

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2024-0042**

**APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR
THE SAN FRANCISCO BAY BASIN TO INCLUDE INFORMATION ON CLIMATE
CHANGE AND AQUATIC HABITAT CONSERVATION, MANAGEMENT, AND
RESTORATION**

WHEREAS:

1. On June 12, 2024, the Regional Water Quality Control Board, San Francisco Bay Region (San Francisco Bay Water Board) adopted [Resolution R2-2024-0012](#) (Attachment A hereto) to amend the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) to 1) add new information on the challenge of climate change and how it might affect the Region's waters, 2) update references, correct errors, and make minor, non-substantive edits for clarity; 3) describe regional efforts made to support the long-term resilience and beneficial uses of aquatic habitats in the Region; and 4) include information to assist in the planning and development of climate adaptation and other shoreline projects, based on the San Francisco Bay Water Board's review of the evolving climate change science and its knowledge and expertise in coastal and estuarine management and permitting. The Basin Plan amendment is informational and contains no new regulations.
2. The San Francisco Bay Water Board found that the Basin Plan amendment will not lower water quality and is consistent with the Statement of Policy with Respect to Maintaining High Quality of Waters in California ([State Water Board Resolution No. 68-16](#)) and the federal Antidegradation Policy (40 C.F.R. § 131.12).
3. The requirements in Water Code section 13149.2 do not apply because the proposed Basin Plan amendment is non-regulatory and will not result in any water quality impacts in disadvantaged or tribal communities or raise other environmental justice concerns and no outreach was required.
4. The proposed Basin Plan amendment is not a "project" within the meaning of the California Environmental Quality Act because it will neither cause a direct physical change in the environment or a reasonably foreseeable indirect change. (See Pub. Resources Code, § 21065; Cal. Code Regs., tit. 14, § 15378.) As a result, the proposed Basin Plan amendment is not subject to the California Environmental Quality Act.

5. Because the Basin Plan amendment is non-regulatory, no scientific peer review is required under Health and Safety Code section 57004, which requires the scientific basis of any regulation or policy adopted under the Porter-Cologne Act to be subject to external scientific peer review.
6. The State Water Resources Control Board (State Water Board) finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that regional water quality control boards may periodically review and revise basin plans.
7. The Basin Plan amendment becomes effective upon approval by the State Water Board. The Basin Plan amendment must be submitted to the Office of Administrative Law (OAL), but OAL approval is not required because the amendment does not contain any regulatory provisions (see Government Code section 11353, subdivision (b)(5)).
8. As authorized by Resolution R2-2024-0012, the San Francisco Bay Water Board Executive Officer made minor, non-substantive changes to the Basin Plan amendment in order to correct a minor clerical error and improve clarity and consistency during the State Water Board's review of the Basin Plan amendment. The corrections are documented in a memorandum from the Executive Officer to the State Water Board dated October 29, 2024 (Attachment B). The changes involve defining "drowning" and "downshifting" earlier in the Basin Plan amendment and correcting a typographical error.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan amendment adopted under San Francisco Bay Water Board Resolution R2-2024-0012 in Attachment A, with the minor, non-substantive changes reflected in Attachment B.
2. Authorizes and directs the Executive Director or designee to submit the Basin Plan amendment adopted under San Francisco Bay Water Board Resolution R2-2024-0012 with the minor, non-substantive changes to OAL.

3. Authorizes the Executive Director or designee to make minor, non-substantive modifications to the language of the Basin Plan amendment and the supporting documentation if State Water Board staff or OAL determines that such changes are needed for clarity or consistency, and inform the State Water Board and the public of any such changes.

CERTIFICATION

The undersigned Clerk 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 December 18, 2024.

AYE: Chair E. Joaquin Esquivel
Vice Chair Dorene D'Adamo
Board Member Sean Maguire
Board Member Laurel Firestone
Board Member Nichole Morgan

NAY: None

ABSENT: None

ABSTAIN: None



Courtney Tyler
Clerk to the Board

Attachment A

Resolution R2-2024-0012, including
Basin Plan Amendment

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

RESOLUTION No. R2-2024-0012

Amending the Water Quality Control Plan for the San Francisco Bay Basin to Include Information on Climate Change and Aquatic Habitat Protection, Management, and Restoration

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

1. The Regional Water Board administers the Porter-Cologne Water Quality Control Act (Water Code, § 13000 et seq.) (Porter-Cologne Act) to achieve an effective water quality control program for waters within its jurisdiction and is responsible for the regulation of activities and factors that may affect the quality of the waters of the state. (Water Code, §§ 13000 and 13001.)
2. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the state, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law and the United States Environmental Protection Agency, where required.
3. The Basin Plan may be amended in accordance with Water Code section 13240. The proposed Basin Plan amendment complies with this section.
4. Greenhouse gas emissions and changes in land use from post-industrial human activities are causing and will continue to cause the earth's climate to change. Climate change is and will continue to increase global temperatures, change precipitation patterns, raise sea levels, change groundwater levels, and increase the intensity, frequency, and duration of extreme weather events. These changes will, in turn, impact water quality in the San Francisco Bay Region through multiple mechanisms operating at multiple temporal and spatial scales.
5. The Basin Plan does not currently contain information related to climate change. The proposed Basin Plan amendment, therefore, adds new information on the challenge of climate change and how it might affect the Region's waters. It also updates references, corrects errors, and makes minor, non-substantive edits for clarity; describes regional efforts made to support the long-term resilience and beneficial uses of aquatic habitats in the Region; and includes information to assist in the planning and development of climate adaptation and other shoreline projects, based on the Regional Water Board's review of the evolving climate change science and its knowledge and expertise in coastal and estuarine management and permitting. The Basin Plan amendment is informational and contains no new regulations.
6. The Basin Plan amendment, including specifications on its physical placement in the Basin Plan, is set forth in Exhibit A.
7. In July 2022, the Regional Water Board unanimously adopted a previous version of the Basin Plan amendment under Resolution No. 2022-0027. After adoption, the Regional Water Board decided to revise the amendment to refine its language. The revisions do not substantively change the previous Basin Plan amendment; instead, they provide further

clarity on the amendment, including its non-regulatory nature. This Resolution adopts the revised Basin Plan amendment and supersedes and rescinds Resolution No. 2022-0027.

