

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

MEETING OF December 6-7, 2011

South Lake Tahoe

ITEM: 7

SUBJECT: **CONSIDERATION TO ADOPT RESOLUTION FOR APPROVAL OF AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION TO REPLACE THE REGIONWIDE PESTICIDE WATER QUALITY OBJECTIVE WITH A REGIONWIDE PESTICIDE WASTE DISCHARGE PROHIBITION WITH EXEMPTION CRITERIA FOR AQUATIC PESTICIDE USE AND CERTIFICATION OF SUBSTITUTE ENVIRONMENTAL DOCUMENTATION (SED)**

CHRONOLOGY: As part of the 2003 triennial review, the Water Board prioritized amending the regional pesticide water quality objective.

Environmental documentation scoping meetings were conducted on July 29, 2009 in Bishop, July 30, 2009 in Victorville, and July 31, 2009 in South Lake Tahoe.

On March 21, 2011 a Notice of Filing (NOF), draft SED and proposed amendment language were released for public review. Public hearings to solicit public testimony on the draft documents were held on April 13, 2011 in South Lake Tahoe and May 11, 2011 in Victorville. This written comment period closed May 13, 2011.

On September 30, 2011 a second NOF, revised SED and revised amendment language were released for public review. This second written comment period closed November 14, 2011. The enclosed SED and amendment language (Enclosure 2) which includes changes which reflect public comments (Enclosure 4) and are consistent with the general purpose of the proposed amendment.

DISCUSSION: The proposed amendment involves replacing the existing regionwide pesticide water quality objective, which effectively prohibits pesticides in water, with a regionwide waste discharge prohibition with exemption criteria for aquatic pesticide application. The proposed amendment would provide the Water Board the discretion to approve eligible aquatic pesticide applications. Water

Board approval would include granting a prohibition exemption and regulating the subsequent aquatic pesticide discharge under an applicable permit, such as Waste Discharge Requirements (WDRs), a National Pollutant Discharge Elimination System (NPDES) permit, or a waiver of WDRs issued by the State or Regional Water Board.

The proposed amendment presents an approach that allows the Water Board to proactively protect water quality from the unauthorized use and unintended effects of pesticides and their residues, while still allowing lawful and appropriate use of aquatic pesticides. Refer to the attached enclosures for more detailed information regarding the purpose and need of the amendment, and the specific language proposed for inclusion in the Basin Plan. Documents may also be viewed electronically and downloaded from the Water Board's internet home page at http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/pesticidebpa.shtml.

In response to comments received in the first public comment period, Water Board staff made some key changes to the proposed amendment language. For pesticides other than larvicides, the previously proposed language limited the duration of the treatment event to one-week. A one-week time limitation may have precluded the potential use of slow-release pesticides, which may require presence at effective concentrations in the water column beyond a one-week duration to achieve desired project goals. The modified language allows for the potential use of these slow-release compounds, but requires that the treatment event be limited to the shortest possible time and confined to the smallest area necessary for project success.

If the Water Board adopts the Proposed Resolution the State Water Board will consider the amendment for approval as early as March 2012. Subsequently, the Office of Administrative Law (OAL) and the US Environmental Protection Agency (US EPA) will consider the amendment for approval as early as June 2012. Once approved by OAL and US EPA, the amendment is finalized into the Water Quality Control Plan for the Lahontan Region.

RECOMMENDATION:

Adoption of the Proposed Resolution (Enclosure 1) which will certify the Substitute Environmental Documentation and amend the Basin Plan as proposed.

ENCLOSURE	Item	Bates Number
1	Proposed Resolution	07-005
2	Final Substitute Environmental Documentation	07-0011
3	Attachment 1: Definitions	07-0071
4	Attachment 2: Draft Pesticide Prohibition and Exemption Criteria (includes four separate but related documents that contain the proposed Basin Plan amendment language for inclusion in Chapters 3, 4, 5)	07-0077
5	Comments received by May 13, 2011	07-00110
6	Response to Comments received by May 13, 2011	07-00170
7	Comments received by November 14, 2011	07-00261