

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF JULY 28-29, 2016
Prepared on June 29, 2016

ITEM NUMBER: 9

SUBJECT: *Amending the Water Quality Control Plan for the Central Coastal Basin to Revise Beneficial Use Designations and to Make Editorial Changes*

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This Action: Adopt Resolution No. R3-2016-0030

SUMMARY

Staff is proposing to improve the clarity and usefulness of the *Water Quality Control Plan for the Central Coastal Basin* (Basin Plan) through a combination of regulatory and non-regulatory amendments. Non-regulatory amendments are those amendments that will not have a regulatory effect. The regulatory amendments include revision of designated beneficial uses for selected waterbodies in Table 2-1 of the Basin Plan. The non-regulatory amendments are editorial in nature and include revisions to maps and figures, correction of historical transcription errors, correction of regulatory citations, and correction of outdated language.

DISCUSSION

Background

The Basin Plan forms the basis for regulatory actions taken by the Central Coast Regional Water Quality Control Board (Central Coast Water Board) to protect waters of the state and to assure compliance with portions of the California Water Code and the federal Clean Water Act. The Central Coast Water Board first adopted the Basin Plan in 1975. At that time, beneficial uses were designated for some, but not all, of the surface waterbodies in the region. Those waterbodies not specifically named in the Basin Plan are given general beneficial uses of "protection of both recreation and aquatic life." As a result, staff must research the beneficial uses of those waterbodies not specifically named in the Basin Plan on a case-by-case basis when applying water quality standards.

Staff is proposing to improve the clarity of the Basin Plan through a combination of regulatory and non-regulatory amendments. Improved clarity will ensure that staff and stakeholders have a common understanding of foundational information in the Basin Plan in relation to the application and implementation of Basin Plan policies and water quality standards.

Process for Determining Priority Basin Plan Amendments

The proposed Basin Plan amendments in this report are an outcome of the 2014 Triennial Review of the Basin Plan. During the triennial review process, staff identified fifteen potential future Basin Plan amendment projects. After considering public input, staff ranked these projects based on four criteria: (1) vision alignment, (2) water quality improvement, (3) effectiveness, and (4) public interest. At the November 2014 board meeting, the Central Coast Water Board approved a priority list consisting of nine issues to be developed as Basin Plan amendments.

Process for Developing Recommended Changes to the Basin Plan

Proposed amendments in this report focus on two of the nine priority issues outlined in the 2014 Triennial Review – i.e., amendments to add or remove designated beneficial uses *and* comprehensive editorial amendments. However, only amendments to add new beneficial use designations are being proposed; no recommendations to remove beneficial uses are discussed in this report. Central Coast Water Board staff chose not to pursue the removal of beneficial uses at this time because this would require a detailed use attainability analysis (UAA). Staff would have to invest significant resources to conduct a UAA and currently such resources are not available and this is not high enough priority to redirect resources from other programs.

Proposed Regulatory Amendments

The regulatory amendments proposed for this Basin Plan Amendment include a revision of designated beneficial uses for selected waterbodies in Table 2-1 of the Basin Plan. Beneficial uses of ten specific inland surface waterbodies in six hydrologic units are proposed for revision as shown in Table 1.

Table 1. Proposed amendments (in red) to Basin Plan Table 2-1, Identified Uses of Inland Surface Waters. Some waterbody names are included for comparative purposes only.