8. Because the Basin Plan amendment is non-regulatory, no scientific peer review is required under Health and Safety Code section 57004, which requires the scientific basis of any regulation or policy adopted under the Porter-Cologne Act to be subject to external scientific peer review.
9. On March 29, 2024, the Regional Water Board issued a public notice on the availability of the proposed Basin Plan amendment, including a staff report, and a hearing to consider adoption of the amendment, in accordance with applicable laws. The Regional Water Board also sent the public notice directly to community-based organizations representing disadvantaged communities and to tribal governments.
10. The proposed Basin Plan amendment is not a "project" within the meaning of the California Environmental Quality Act because it will neither cause a direct physical change in the environment or a reasonably foreseeable indirect change. (See Pub. Resources Code, § 21065; Cal. Code Regs., tit. 14, § 15378.) As a result, the proposed Basin Plan amendment is not subject to the California Environmental Quality Act.
11. Adoption of the Basin Plan amendment will not lower water quality and is, therefore, consistent with the state and federal antidegradation policies (State Water Board Resolution No. 68-18 and 40 C.F.R. § 131.12).
12. The Regional Water Board held a duly noticed public hearing on June 12, 2024, to hear public testimony and consider the Basin Plan amendment. Notice of the public hearings was given to all interested persons in accordance with Water Code section 13244.
13. The Regional Water Board has carefully considered all timely oral and written comments, including responses thereto, on the Basin Plan amendment, as well as all evidence in the administrative record.
14. The requirements in Water Code section 13149.2 do not apply because the proposed Basin Plan amendment is non-regulatory and will not result in any water quality impacts in disadvantaged or tribal communities or raise other environmental justice concerns and no outreach was required.
15. The Basin Plan amendment must be submitted for review and approval by the State Water Board. Once approved by the State Water Board, the amendment will be submitted to the Office of Administrative Law for concurrence that it is non-regulatory.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Regional Water Board hereby approves and adopts the Basin Plan amendment as set forth in Exhibit A hereto.
2. Regional Water Board Resolution No. 2022-0027, which adopted a prior version of the Basin Plan amendment, is hereby rescinded.
3. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of Water Code section 13245.
4. The Regional Water Board requests that the State Water Board approve the Basin Plan amendment in accordance with the requirements of Water Code sections 13245 and 13246 and forward it to Office of Administrative Law for concurrence on its non-regulatory status.

5. If, during the approval process, Regional Water Board staff, the State Water Board, or Office of Administrative Law 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 Water Board of any such changes.

I, Eileen White, 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 June 12, 2024.

Eileen M. White

Eileen White
Executive Officer

Attachment:

Exhibit A – Basin Plan Amendment on Climate Change and Aquatic Habitat Protection,
Management, and Restoration

Exhibit A

Proposed Basin Plan Amendment

Basin Plan Amendment

The following revisions are proposed for Chapter 1: Introduction. Text proposed for deletion is in ~~strikeout~~; text proposed for addition is underlined.

1.1 THE SAN FRANCISCO BAY REGION

The San Francisco Bay Region (Region) is 4,603 square miles, ~~roughly the size of the State of Connecticut,~~ and characterized by its dominant feature, 1,100 square miles of the 1,600 square mile San Francisco Bay Estuary (Estuary), the largest estuary on the west coast of the United States, where fresh waters from California's Central Valley mix with the saline waters of the Pacific Ocean. The Region also includes coastal portions of Marin and San Mateo counties, from Tomales Bay in the north to Pescadero and Butano Creeks in the south.

The Estuary conveys the waters of the Sacramento and San Joaquin rivers into the Pacific Ocean. Located on the central coast of California (**Figure 1-1**), the Bay system functions as the only drainage outlet for waters of the Central Valley. It also marks natural topographic separation between the northern and southern coastal mountain ranges. The Region's waterways, wetlands, and bays form the centerpiece of the United States' fourth-largest metropolitan region, including all or major portions of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma counties.

Because of its highly dynamic and complex environmental conditions, the Bay system supports an extraordinarily diverse and productive ecosystem. Within each section of the Bay lie deepwater areas that are adjacent to large expanses of very shallow water. Salinity levels range from hypersaline to fresh water, and water temperature varies throughout the Bay system. These factors greatly increase the number of species that can live in the Estuary and enhance its biological stability.

The Bay system's deepwater channels, tidelands, marshlands, freshwater streams, and rivers provide a wide variety of habitats that have become increasingly vital to the survival of several plant and animal species as other estuaries are reduced in size, ~~or lost to development,~~ or altered by changes in the climate. These areas sustain rich communities of crabs, clams, fish, birds, and other aquatic life and serve both as important wintering sites for migrating waterfowl and as spawning areas for anadromous fish.

