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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2012-

DISAPPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE COLORADO RIVER BASIN REGION TO ESTABLISH A CONDITIONAL PROHIBITION FOR AGRICULTURAL WASTEWATER DISCHARGES ORIGINATING WITHIN THE PALO VERDE VALLEY AND THE PALO VERDE MESA, AND TO INCORPORATE AN IMPLEMENTATION PLAN

WHEREAS:

1. On January 20, 2011, the Colorado River Basin Regional Water Quality Control Board (Colorado River Basin Water Board) adopted [Resolution No. R7-2011-0014](#) amending the Water Quality Control Plan for the Colorado River Basin Region (Basin Plan) to establish a conditional prohibition for agricultural wastewater discharges originating within the Palo Verde Valley and the Palo Verde Mesa, and to incorporate an implementation plan ([Attachment A](#)).
2. The conditional prohibition will protect the following beneficial uses of the Palo Verde Drains, and the Palo Verde Lagoon and Outfall Drain:
 - Recreation (REC I);
 - Water Non-Contact Recreation (REC II);
 - Warm Freshwater Habitat (WARM);
 - Wildlife Habitat (WILD);
 - Preservation of Rare, and
 - Threatened or Endangered Species (RARE).
3. The Colorado River Basin Water Board found the Basin Plan amendment would not have a significant adverse effect on the environment 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 CFR section 131.12) in that it does not allow degradation of water quality, but requires restoration of water quality and attainment of water quality standards.
4. The Colorado River Basin Water Board found the analysis contained in the Staff Report and the California Environmental Quality Act (CEQA) substitute environmental documentation for the proposed Basin Plan amendment, including the CEQA Checklist and the responses to comments, complies with the requirements of the State Water Resource Control Board's (State Water Board) certified regulatory CEQA process, as set forth in the California Code of Regulations, Title 23, section 3775 et seq. The State Water Board has reviewed the substitute environmental documentation for the Basin Plan amendment and concurs with the Colorado River Basin Water Board's findings.

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5. Water Code section 13240 specifies that Regional Water Quality Control Boards may revise Basin Plans. Water Code section 13242 requires a program of implementation to achieve water quality objectives. In addition, Water Code section 13243 authorizes Regional Water Quality Control Boards to specify certain conditions or areas where the discharges of certain types of waste will not be permitted.
6. The State Water Board also finds that the regulatory action meets the "Necessity" standard of the Administrative Procedure Act, Government Code section 11353, subdivision (b)(2)(C), because the amendment will ensure that agricultural wastewater discharges do not adversely affect the beneficial uses defined in the Basin Plan for the Palo Verde area.
7. Water Code section 13245 specifies that the State Water Board must approve any Basin Plan amendment before it becomes effective. In this instance, the State Water Board finds that it is ~~premature~~ inappropriate to approve the Basin Plan amendment at this time because, while the proposed regulatory regime for irrigated agriculture discharges in the Palo Verde Valley would impose requirements comparable to other regional water boards' conditional waivers for irrigated agriculture, it would result in a disparate fee structure for agricultural discharges from different regions.
8. ~~Before approving such a disparity, t~~The State Water Board remands the matter to the Colorado River Basin Water Board to adopt waste discharge requirements or a waiver of waste discharge requirements, in lieu of, or in addition to, the proposed conditional prohibition for agricultural wastewater discharges. ~~consider and, if appropriate, to attempt to justify such a disparate impact. On remand, the Colorado River Basin Water Board shall consider comparable regulatory requirements that do not result in disparate fees..~~

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Disapproves the amendment to the Basin Plan adopted under Colorado River Basin Water Board Resolution No. R7-2011-0014.
2. Remands the matter back to the Colorado River Basin Water Board for further consideration action in accordance with this resolution ~~and Water Code section 13245.~~
3. Directs State Water Board staff to work with the regional water quality control boards to ensure that fees for agricultural wastewater discharges are consistent throughout the state.
4. Directs State Water Board staff to propose any appropriate amendments to the "Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program" (NPS Policy) to reflect the current funding mechanisms for

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State Water Board and regional water quality control board regulation of nonpoint source wastewater discharges.

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 January 10, 2012.

Jeanine Townsend
Clerk to the Board