Hydrol. Unit	Waterbody Names	MUN	AGR	PRO	IND	GWR	REC-1	REC-2	WILD	COLD	WARM	MIGR	SPWN	BIOL	RARE	EST	FRESH	NAV	POW	COMM	AQUA	SAL	SHELL	ASBS	MAR
304	Newell Creek	X	X		X	X	X	X	X	X		X	X				X		X	X					
306	Los Carneros Creek	X					X	X	X	X	X	X	X		X		X		X	X					
309	Old Salinas River Estuary, downstream of Potrero Rd.						X	X	X	X	X	X	X	X	X	X				X			X		
"	Tembladero Slough						X	X	X		X	X	X		X	X				X			X		
"	Espinosa Lake						X	X	X		X									X					
"	Espinosa Slough						X	X	X		X									X					
"	Salinas Reclamation Canal						X	X	X		X	X								X					
"	Gabilan Creek	X	X			X	X	X	X	X	X	X	X		X					X					
"	Alisal Creek	X	X			X	X	X	X	X			X							X					
"	Blanco Drain						X	X	X		X									X					
"	Old Salinas River						X	X	X	X	X	X	X	X	X	X	X			X					
"	Salinas River Lagoon (North)						X	X	X	X	X	X	X	X	X	X				X					
312	Orcutt Creek	X	X			X	X	X	X	X	X				X	X	X			X					
313	Shuman Canyon Creek	X	X				X	X	X		X		X		X	X	X			X					
"	Casmalia Canyon Creek	X	X				X	X	X		X		X		X					X					
315	Arroyo Paredon	X	X			X	X	X	X	X	X	X	X		X	X	X			X					

A detailed discussion of each proposed amendment is provided in the project report (Attachment 2).

Proposed Non-regulatory Amendments

The non-regulatory amendments are editorial in nature. The editorial changes are numerous and cover all chapters of the Basin Plan and include the following elements:

- Add Vision of Healthy Watersheds and Measurable Goals Language in Chapter 1
- Revise Central Coast Region Map in Chapter 1
- Delete 1988 Triennial Review Language
- Revise Surface Waters Map and Table in Chapter 2
- Revise Groundwater Basins Map and Table in Chapter 2
- Correct Salinas River Beneficial Uses in Table 2-1
- Correct Waterbody Names in Table 2-1
- Correct Beneficial Use of Soda Lake
- Replace ASBS designations with BIOL
- Correct References to Drinking Water Standards
- Correct Table 3-3 Footnote
- Correct Mercury Objective Footnote in Tables 3-5 and 3-6
- Correct Text Referring to Table 3-7 Mean Water Quality Objectives
- Remove Reference to Road Spreading Policy
- Add List of Approved Total Maximum Daily Loads (TMDLs)
- Remove unnecessary onsite wastewater systems language
- Revise Description of GAMA program
- Revise use of *Basin* and *Subbasin* for Surface and Groundwaters
- Revise Citations to the Basin Plan Appendix
- Correct Compound Word and Style Inconsistencies
- Renumber Headings
- Remove Table of Contents from Chapters 4 and 6
- Correct CCR Title 23 Chapter 15 Citations

A detailed discussion of each proposed amendment is provided in the project report (Attachment 2).

Draft Resolution and Project Report

A draft resolution is provided in Attachment 1. The resolution includes the findings describing the process, descriptions and rationale for the proposed amendments to the Basin Plan. The resolution also contains a strikeout/underline version of the entire Basin Plan showing all of the proposed amendments. Note that the resolution, if approved, will rescind three resolutions previously adopted by the Central Coast Water Board: Resolution No. R3-69-01 (Basin Plan Appendix A-13), No. R3-86-02 (Basin Plan Appendix A-14), and No. R3-87-05 (Basin Plan Appendix A-15). These three resolutions were superseded by the incorporation of the State Water Board's Onsite Wastewater Treatment Systems (OWTS) Policy into the Basin Plan via Resolution R3-2013-0005.

A detailed discussion of each proposed amendment is provided in the project report (Attachment 2). The project report includes discussions of the need for each proposed amendment and presents substantial evidence for each proposed amendment based on facts, studies, or expert opinion, as required by the California Government Code section 11349(a).

ENVIRONMENTAL SUMMARY

The California Resources Agency has certified the basin planning process as an exempt regulatory program (Public Resources Code section 21080.5), and therefore an environmental impact report or negative declaration is not required for this project. Rather, exempt regulatory programs must prepare substitute environmental documentation consisting of this Staff Report and the project report (Attachment 2), which includes the CEQA Environmental Checklist form.