1.7 THE CHALLENGE OF CLIMATE CHANGE

Globally, climate change affects water quality and quantity from snowpack to freshwater streams to the ocean. Post-industrial human activity increases in greenhouse gas emissions and changes in land use have and will continue to cause an increase in global temperature, changes in precipitation patterns, rises in sea levels, changes in groundwater levels, and increases in the intensity and frequency of extreme weather events. Extreme weather events – such as drought, heat waves, and large storms – can increase the risk of catastrophic wildfires, decrease water supplies for communities/regions, and alter stream flows and sediment discharges. These changes in climate and weather impact aquatic systems through numerous mechanisms, including through increases in water temperatures, changes in streamflow and

watershed sediment discharge that can impede drainage, increase flooding, mobilize contaminants, and desiccate headwater streams. Climate change can also contribute to ocean acidification, changes in the extent and frequency of harmful algal blooms, hypoxia, and changes in aquatic species composition. Rising sea levels are increasing the risk of coastal flooding and erosion, especially where critical shoreline infrastructure and low-lying communities rely on tidal wetlands and mudflats to help protect them from the rising seas. Rising sea levels increase the risk of drowning coastal habitats, such as tidal wetlands and mudflats, especially where habitats cannot migrate upland/inland, and/or where there are inadequate sediment supplies to support accretion. Also, rising sea levels due to climate change are likely to cause increases in shallow groundwater levels, also called groundwater rise. This could lead to increases in saltwater or brackish water intrusion into utility corridors, basements, and crawl spaces; overland flooding from emergent groundwater; mobilization and spread of pollutants from nearshore cleanup sites into vulnerable areas; and vapor intrusion into buildings and homes.

Climate change acts on a landscape scale, and its effects are not limited by political or jurisdictional boundaries. Therefore, efforts to address climate change require regional, collaborative, cross-jurisdictional approaches to project planning, permitting, and implementation. This is especially true of shoreline adaptation and resilience projects, and related efforts to protect and enhance aquatic ecosystems and their interrelated functions.

The following revisions are proposed for Chapter 2: Beneficial Uses. Text proposed for deletion is in ~~strikeout~~; text proposed for addition is underlined.

2.2.3 WETLANDS

Federal administrative law (e.g., 40 CFR Part 122.2, revised December 22, 1993) defines wetlands as waters of the United States. National waters include waters of the State of California, defined by the Porter-Cologne Act as “any water, surface or underground, including saline waters, within the boundaries of the State” (California Water Code §13050[e]). Wetland water quality control is therefore clearly within the jurisdiction of the State Water Board and Regional Water Boards.

Wetlands are further defined in 40 CFR 122.2 as “those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.”

The Water Board recognizes that wetlands frequently include areas commonly referred to as saltwater marshes, freshwater marshes, open or closed brackish water marshes, mudflats, sandflats, unvegetated seasonally ponded areas, vegetated shallows, sloughs, wet meadows, playa lakes, natural ponds, vernal pools, diked baylands, seasonal wetlands, floodplains, and riparian woodlands.

Mudflats make up one of the largest and most important habitat types in the Estuary. Snails, clams, worms, and other animals convert the rich organic matter in the mud bottom to food for fish, crabs, and birds.

Mudflats generally support a variety of edible shellfish, and many species of fish rely heavily on the mudflats during at least a part of their life cycle. Additionally, San Francisco Bay mudflats are one of the most important habitats on the coast of California for millions of migrating shorebirds.

Another important characteristic of the Estuary is the fresh, brackish, and salt water marshes around the Bay’s margins. These highly complex communities are recognized as vital components of the Bay system’s ecology. Most marshes around the Bay have been destroyed through filling and development. The protection, preservation, and restoration of the remaining marsh communities are essential for maintaining the ecological integrity of the Estuary.

Identifying wetlands may be complicated by such factors as the seasonality of rainfall in the Region. Therefore, in identifying wetlands considered waters of the United States, the Water Board will consider such indicators as hydrology, hydrophytic plants, and/or hydric soils for the purpose of mapping and inventorying wetlands. The Water Board will, in general, rely on the federal manual for wetland delineation in the Region when issuing Clean Water Act Section 401 water quality certifications (U.S. Army Corps of Engineers (Corps) Wetlands Delineation Manual, 1987). In the rare cases where the U.S. EPA and Corps guidelines disagree on the boundaries for federal jurisdictional wetlands, the Water Board will rely on the wetlands delineation made by the U.S. EPA or the California Department of Fish and ~~Game~~Wildlife

(CDFGCDFW). For the purpose of mapping and inventorying wetlands, the Water Board will rely on the protocols and naming conventions of the National Wetlands Inventory (NWI) prepared by the U.S. Fish and Wildlife Service (USFWS).

Many individual wetlands provide multiple benefits depending on the wetland type and location. There are many potential beneficial uses of wetlands, including Wildlife Habitat (WILD); Preservation of Rare and Endangered Species (RARE); Shellfish Harvesting (SHELL); Water Contact Recreation (REC1); Noncontact Water Recreation (REC2); Commercial, and Sport Fishing (COMM); Marine Habitat (MAR); Fish Migration (MIGR); Fish Spawning (SPAWN); and Estuarine Habitat (EST). Some of these general beneficial uses can be further described in terms of their component wetland function. For example, many wetlands that provide groundwater recharge (GWR) also provide flood control, pollution control, erosion control, and stream baseflow.

Table 2-3 shows how beneficial uses are associated with different wetland types. Table 2-4 lists and specifies beneficial uses for 34 significant wetland areas within the Region; generalized locations of these wetlands are shown in Figure 2-11. It should be noted that most of the wetlands listed in Table 2-4 are saltwater marshes, and that the list is not comprehensive.

