

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – CENTRAL VALLEY REGIONAL WATER BOARD
JULY 17, 2012**

ITEM 10

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AMENDMENTS TO THE WATER QUALITY CONTROL PLANS FOR THE SACRAMENTO RIVER AND THE SAN JOAQUIN RIVER BASINS AND THE TULARE LAKE BASIN (BASIN PLANS) TO PROVIDE A COST ESTIMATE AND POTENTIAL SOURCES OF FINANCING FOR A LONG-TERM IRRIGATED LANDS PROGRAM

DISCUSSION

At the Central Valley Water Board meeting on October 13, 2011, the Central Valley Board adopted [Resolution R5-2011-0075](#), approving non-regulatory amendments to the Basin Plans to provide a cost estimate and identify potential sources of financing for a long-term irrigated lands regulatory program (long-term program). The amendments are non-regulatory because they would not impose any requirements on dischargers, such as water quality objectives or implementation programs.

On April 7, 2011, the Central Valley Water Board certified a program environmental impact report (Program EIR), which described a range of alternatives for implementing a long-term irrigated lands regulatory program. In the course of preparing the Program EIR, the Central Valley Water Board commissioned an analysis of the potential economic impacts of the alternatives, which analyzed the costs of the alternatives and identified potential sources of financing. The Central Valley Water Board intends to implement the long-term program through the development of waste discharge requirements and waivers of waste discharge requirements. These requirements will be based on the alternatives evaluated in the Program EIR.

Section 13141 of the Water Code requires that estimated total costs and potential sources of financing be included in the Basin Plan prior to implementation of “any agricultural water quality control program.” It must be noted that the context of section 13141 may limit its applicability to the establishment of agricultural water quality control programs in the Basin Plans. Nevertheless, these amendments are consistent with section 13141 and are necessary to supplement existing cost estimates for agricultural programs in the Sacramento River and San Joaquin River Basin Plan. Because the long-term program will apply throughout the Central Valley Region, these amendments have been adopted for the Sacramento and San Joaquin River and Tulare Lake Basin Plans.

The estimate of total cost ranges from \$216 million to \$1,321 million per year. Most of those costs are associated with implementation of improved management practices to protect water quality. These costs represent the greatest source of uncertainty in the cost estimate. The improved practices are not specifically mandated by the Central Valley Water Board, but represent estimated responses by growers to new regulatory requirements. Given the available information, the cost estimates provide a reasonable indication of cost impacts due to a new regulatory program and the anticipated response of growers to those new requirements.

POLICY ISSUE

Should the State Water Board approve amendments to the Basin Plans to include an estimate of total costs and potential sources of financing for a long-term irrigated lands program?

FISCAL IMPACT

The proposed amendments will update the Basin Plans to include a cost estimate and potential sources of financing for a new regulatory program affecting agriculture. The proposed amendments do not establish regulatory requirements. Because these amendments are non-regulatory, there are no anticipated economic costs associated with these amendments.

REGIONAL BOARD IMPACT

Approval of this resolution will amend the Central Valley Water Board's Basin Plans.

STAFF RECOMMENDATION

That the State Water Board approve amendments to the Basin Plans as adopted under Central Valley Water Board Resolution R5-2011-0075.

State Water Board action on this item will assist the Water Boards in reaching Goal 5 of the Strategic Plan Update: 2008-2012 to improve transparency and accountability by ensuring that Water Board goals and actions are clear and accessible and improving accessibility of data and information. In particular, approval of this item will provide clear and accessible information regarding estimated total costs of a long-term irrigated lands program.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2012-

APPROVING AMENDMENTS TO THE WATER QUALITY CONTROL PLANS FOR THE SACRAMENTO RIVER AND THE SAN JOAQUIN RIVER BASINS AND THE TULARE LAKE BASIN TO PROVIDE A COST ESTIMATE AND POTENTIAL SOURCES OF FINANCING FOR A LONG-TERM IRRIGATED LANDS PROGRAM

WHEREAS:

1. On October 13, 2011, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted [Resolution R5-2011-0075](#) amending the Water Quality Control Plans for the Sacramento River and the San Joaquin River Basins and the Tulare Lake Basin (Basin Plans) to make non-regulatory changes therein. The amendments impose no new regulatory requirements. Instead, they provide a cost estimate and identify potential sources of financing for a Long-Term Irrigated Lands Program.
2. The Central Valley Water Board's Long-Term Irrigated Lands Program will be implemented through the development of waste discharge requirements and conditional waivers of waste discharge requirements.
3. California Water Code section 13141 addresses the relationship between the water boards' water quality control plans and the California Water Plan and also states, in part, that, "... prior to implementation of any agricultural water quality control program, an estimate of the total cost of such a program, together with an identification of potential sources of financing, shall be indicated in any regional water quality control plan." Although the context of 13141 may limit its applicability to the establishment of agricultural water quality control programs in the Basin Plans, the cost estimates for the Long-Term Irrigated Lands Program have already been prepared and are consistent with the provisions of Water Code section 13141. Further, the inclusion of the cost estimates is necessary to supplement and update existing estimates of cost for agricultural water quality control programs already included in the Sacramento River and San Joaquin River Basin Plan. Since the Long-Term Irrigated Lands Program will affect the entire Central Valley, amendments are needed for both Basin Plans.
4. The Central Valley Water Board found that the amendments merely provide information and will not require a change in discharge conditions or the nature of any discharge. In light of that finding, the State Water Resources Control Board's [Resolution 68-16](#) (Antidegradation Policy) is not implicated.
5. The Central Valley Water Board found that these amendments are exempt from the California Environmental Quality Act (CEQA) because they will not affect the environment and are not a "project." (Pub. Res. Code §§ 21065, 21080, subd. (a); Cal. Code of Regs., tit. 14, § 15060, subd. (c)(3).)

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6. The basin planning process has been certified by the Resources Agency as a certified regulatory program because its process adequately fulfills the purposes of CEQA. However, the proposed amendments are exempt from the certified regulatory program requirements because those requirements do not apply if the proposed amendments are exempt from CEQA. (Cal. Code of Regs., tit. 23, § 3720, subd. (b).)
7. Based on the record as a whole, including the Basin Plan amendments, the accompanying written documentation, and public comments received, the State Water Board concurs with the Central Valley Water Board's conclusion that the amendments will result in no effect on the environment.
8. The proposed action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subd. (b). The necessity of the Basin Plan amendments is detailed in the Central Valley Water Board's September 2011 Staff Report.
9. The State Water Board finds that the Basin Plan amendments are in conformance with Water Code section 13240, which specifies that a Regional Water Quality Control Board may revise basin plans.
10. These Basin Plan amendments must be approved by the State Water Board and submitted to the Office of Administrative Law (OAL) for concurrence on the amendments' non-regulatory status. (Wat. Code § 13245; Gov. Code § 11353).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendments to the Basin Plans as adopted under Central Valley Water Board Resolution R5-2011-0075.
2. Authorizes the Executive Director or designee to submit the amendment adopted under Central Valley Water Board Resolution R5-2011-0075 as approved, and the administrative record for this action to OAL for concurrence on its non-regulatory status.

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 July 17, 2012.

Jeanine Townsend
Clerk to the Board