As discussed in the project report and the CEQA Environmental Checklist, there are no potentially significant environmental impacts from the implementation of this Basin Plan amendment. Therefore, an analysis of alternatives is not needed to lessen or mitigate impacts. The finding of no environmental impacts is based on the fact that this Basin Plan amendment will not result in any physical change, nor will it affect any other plan, regulation, or policy.

The proposed revisions do not have any direct effect on the environment, because the waterbodies and beneficial uses exist and must be protected, whether or not the beneficial uses are specifically listed in the Basin Plan. Adding these waterbodies and designating beneficial uses will simply provide clarity.

The proposed amendment also makes non-regulatory revisions to the Basin Plan text to improve clarity. Because these changes are solely clarifications of the Basin Plan, there are no potentially significant environmental or economic impacts associated with compliance with these revisions.

PUBLIC INVOLVEMENT

Staff conducted stakeholder outreach efforts throughout the project process. Staff released a notice of CEQA stakeholder scoping meeting on April 5, 2016 (Attachment 3). Staff conducted the CEQA stakeholder scoping meeting on April 18, 2016, which was attended by seven individuals representing city, county, and agricultural interests.

A notice of public hearing was published in six newspapers with general circulation throughout the Central Coastal Region on or before May 2, 2016. This notice was also sent to over 400 electronic subscribers to the Basin Planning & Triennial Review listserve, including other regulatory agencies. The notice included internet web links directing interested persons to the draft project report, draft resolution, and proposed revisions to the Basin Plan. The written comment period was from May 3, 2016 to June 17, 2016.

On May 23, 2016, a consultation opportunity letter was sent to the tribal chairperson of the Ohlone/Costanoan-Esselen Nation (OCEN) pursuant to Public Resources Code § 21080.3.1 and the recently enacted California Assembly Bill 52.

COMMENTS AND RESPONSES

Written comment letters were received from the Monterey County Farm Bureau (L1) and the Grower-Shipper Association of California (L2). Significant comments and staff responses are provided below:

Comment # 1 (L1 & L2):

Commenters state that it is inappropriate to include the proposed Healthy Watershed Vision statement and goals in the Basin Plan because this could be interpreted as a regulatory mandate, instead of a goal. They are also concerned that vision goals may not be scientifically achievable in the time periods set, and haven't been vetted or scientifically peer reviewed. Commenters request that clarifying language be included in the Basin Plan that notes the vision goals are for planning purposes and are not intended to be water quality standards or objectives in permits or water management plans.

Staff Response:

The proposed Healthy Watershed Vision language is intentionally being added to the introductory chapter of the Basin Plan (Chapter 1) to ensure that these statements are not interpreted as water quality objectives or standards. Basin Plan water quality objectives are found in Chapter 3 of the Basin Plan, which is called "Water Quality Objectives." Clarifying language, as proposed, by the commenters is unnecessary. Staff recommends no changes to the proposed amendment based on this comment.

Comment # 2 (L1 & L2):

Commenters are concerned with the proposed beneficial use designations of cold freshwater habitat (COLD) and migratory habitat (MIGR) for anadromous fish for Tembladero Slough and the Salinas Reclamation Canal. Commenters state that the draft project report described these waterbodies as potential critical habitat and migratory habitat waters for Steelhead (*Oncorhynchus mykiss*), but that doesn't mean that Steelhead are actually in these waterbodies. Commenters further state it is doubtful that these waterbodies will be supportive of Steelhead habitat because of the existing sediment loads. In addition, commenters assert that adding COLD and MIGR as beneficial uses to these waterbodies may be in violation of the no-CEQA impact to Agricultural Resources (noted on page 67 of the staff report) of the Basin Plan amendment, as there will likely be definite and qualitative impacts to the local landowners.