The Water Board has participated in completing the Baylands Ecosystem Habitat Goals Report (1999) and the Baylands Ecosystem Species and Community Profiles (2000), which were written by scientists and managers in the Region in order to recommend sound wetland restoration strategies. The 2015 Baylands Ecosystem Habitat Goals Update: Climate Change - What We Can Do updates these strategies to respond to climate change. Other efforts around the Bay to locate wetland sites include the [San Francisco Estuary Institute's \(SFEI\) EcoAtlas Baylands Maps \(Baylands Maps\)](#) and [Bay Area Wetlands Project Tracker \(Wetlands Tracker\)](#), and the Wetland Tracker managed by the San Francisco Bay Joint Venture. Because of the large number of small and non-contiguous wetlands, it is not practical to delineate and specify beneficial uses of every wetland area. Therefore, beneficial uses may be determined site specifically, as needed. Chapter 4 of this Plan contains additional information on the process used to determine beneficial uses for specific wetland sites.

The following revisions are proposed for Chapter 4: Implementation Plans. Text proposed for deletion is in ~~strikeout~~; text proposed for addition version is underlined.

4.23 WETLAND PROTECTION AND MANAGEMENT

Wetlands and related habitats comprise some of the Region's most valuable natural resources. Wetlands provide critical habitats for hundreds of species of fish, birds, and other wildlife; offer open space; and provide many recreational opportunities. Wetlands also serve to enhance water quality, through such natural functions as flood control and erosion control, stream bank stabilization, and filtration and purification of surface water.

The Water Board will refer to the following for guidance when permitting or otherwise acting on wetland issues:

- [Governor's Executive Order W-59-93](#) (signed August 23, 1993; also known as the California Wetlands Conservation Policy, or the "No Net Loss" policy);
- Senate Concurrent Resolution No. 28; and
- [Water Code Section 13142.5](#) (applies to coastal marine wetlands).

The goals of the [California Wetlands Conservation Policy](#) include ensuring "no overall net loss," achieving a "long-term net gain in the quantity, quality, and permanence of wetlands acreage and values ...", and reducing "procedural complexity in the administration of state and federal wetlands conservation programs."

Senate Concurrent Resolution No. 28 states, "It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and the multiple resources which depend on them for the benefit of the people of the state."

Water Code Section 13142.5 states, "Highest priority shall be given to improving or eliminating discharges that adversely affect ... wetlands, estuaries, and other biologically sensitive sites."

The Water Board may also refer to the most recent version of the San Francisco Estuary Project's ~~[Comprehensive Conservation and Management Plan](#) (2007)~~ Partnership's [Estuary Blueprint: Comprehensive Conservation and Management Plan](#) (CCMP) for recommendations on how to effectively participate in a Region-wide, multiple-agency wetlands management program.

4.23.1 Baylands Ecosystem Habitat Goals

Consistent with the California Wetlands Conservation Policy, the Water Board participated in the preparation of ~~two~~ three planning documents for wetland restoration around the Estuary: [Baylands Ecosystem Habitat Goals \(1999\)](#), ~~and Baylands Ecosystem Species and Community Profiles (2000)~~ [Baylands Ecosystem Species and Community Profiles \(2000\)](#), and [The Baylands and Climate Change: What We Can Do \(2015\)](#), together known as the Habitat Goals reports. The 1999 Habitat Goals report articulated the values of different bayland habitats and established an ambitious goal of protecting and restoring 100,000 acres of tidal wetlands around the Bay. The 2015 report emphasized the importance of establishing complete tidal wetland systems with robust physical and ecological connections between the Bay, tidal wetlands, estuarine-terrestrial transition zones (often called ecotones), and watersheds to sustain healthy, resilient habitats in the face of climate change.

The Habitat Goals reports provide a starting point for coordinating and integrating wetland planning and regulatory activities around the Estuary. The Habitat Goals reports identify and specify the beneficial uses and/or functions of existing wetlands and suggest wetland habitat goals for the baylands, defined in the Habitat Goals reports as shallow water habitats around the San Francisco Bay between maximum and minimum elevations of the tides. The baylands ecosystem includes the baylands, adjacent habitats, and their associated plants and animals. The boundaries of the ecosystem vary with the bayward and landward movements of fish and wildlife that depend upon the baylands for survival. The Habitat Goals reports were the non-regulatory component of a conceptual regional wetlands management plan ~~from that began in~~ the mid-1990's.

4.23.2 Determination of Applicable Beneficial Uses for Wetlands

Beneficial uses of water are defined in Chapter 2 Beneficial Uses and are applicable throughout the Region. Chapter 2 also identifies and specifies the beneficial uses of 34 significant marshes within the Region (~~Table 2-3~~ [Table 2-4](#)). Chapter 2 indicates that the listing is not comprehensive and that beneficial uses may be determined site-specifically. In making those site-specific determinations, the Water Board will consider the Habitat Goals reports, which provide a technical assessment of wetlands in the Region and their existing and potential beneficial uses. In addition to the wetland areas identified in Chapter 2, the Habitat Goals reports identified additional wetlands in the Region as having important habitat functions. Because of the large number of small and non-contiguous wetlands within the Region, it is not practical to specify beneficial uses for every wetland area. Therefore, beneficial uses will frequently be specified as needed for a particular site. This section provides guidance on how beneficial uses will be determined for wetlands within the Region.

Information contained in the [Bay Area Aquatic Resource Inventory \(BAARI\)](#) prepared by the [San Francisco Estuary Institute](#), Habitat Goals reports, the [National Wetlands Inventory \(NWI\)](#) prepared by the U.S. Fish and Wildlife Service (USFWS), and in the scientific literature regarding the location and areal extent of different wetland types will be used as initial references for any necessary beneficial use designation. BAARI is a dataset accessed through an online interactive map and generated through interpretation of satellite images. As such, it is not determinative of beneficial uses. Instead, it is a reconnaissance tool. The NWI is the updated version of the USFWS's [Classification of Wetlands and Deepwater Habitats of the United States \(Cowardin, et al. 1979\)](#), which is incorporated by reference into this plan, and was previously used by the Water Board to identify specific wetland systems and their locations. BAARI, The the updated NWI, or other appropriate methods will continue to be used to locate and identify wetlands in the Region. A matrix of the potential beneficial uses that may be supported by each USFWS wetland system type is presented in [Table 2-4](#) ~~Table 2-3~~.

