of 0.5 mg mercury per kg suspended sediment; and (d) establishes a mercury TMDL for Soulajule Reservoir of 0.04 ng methylmercury per liter water.
3. Walker Creek and Soulajule Reservoir are listed pursuant to Federal Clean Water Act § 303(d) requirements as impaired waterbodies due to elevated concentrations of mercury.
4. Under Clean Water Act § 303(d), the Water Board is required and authorized to establish the total maximum daily load (TMDL) for those pollutants identified as causing impairment of waters on the § 303(d) list. Additionally, under California Water Code § 13242 the Water Board is authorized to develop an implementation program for achieving water quality objectives.
5. A Basin Plan amendment has been prepared in accordance with Water Code § 13240 that will establish the TMDL and Implementation Plan to reduce mercury related risks to humans, wildlife, and aquatic organisms, and restore and protect water quality beneficial uses in the Walker Creek watershed.
6. Water Code § 13241 authorizes the Water Board to adopt new water quality objectives such as the new mercury objectives proposed in the Basin Plan amendment upon consideration of the following factors: past, present, and probable future beneficial uses

of water; environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto; water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality; economics; the need for developing housing; and the need to develop and use recycled water.

7. The Water Board has duly considered the Water Code § 13241 factors.
8. The Water Board finds that the Basin Plan amendment includes the required Water Code § 13242 program of implementation for achieving the proposed new mercury water quality objectives through the Walker Creek watershed mercury TMDL.
9. The Water Board finds that the proposed mercury water quality objectives are based on sound scientific rationale and protect beneficial uses.
10. The scientific basis for the TMDL and water quality objectives were subjected to an independent, external peer review pursuant to the requirements of California Health and Safety Code § 57004.
11. A draft Basin Plan amendment, Staff Report, and Environmental Checklist were prepared and distributed for public review and comment twice, initially on August 4, 2006. The documents were revised principally to include analysis of Water Code § 13241 factors, and distributed for public review on November 4, 2006, in accordance with applicable state and federal laws and regulations.
12. On October 11, 2006, the Water Board held a public hearing to consider the Basin Plan amendment, after a 45-day public comment period.
13. On January 23, 2007, after a second 45-day public comment period, the Water Board held a second public hearing to consider the Basin Plan amendment, and the changes made thereto in response to public comments. A Notice of Public Hearing and Notice of Filing of a Draft Environmental Document was given to interested persons and was published in accordance with applicable state and federal laws and regulations.
14. The process of basin planning has been certified by the Secretary for Resources as exempt from the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.) to prepare an Environmental Impact Report or Negative Declaration. The Basin Plan amendment package includes a Staff Report, an Environmental Checklist, an assessment of the potential environmental impacts of the Basin Plan amendment, and a discussion of alternatives. The Basin Plan amendment, Environmental Checklist, Staff Report, and documentation serve as a substitute environmental document under the Water Board's certified regulatory program. The Water Board has duly considered the Environmental Checklist, Staff Report, and supporting documentation with respect to environmental impacts and finds that the Basin Plan amendment will not have any significant impact on the environment. The Board further finds, based on consideration of the record as a whole, that there is no potential for adverse effect, either individually or cumulatively, on wildlife as a result of the proposed Basin Plan amendment.
15. The Water Board has carefully considered all comments and testimony received, including responses thereto, on the Basin Plan amendment, as well as all of the evidence in the administrative record.

16. The Basin Plan amendment must be submitted to the State Board so that it may act on both the Walker Creek watershed mercury TMDL and the Basin Plan amendment. Upon State Board's approval, OAL and the United States Environmental Protection Agency (USEPA) must approve the TMDL and the new water quality objectives.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Water Board adopts the Basin Plan amendment as set forth in Exhibit A hereto.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Board in accordance with the requirement of California Water Code § 13245.
3. The Water Board requests that the State Board approve the Walker Creek watershed mercury TMDL and the Basin Plan amendment, in accordance with the requirements of California Water Code § 13245 and § 13246 and forward it to the OAL and USEPA for approval.
4. If, during the approval process, Water Board staff, the State Board, or OAL determines that minor, non-substantive corrections to the language of the amendment and supporting documentation are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Water Board of any such changes.
5. Because the Basin Plan amendment will involve no potential for adverse effect, either individually or cumulatively, on wildlife, the Executive Officer is directed to sign a Certificate of Fee Exemption for a "De Minimis" Impact Finding and to submit the exemption in lieu of payment of the Department of Fish and Game CEQA filing fee.

I, Bruce H. Wolfe, 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, San Francisco Bay Region, on January 23, 2007.


BRUCE H. WOLFE
Executive Officer

Attachment

Exhibit A - Basin Plan Amendment to Establish New Water Quality Objectives and a Total Maximum Daily Load and Implementation Plan for Mercury in Walker Creek and Soulajule Reservoir and their Tributaries