

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2005-0053

AMENDING THE WATER QUALITY CONTROL PLAN
FOR
THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS
TO DE-DESIGNATE FOUR BENEFICIAL USES OF OLD ALAMO CREEK,
SOLANO COUNTY

WHEREAS, in 1975 the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Board) adopted the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan), which has been amended occasionally; and

WHEREAS, the Federal Clean Water Act (CWA) Section 303 requires the Regional Board to develop water quality objectives which are sufficient to protect beneficial uses designated for each water body found within its region; and

WHEREAS, the CWA Section 303 requires the Regional Board to review the Basin Plan at least every three years and where appropriate modify water quality objectives or beneficial uses in the Basin Plan; and

WHEREAS, studies have been completed evaluating the attainability of the following beneficial uses: cold freshwater habitat (COLD), fish migration (MIGR), fish spawning (SPWN), and municipal and domestic supply (MUN) in Old Alamo Creek in Solano County; and

WHEREAS, the Regional Board has prepared draft amendments which de-designate COLD, MIGR, SPWN and MUN beneficial uses for Old Alamo Creek in Solano County; and

WHEREAS, the proposed amendment will revise Chapter II – Existing and Potential Beneficial Uses; and

WHEREAS, the Regional Board has considered the costs of implementing the proposed amendment, and finds these costs to be a reasonable burden relative to the environmental benefits; and

WHEREAS, the proposed amendment is consistent with State Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*), the State's "Antidegradation Policy," in that the changes to water quality objectives (i) consider maximum benefits to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies. Likewise, the amendment is

consistent with the federal Antidegradation Policy (Title 40 Code of Federal Regulations (40 CFR) Section 131.12); and

WHEREAS, the regulatory action proposed meets the “Necessity” standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b); and

WHEREAS, the basin planning process has been certified as “functionally equivalent” to the California Environmental Quality Act requirements for preparing environmental documents as specified in Title 23 California Code of Regulations (23 CCR) Section 3782 and is, therefore, exempt from those requirements (Public Resources Code, Section 21000 et seq.); and

WHEREAS, Board staff has prepared a draft amendment and a staff report dated March 2005 and revised April 2005; and

WHEREAS, the environmental checklist indicates that the amendment results in no potential for adverse effect, either individually or cumulatively, on wildlife; and

WHEREAS, the draft amendment, staff report, and environmental checklist have been prepared, noticed and circulated to interested individuals and public agencies for review and comment in accordance with state and federal environmental regulations (23 CCR Section 3775, 40 CFR 25, and 40 CFR 131); and

WHEREAS, the Regional Board held a scoping meeting on 9 June 2004 to receive comments on the scope of the draft amendment and to identify any significant issues that must be considered; and

WHEREAS, the Regional Board held a public hearing on 28 April 2005, for the purpose of receiving testimony on the draft Basin Plan amendment. Notice of the public hearing was sent to all interested persons and published in accordance with California Water Code, section 13244; and

WHEREAS, a Basin Plan amendment must be approved by the State Board, Office of Administrative Law (OAL), and USEPA before becoming effective; and

WHEREAS, the Regional Board finds that the amendment to the Basin Plan was developed in accordance with California Water Code Section 13240, et seq.:

THEREFORE BE IT RESOLVED, pursuant to Section 13240, et seq. of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby approves the staff report and adopts the amendment to the Basin Plan as set forth in Attachment 1; and be it further

RESOLVED, that the Executive Officer is directed to forward copies of the Basin Plan amendment to the State Board in accordance with the requirements of Section 13245 of the California Water Code; and be it further

RESOLVED, that the Regional Board requests that the State Board approve the Basin Plan amendment in accordance with the requirements of Sections 13245 and 13246 of the California Water Code and forward it to OAL and the USEPA; and be it further

RESOLVED, if during its approval process the State Board or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Regional Board of any such changes; and be it further

RESOLVED, the Executive Officer is authorized to sign a Certificate of Fee Exemption and, following approval of the Basin Plan amendment by OAL, submit this Certificate in lieu of payment of the Department of Fish and Game filing fee to the Secretary for Resources; and be it further

RESOLVED, the environmental documents prepared by Regional Board staff pursuant to Public Resources Code Section 21080.5 are hereby certified and, following approval of the Basin Plan amendment by OAL, the Executive Officer shall file a Notice of Decision with the State Clearinghouse.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 28 April 2005.

THOMAS R. PINKOS, Executive Officer

ATTACHMENT 1
RESOLUTION NO. 5-2005-0053
AMENDMENT TO BASIN PLAN
TO DEDESIGNATE FOUR BENEFICIAL USES OF OLD ALAMO CREEK,
SOLANO COUNTY

Revise Basin Plan sections as follows:

CHAPTER II: PRESENT AND POTENTIAL BENEFICIAL USES

Modify the first three paragraphs on page II-2.00 of the Basin Plan, under the heading **SURFACE WATERS**, as follows:

SURFACE WATERS

Existing and potential beneficial uses which currently apply to surface waters of the basins are presented in Figure II-1 and Table II-1. The beneficial uses of any specifically identified water body generally apply to its tributary streams, *except as provided below*:

- *MUN, COLD, MIGR and SPWN do not apply to Old Alamo Creek (Solano County) from its headwaters to the confluence with New Alamo Creek*

In some cases a beneficial use may not be applicable to the entire body of water. In these cases the Regional Water Board's judgment will be applied.

It should be noted that it is impractical to list every surface water body in the Region. For unidentified water bodies, the beneficial uses will be evaluated on a case-by-case basis.

Water Bodies within the basins that do not have beneficial uses designated in Table II-1 are assigned MUN designations in accordance with the provisions of State Water Board Resolution No. 88-63 which is, by reference, a part of this Basin Plan, *except as provided below*:

- *Old Alamo Creek (Solano County) from its headwaters to the confluence with New Alamo Creek*

These MUN designations in no way affect the presence or absence of other beneficial use designations in these water bodies.