It should be noted that, while BAARI, the Habitat Goals reports, and USFWS's NWI wetlands classification system are useful tools for helping to establish beneficial uses for a wetland site, it is not suggested that these tools be used to formally delineate wetlands.

4.23.3 Hydrology

Hydrology is a major factor affecting the beneficial uses of wetlands. To protect the beneficial uses and water quality of wetlands from impacts due to hydrologic modifications, the Water Board will carefully review proposed water diversions and transfers (including groundwater pumping proposals) and require or recommend control measures and/or mitigation as necessary and applicable.

4.23.4 Wetland Dredge or Fill

The beneficial uses of waters of the state, including wetlands, are frequently affected by dredging, diking, and filling. Pursuant to Section [404 of the Clean Water Act](#), discharge of dredged or fill material to waters of the United States must be performed in conformance with a permit obtained from the U.S. Army Corps of Engineers (Corps) prior to commencement of the fill activity. Under Section 401 of the Clean Water Act, the state must certify that any permit issued by the Corps pursuant to Section 404 will comply with water quality standards established by the state (e.g., Basin Plans or statewide plans), or can deny such certification, with or without prejudice. In California, the State and Regional Water Boards are charged with implementing Section 401. California's Section 401 regulations are at Title 23, CCR, Division 3, Chap. 28, Sections 3830-3869. The State Water Resources Control Board's "Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State" supplements these regulations and applies to most discharges of dredged or fill material to waters of the state. Pursuant to these regulations, the Water Board and/or the Water Board's Executive Officer have the authority to issue or deny Section 401 water quality certification. The certification may be issued with or without conditions to protect water quality.

The Water Board has independent authority under the Water Code to regulate discharges of waste to ~~wetlands~~ (waters of the state, including wetlands), that would adversely affect the beneficial uses of those ~~wetlands~~waters through waste discharge requirements or other orders. The Water Board may choose to exercise its independent authority under the Water Code in situations where there is a conflict between the state and the Corps, such as over a jurisdictional determination or in instances where the Corps may not have jurisdiction. In situations where there is a conflict between the state and the Corps, such as over a jurisdictional determination or in instances where the Corps may not have jurisdiction, the Water Board may choose to exercise its independent authority under the Water Code.

The regulation of "isolated" waters determined not to be waters of the U.S. is one such instance where the Corps does not have jurisdiction. The U. S. Supreme Court, in its 2001 decision in [Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers \(the "SWANCC decision"\)](#)) determined that certain isolated, non-navigable waters are not waters of the U.S., but are the province of the states to regulate. The Water Code provides the State and Regional Water Boards clear authority to regulate such isolated, non-navigable waters of the state, including wetlands. To address the impacts of the SWANCC decision on the waters of the state, the State Water Board issued [Order No. 2004-0004-DWQ](#) in 2004, General WDRs for dredged or fill discharges to waters deemed by the Corps to be outside of federal jurisdiction. It is the intent of these General WDRs to regulate a subset of the discharges that have been determined not to fall within federal jurisdiction, particularly those projects involving impacts to small acreage or linear feet and those involving a small volume of dredged material. In its 2023 decision in Sackett v. U.S. EPA, the U.S. Supreme Court narrowed the scope of wetlands protected under the Clean Water Act to those wetlands with a continuous surface connection to waters of the U.S.; therefore, wetlands without such a connection are also not subject to the Corps' jurisdiction.

Order No. 2004-004-DWQ does not address all instances where the Water Board may need to exercise its independent authority under the Water Code. In such instances, dischargers and/or affected parties will be notified within 60 days of the Water Board's determination and be required to file a report of waste discharge.

For proposed dredge or fill activities deemed to require mitigation, the Water Board will require the applicant to locate the mitigation project within the same section of the Region, wherever feasible. The Water Board will evaluate both the project and the proposed mitigation together to ensure that there will be no net loss of wetland acreage and no net loss of wetland functions. The Water Board may consider such sources as the Habitat Goals reports, the San Francisco Estuary Partnership's Estuary Blueprint Project's (Comprehensive Conservation and Management Plan), the San Francisco Bay Shoreline Adaptation Atlas, the Aquatic Resource Type Conversion Evaluation Framework, or other ~~approved watershed management plans~~ technical guidance when determining appropriate "out-of-kind" mitigation.

The Water Board uses the U.S. EPA's Section 404(b)(1), "Guidelines for Specification of Disposal Sites for Dredge or Fill Material," dated December 24, 1980, which is incorporated by reference into this plan, in determining the circumstances under which wetlands filling may be permitted.

In general, it is preferable to avoid wetland disturbance. When this is not possible, disturbance should be minimized. Mitigation for lost wetland acreage and functions through restoration or creation should only be considered after disturbance has been minimized. Complete mitigation projects should be assessed using established wetland compliance and ecological assessment methods, such as the Wetland Ecological Assessment (WEA) and the California Rapid Assessment Method (CRAM).

4.26.8 CLIMATE CHANGE AND AQUATIC HABITAT PROTECTION, MANAGEMENT, AND RESTORATION

Climate change adversely impacts aquatic habitats within the San Francisco Bay Region and their beneficial uses through multiple mechanisms including rising sea and groundwater levels, changes in watershed flows of freshwater and sediment, more frequent and severe storm surges, floods, and droughts, and wetland drowning and downshifting. Efforts to prevent or minimize these impacts to the natural and built environment with traditional, static armoring and infrastructure such as levees, seawalls, and rock revetments (collectively referred to as "grey" infrastructure) can in some circumstances exacerbate erosion, flooding, and habitat loss. These risks are especially acute in and near the baylands and low-lying areas of the Pacific Ocean shoreline, where climate change impacts to watersheds are likely to be compounded by impacts from rising sea and groundwater levels.