Staff Response:

Staff re-evaluated the basis for the COLD and MIGR beneficial use designations. These were based on the National Oceanographic and Atmospheric Administration (NOAA) - National Marine Fisheries Service's *South-central California Coast Steelhead Distribution* GIS shapefile. This data was compiled by NOAA Fisheries Southwest Regional Office to designate critical habitat for Steelhead in California. This data source documents the presence of Steelhead in the Old Salinas River, Tembladero Slough, Salinas Recreation Canal, and Gabilan Creek. However, of the four waterbodies mentioned above, this data source only documents spawning or rearing of Salmonids in Gabilan Creek. Spawning or rearing of Salmonids is an indicator of the COLD beneficial use. Salmonid presence and spawning habitat conditions were further confirmed by Joel Casagrande, NOAA Fisheries Biologist, Santa Rosa CA, in an email to staff on June 17, 2016. Consequently, since spawning or rearing is not documented in Tembladero Slough and the Salinas Reclamation Canal, staff is no longer recommending the designation of COLD in Tembladero Slough and in the Salinas Recreation Canal, but may wish to re-visit these designations in a future Basin Plan amendment. The current Basin Plan amendment, the project report, and Table 1 (above) were edited to reflect this.

The CEQA Environmental Checklist (Appendix of Attachment 2) is marked with *no impact* to agricultural resources because this project (including the proposed beneficial use designations) will not convert farmland to non-agricultural use, will not conflict with existing zoning for agricultural use, or create changes in the existing environment that could result in conversion of farmland to non-agricultural use.

Comment #3 (L2):

The commenter is concerned with the incorporation of this language: "*In addition, water used for irrigation and livestock watering shall not exceed the concentrations for those chemicals listed in Table 3-2. No controllable water quality factor shall degrade the quality of any groundwater resource.*" The commenter states that "with respect to the application of the primary drinking water standard to ground water, it is imperative to note that drinking water standards should only be applicable to those groundwaters that had a designated municipal beneficial use. Secondly, with respect to degradation of groundwater resources, it is inappropriate to prohibit degradation because degradation is allowed as long as it is consistent with the state's Anti-Degradation Policy."

Staff Response:

The quoted language is currently in the Basin Plan and is not a new amendment being added by this project. The only change in the language is to the cited table; it is currently pointing to Basin Plan Table 3-4, but should point to Basin Plan Table 3-2, since this project will remove the currently named Basin Plan Tables 3-1 and 3-2 and renumber all other tables in Chapter 3. This confusion was caused by the draft strikeout/underline version of the Basin Plan, which mistakenly shows this language as new text, and this has been corrected. Staff recommends no changes to the proposed amendment based on this comment.

Comment # 4 (L2):

The commenter is concerned that changing "median" to "mean" in Basin Plan Chapter 3, section II.A.3 is a substantive amendment, and that there needs to be further discussion on the intent and purpose of going to a mean calculation of water quality objectives.

Staff Response:

The intent and purpose of this proposed change is explained in section 4.3.4 of the project report (Attachment 2). To reiterate, the Central Coast Water Board renamed Table 3-7 to "Mean Surface Water Objectives" in 1982 to reflect the desire to have these water quality objectives represent arithmetic mean values rather than median values. The footnote to Table 3-7, also added in 1982, reads "Objectives shown are annual mean values..." The current amendment is simply correcting language in Chapter 3 that incorrectly cites Table 3-7 as being median values. This amendment is necessary for clarity. Staff recommends no changes to the proposed amendment based on this comment.

CONCLUSION

Central Coast Water Board staff recommends adoption of Resolution No R3-2016-0030 and these amendments to the Basin Plan. This group of amendments will improve effectiveness of water quality protection and improvement due to increased clarity and accuracy of language in

the Basin Plan regarding beneficial use designations, consistent terminology, updated names and locations of water bodies.

ATTACHMENTS

1. Resolution No. R3-2016-0030, including Attachment A, a strikeout/underline version of the entire Basin Plan showing all proposed amendments.
2. Project Report including the CEQA Checklist
3. Notice of CEQA Scoping Meeting – April 5, 2016
4. Notice of Public Hearing and Opportunity to Comment – April 26, 2016
5. Comment Letters

RECOMMENDATION

Adopt Resolution No. R3-2016-0030