

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2004-0108

AMENDING THE WATER QUALITY CONTROL PLAN
FOR
THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS
FOR
THE CONTROL OF SALT AND BORON DISCHARGES INTO THE
LOWER SAN JOAQUIN RIVER

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 (hereafter Basin Plan), which has been amended occasionally; and

WHEREAS, the Basin Plan may be amended in accordance with California Water Code Section 13240, et seq.; and

WHEREAS, California Water Code Section 13242 requires the Regional Board to establish a program for implementation for achieving water quality objectives; and

WHEREAS, the Lower San Joaquin River from Mendota Dam to the Airport Way Bridge near Vernalis (hereafter LSJR) has been identified under the federal Clean Water Act Section 303(d) as an impaired waterbody due to salt and boron; and

WHEREAS, the Regional Board recognizes that the Basin Plan does not include a plan to control discharge of salt and boron in the LSJR; therefore, a Basin Plan amendment is appropriate; and

WHEREAS, the proposed amendment modifies Basin Plan Chapter I (Introduction) to define geographic subareas of the LSJR Basin; and

WHEREAS, the proposed amendment modifies Basin Plan Chapter IV (Implementation) to establish a control program for salt and boron in the LSJR, including the loading capacity and allocation requirements of a Total Maximum Daily Load (TMDL); and

WHEREAS, the proposed amendment requires entities responsible for the point and non-point sources of salt and boron to reduce their discharge of these substances or participate in a Regional Board approved real-time management program; and

WHEREAS, the Regional Board has considered the costs of implementing the proposed amendment, and finds these costs to be reasonable relative to the water quality benefits to be derived from implementing the proposed amendment; and

WHEREAS, Regional Board staff developed a draft staff report and draft Basin Plan Amendment for external scientific peer review in November 2003 in accordance with Health and Safety Code Section 57004 and the draft staff report and amendment have been changed to conform to the recommendations of the peer reviewers or staff has provided an explanation of why no change was made; and

WHEREAS, the Regional Board has determined that the scientific portions of the Basin Plan Amendment are based on sound scientific knowledge, methods, and practices in accordance with Health and Safety Code Section 57004; and

WHEREAS, Regional Board staff held a public workshop and scoping meeting on 16 September 2002 to identify any significant issues that must be considered, and the Regional Board held public workshops on 5 December 2003 and 30 January 2004 to receive comments on the draft staff report and draft Basin Plan Amendment; and

WHEREAS, Regional Board staff has circulated a Notice of Public Hearing, Notice of Filing, a written staff report, an environmental checklist, and a draft proposed amendment to interested individuals and public agencies, including persons having special expertise with regard to the environmental effects involved with the proposed amendment, 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 public hearing on 10 September 2004, for the purpose of receiving testimony on the proposed 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, the basin planning process has been certified as "functionally equivalent" to the CEQA requirements for preparing environmental documents and is, therefore, exempt from those requirements (Public Resources Code Section 21000 et seq.); and

WHEREAS, Regional Board staff completed an environmental checklist and functional equivalent document in compliance with the provisions of CEQA that concluded that the proposed amendment minimizes potential for adverse effects, either individually or cumulatively, on wildlife or the environment and that despite potential impacts, there is an overriding need to protect the beneficial uses of the LSJR, and the proposed amendment balances the need to protect the beneficial uses of the LSJR versus the potential adverse environmental effects; and

WHEREAS, the Regional Board concurs with staff's conclusion that the proposed amendment minimizes the potential for adverse effects, either individually or cumulatively, on wildlife or the environment; and

WHEREAS, a Basin Plan amendment must be approved by the State Water Resources Control Board, the Office of Administrative Law, and the U.S. Environmental Protection Agency before becoming effective; and

WHEREAS, the proposed amendment will not result in degradation of the San Joaquin River water quality and maintains the level of water quality necessary to protect existing and anticipated beneficial uses; and

WHEREAS, this regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b):

THEREFORE BE IT RESOLVED, that, pursuant to Sections 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 incorporates it as findings in this resolution, and adopts an amendment to the Basin Plan to establish a control program for salt and boron discharges into the LSJR, including the loading capacity and allocation requirements of a Total Maximum Daily Load, 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 Water Resources Control Board in accordance with the requirements of Section 13245 of the California Water Code; and be it further

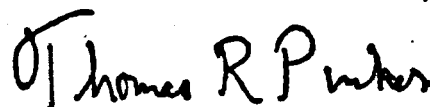
RESOLVED, that the Regional Board requests that the State Water Resources Control Board approve the Basin Plan amendment in accordance with the requirements of Sections 13245 and 13246 of the California Water Code and forward it to the Office of Administrative Law and the U.S. Environmental Protection Agency; and be it further

RESOLVED, that, if during its approval process the State Water Resources Control Board, or Office of Administrative Law, or U.S. Environmental Protection Agency 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 the U.S. Environmental Protection Agency 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, following approval of the Basin Plan amendment by the U.S. Environmental Protection Agency, the Executive Officer shall file a Notice of Decision with the State Clearinghouse.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify that the forgoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 10 September 2004.



THOMAS R. PINKOS, Executive Officer