To address these risks, the Water Board participates in collaborative planning efforts related to multi-benefit nature-based climate adaptation projects in the Region. By participating in these efforts, the Water Board seeks to facilitate permitting of these projects while protecting water quality and beneficial uses.

In addition, the Water Board has and will continue to participate in the development of collaborative regional science and guidance documents, including the 1999 and 2015 Baylands Goals reports (see Section 4.23.1), the San Francisco Bay Subtidal Habitat Goals Report, and the San Francisco Bay Shoreline Adaptation Atlas. The Adaptation Atlas delineates the Bay's shoreline areas into cross-jurisdictional landscape units, called operational landscape units, that consider both watershed and bayland conditions, and pairs each unit with a suite of technically feasible nature-based climate change adaptation approaches to support the resilience of the Bay's natural and built communities. Collectively, these reports and their supporting scientific literature are informative resources related to the protection and improvement of beneficial uses

in the region's coastal waters. Though these reports focus on San Francisco Estuary habitats, their underlying scientific principles and resulting management recommendations are broadly applicable to coastal and estuarine habitats on the Pacific coast.

To assist in the planning and development of climate change adaptation and other shoreline projects, which generally involve dredge or fill activities, the Water Board provides the following information based on its review of the evolving climate change science, its knowledge and expertise in coastal and estuarine management, enhancement, restoration, and conservation, and its experience permitting dredge and fill projects along shorelines:

1. **Best Available Science.** Climate adaptation projects that utilize the best available science in the design of dredge and fill activities are more likely to achieve their intended adaptation goals and objectives. This includes, where relevant, the best available science on reasonably foreseeable changes in (1) sea levels and nearshore groundwater levels; (2) the timing, frequency, intensity, and duration of seasonal precipitation, watershed runoff, Delta outflow, and wave events; and (3) the supply of sediment available to maintain healthy coastal habitats. Projects designed to accommodate existing and likely future physical and ecological drivers and conditions at the project site are more likely to avoid and minimize direct, indirect, and cumulative impacts to water quality and beneficial uses. Sometimes, future conditions are presented in probabilistic risk aversion categories. In such cases, projects based on the appropriately protective risk aversion approach are more likely to avoid and minimize water quality impacts during project performance.
2. **Phased Adaptation Strategies.** Phased adaptation strategies are actions that provide flood protection at different climate change thresholds over time. Initial actions are designed to provide flood protection in the near-term while allowing for a range of future actions to address uncertainty and allow flexibility over the long term. Actions that maintain long-term lines of flood defense as far landward as practicable can help minimize the isolation of wetlands and waters behind flood management infrastructure, reduce the risk of flooding of low-lying areas by surface water or groundwater, and create space for the restoration of complete estuarine wetland systems and other nature-based adaptation measures.
3. **Landscape-scale, Cross-Jurisdictional Projects.** Climate change operates on a landscape-scale. Therefore, strategies to address climate change are more likely to be successful in the long-term and avoid maladaptation if they are planned, designed, permitted, and implemented on a landscape-scale, and not limited by political boundaries, such as parcel or municipal boundaries. Projects designed to consider current and anticipated future conditions not just at the project site, but also the broader landscape within which it is embedded are likely to have fewer long-term direct, indirect, and cumulative impacts to aquatic resources than projects that only address near-term, site-specific conditions. In some cases, the least impacting project may be one that spans multiple jurisdictions. Projects that avoid or minimize direct impacts at the project site only to trigger indirect and cumulative impacts off-site may have greater adverse impacts to aquatic resources. Projects are more likely to achieve their adaptation goals and and minimize long-term impacts to aquatic resources if they consider how site-scale and landscape-scale processes (such as the movement of water and sediment, shifts in plant communities, and the movement of fish and wildlife between different habitats) can shift in a changing climate.

4. **Nature-Based and Hybrid Projects.** Nature-based projects, often called “living shorelines” or “green infrastructure,” facilitate and leverage natural physical and ecological forms and processes to achieve design goals. Hybrid projects combine nature-based approaches with traditional engineering “grey” approaches to achieve design goals when purely nature-based approaches are not likely to meet design goals. When properly designed and sited, and developed within long-term, landscape-scale frameworks, these types of approaches are more likely to avoid or minimize direct, indirect, and cumulative impacts to aquatic resources than purely grey approaches. They are also more likely to support beneficial uses upon completion and in the future than designs that impede natural processes. Nature-based design features include, but are not limited to, the following:
- a. **Projects that conserve, enhance, create, and restore subtidal habitats,** such as nearshore oyster reefs, beds of submerged aquatic vegetation, and combinations thereof that attenuate wave energy along shorelines, help stabilize nearshore sediment, provide valuable subtidal nursery habitat for estuarine fish and invertebrates, and support pelagic food webs. These approaches are best suited for areas of San Francisco Bay, Tomales Bay, and similar embayments with appropriate depths, salinities, substrates, and turbidity to support target species, including but not limited to native oysters (*Ostrea lurida*), eelgrass (*Zostera marina*), sago pondweed (*Stuckenia pectinata*), and widgeongrass (*Ruppia maritima*).
 - b. **Beaches** composed of sand, shell, gravel, cobble, or combinations thereof, held in place by either natural or artificial headlands (groins). Beaches dissipate wave energy, respond dynamically to changing wave conditions, naturally armor shorelines from erosion, and provide valuable habitat for estuarine plants and wildlife. Beaches are generally well-suited for wave-exposed areas and can be combined with other nature-based approaches such as living shorelines and wetland restoration.
 - c. **Estuarine wetland protection, enhancement, and restoration** that supports the health and resilience of the Region’s natural and built communities. Estuarine wetlands attenuate wave energy, provide temporary storage for floodwaters, support local groundwater recharge, transform and/or sequester pollutants in the water column, sequester carbon, provide habitat for a broad range of plants, fish, and wildlife, and support recreational and educational opportunities. Estuarine wetland restoration projects are more likely to successfully provide these benefits if they are located and designed to: (1) maximize the connectivity and resilience of complete wetland habitats that span supratidal, intertidal, and subtidal habitats and (2) account for the physical and ecological processes that support accretion of mineral and organic sediment, native plant diversity and succession, the provision of internal (within-wetland) and external (along the edge of the wetland) high tide refugia, and connectivity to subtidal, fluvial/floodplain, and terrestrial habitats.
 - d. **Estuary-watershed reconnection** actions that connect estuarine wetlands and mudflats with the rivers, creeks, and flood management channels that drain their adjacent upslope watersheds, as well as actions to reduce or eliminate obstacles to the downstream flow of freshwater and sediment (e.g., dam removal). Estuarine-watershed reconnection helps foster resilient, diverse habitats by supplying freshwater and sediment to estuarine wetlands and mudflats, restoring estuarine-fluvial-terrestrial transition zones, and creating space and mechanisms for plants, fish, and wildlife to move between estuarine, floodplain, and riparian ecosystems.

- e. **Strategic sediment placement** that helps estuarine and coastal wetlands, mudflats, and beaches keep pace with rising sea levels by artificially supplementing the volume of sediment available to support accretion and providing coarse sediment to support habitat features such as beaches. These approaches can be especially useful in locations with limited estuarine and watershed sediment supplies and where mudflats, wetlands, and beaches at risk of drowning provide critical ecosystem services.
- f. **Horizontal levees** (also referred to as ecotone levees) with gradually sloped (typically 15:1 horizontal to vertical ratio or greater) bayward sides can increase the footprint and functions of the estuarine-terrestrial transition zone at the landward edge of tidal wetlands. Horizontal levees create estuarine-terrestrial transition zones and attenuate wave energy. When designed to include irrigation with treated wastewater, they can remove nutrients and trace organic compounds and restore freshwater-brackish-saline wetland gradients that have largely been lost throughout the Estuary. Horizontal levees are best suited for locations where they will be fronted by tidal wetlands, both to improve landscape-scale ecological functions and to reduce the risk of erosion of the levee toe. They typically require considerable volumes of material to construct, and therefore are well-suited for areas where they can be built as far landward as feasible to minimize settling and maximize the footprint of in-estuary habitat restoration. Monitoring and adaptive management of horizontal levees are important to ensure their long-term resilience and functionality.
- g. **Migration space preparation** that facilitates the long-term, sea level rise-driven transgression of estuarine wetland habitats over adjacent uplands. These areas can be protected, enhanced, or restored to improve the ecosystem functions of wetlands and the estuarine-terrestrial transition zone under existing and anticipated future conditions (i.e., with sea level rise). This approach is especially important in less intensively urbanized areas of the Region, such as the north shore of San Pablo Bay, Suisun Marsh, and rural Marin and San Mateo Pacific coasts, where estuarine habitats can be reconnected to rivers and creeks (see estuary-watershed reconnection approach above) as well as terrestrial habitats.

Nature-based climate change adaptation projects along the Pacific Ocean shoreline will be subject to more intensive and sustained wave action than projects in smaller and shallower embayments such as San Francisco Bay and Tomales Bay. In addition, many estuarine wetlands in the Region along the Pacific coast are located landward of sandbars/beach berms that seasonally open and close in response to waves and watershed flows; they are functionally different from tidal wetlands in the San Francisco baylands. Accordingly, the physical setting will influence whether a nature-based climate change adaptation feature is suitable for achieving a project's goals.

5. **Resilient Landscapes.** A primary goal of most climate adaptation projects is to produce landscapes (i.e., human built and natural communities) that are resilient to the effects of climate change. To accomplish this goal, there needs to be some understanding of the reasonably foreseeable conditions from climate change. Assessing future conditions resulting from climate change is difficult, especially considering uncertainties about future rates of sea level rise, the influence of extreme events, local and regional planning decisions, and how landscapes could change in response to these and other factors. To achieve project goals, it is generally helpful to understand the following when planning climate adaptation projects, particularly those that involve dredge or fill activities:

- i. The primary hydrologic, geomorphic, and ecological drivers of beneficial uses and habitat resilience at the site and within its landscape now and in the future.
- ii. The processes, such as upland migration (transgression), seaward expansion (progradation), erosion, accretion, and/or drowning, that are likely to impact the condition, location, and distribution of different habitat types now and in the future.
- iii. The influence of proposed dredge or fill activities on these drivers.

Lastly, to create more resilient landscapes, dredge or fill activities may need to convert one type of water of the state to another (e.g., salt pond to tidal flat/tidal wetland), or convert one component of the estuarine wetland ecosystem to another (e.g., tidal wetland to estuarine-terrestrial zone, tidal wetland to high tide refugia, or tidal wetland to tidal channel, or mudflat to oyster reef or sandflat). Water Board staff have provided input on U.S. EPA's efforts to develop technical guidance to evaluate the impacts and benefits of aquatic resource type conversions.

6. **Dredge and Fill for Coastal Habitat.** Climate change and rising sea levels will result in the loss of coastal habitat through conversion of tidal wetlands, beaches, and mud flats to open water habitats. To increase the resilience of coastal habitats to these climate change impacts, dredge and fill activities in coastal habitats may be necessary. For example, in locations where coastal habitats are "squeezed" between rising sea levels and a hard-armored (e.g., seawall, revetment) shoreline, strategic dredge and fill activities can help support the long-term diversity, resilience, and completeness of habitats by creating space to support physical and ecological connectivity. Strategic sediment placement in intertidal areas can help expand the footprint of intertidal habitats that are connected to subtidal habitats and estuarine-terrestrial transition zones. Strategic fill of coastal waters can also help intertidal habitats, such as mudflats and marshes, keep pace with rising sea levels, reduce erosion along wave-exposed marsh edges, and reduce the likelihood of drowning (converting to open water) or downshifting (converting from high marsh to low marsh, or from low marsh to mudflat).

Attachment B

Executive Officer's Correction Memo



San Francisco Bay Regional Water Quality Control Board

TO: Phillip Crader, Deputy Director
Division of Water Quality
STATE WATER RESOURCES CONTROL BOARD

FROM: Eileen White
Executive Officer
SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD

DATE: October 29, 2024

SUBJECT: NON-SUBSTANTIVE CORRECTIONS TO THE SAN FRANCISCO BAY REGION BASIN PLAN AMENDMENT TO INCLUDE INFORMATION ON CLIMATE CHANGE AND AQUATIC HABITAT CONSERVATION, MANAGEMENT, AND RESTORATION

This memo transmits the proposed Climate Change and Aquatic Habitat Conservation, Management, and Restoration Basin Plan amendment showing the amendment with non-substantive corrections to improve clarity. The amendment was adopted by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) on June 12, 2024, via Resolution R2-2024-0012. The amendment adds information to the Basin Plan related to the challenge climate change poses to water quality in the region, especially its shoreline habitats, and the Regional Water Board's participation in various efforts to address climate change. The amendment also provides information to assist in the planning and development of climate adaptation and other shoreline projects, based on the Regional Water Board's review of climate change science and experience in coastal and estuarine management and permitting. It also updates references, corrects errors, and makes minor, non-substantive edits for clarity. The amendment is informational and contains no new regulations.

San Francisco Bay Regional Water Board Resolution No. R2-2024-0012 grants the Executive Officer the authority to make minor, non-substantive changes to the language of the adopted Basin Plan amendment during the approval process at the State Water Resources Control Board. Accordingly, the Executive Officer is making two corrections to the amendment that are made solely for clarification and do not substantively change its content. The clarifications are shown in underline/~~strikeout~~ text and described below.

ALEXIS STRAUSS HACKER, CHAIR | EILEEN M. WHITE, EXECUTIVE OFFICER

- 1) The Regional Water Board has revised the language in Section 1.7 as follows:

“Globally, climate change affects water quality and quantity from snowpack to freshwater streams to the ocean. Post-industrial human activity increases in greenhouse gas emissions and changes in land use have and will continue to cause an increase in global temperature, changes in precipitation patterns, rises in sea levels, changes in groundwater levels, and increases in the intensity and frequency of extreme weather events. Extreme weather events – such as drought, heat waves, and large storms – can increase the risk of catastrophic wildfires, decrease water supplies for communities/regions, and alter stream flows and sediment discharges. These changes in climate and weather impact aquatic systems through numerous mechanisms, including through increases in water temperatures, changes in streamflow and watershed sediment discharge that can impede drainage, increase flooding, mobilize contaminants, and desiccate headwater streams. Climate change can also contribute to ocean acidification, changes in the extent and frequency of harmful algal blooms, hypoxia, and changes in aquatic species composition. Rising sea levels are increasing the risk of coastal flooding and erosion, especially where critical shoreline infrastructure and low-lying communities rely on tidal wetlands and mudflats to help protect them from the rising seas. Rising sea levels increase the risk of drowning **(converting to open water) and downshifting (converting from high marsh to low marsh, or from low marsh to mudflat)** of coastal habitats, such as tidal wetlands and mudflats, especially where habitats cannot migrate upland/inland, and/or where there are inadequate sediment supplies to support accretion. Also, rising sea levels due to climate change are likely to cause increases in shallow groundwater levels, also called groundwater rise. This could lead to increases in saltwater or brackish water intrusion into utility corridors, basements, and crawl spaces; overland flooding from emergent groundwater; mobilization and spread of pollutants from nearshore cleanup sites into vulnerable areas; and vapor intrusion into buildings and homes.

Climate change acts on a landscape scale, and its effects are not limited by political or jurisdictional boundaries. Therefore, efforts to address climate change require regional, collaborative, cross-jurisdictional approaches to project planning, permitting, and implementation. This is especially true of shoreline adaptation and resilience projects, and related efforts to protect and enhance aquatic ecosystems and their interrelated functions.”

The purpose of this clarification is to define the terms “drowning” and “downshifting” (as they pertain to the resilience of aquatic habitats) when first introduced in Section 1 of the Basin Plan, instead waiting to define them in Section 4 where they are defined.

- 2) The Regional Water Board has fixed a typographic error in Section 4.26.8, under Item No. 4, Nature-Based and Hybrid Projects, that omitted the “l” in “landscape.” The language is revised as follows:

“Nature-Based and Hybrid Projects. Nature-based projects, often called “living shorelines” or “green infrastructure,” facilitate and leverage natural physical and ecological forms and processes to achieve design goals. Hybrid projects combine nature-based approaches with traditional engineering “grey” approaches to achieve design goals when purely nature-based approaches are not likely to meet design goals. When properly designed and sited, and developed within long-term, landscape-scale frameworks, these types of approaches are more likely to avoid or minimize direct, indirect, and cumulative impacts to aquatic resources than purely grey approaches. They are also more likely to support beneficial uses upon completion and in the future than designs that impede natural processes. Nature-based design features include, but are not limited to, the following:...”